



GOVERNMENT OF HARYANA

COMPENDIUM OF INSTRUCTIONS

ON

DISCIPLINARY MATTER

(VOL. – V)

CHIEF SECRETARY TO GOVERNMENT, HARYANA

YEAR -- 2009



PREFACE

After the formation of Haryana State, for the first time in 1985, Compendium of instructions issued by the General Administration Department, Government of Haryana, was published. This compendium was in two parts. Subsequently, in 1994, all the instructions issued from 1985 upto that year, were published in the form of another compendium. The next edition, which appeared in 2001, contained all the instructions issued from 1994 until 2001. These four compendia are not easily available and therefore could not be utilized fully. The earlier editions were not reprinted by the Government. Moreover, each of these compendia contained instructions relating to different subjects. Due to this, whenever a particular topic needed to be searched all the four compendia had to be scanned. Besides, a large number of instructions were also issued after 2001. This also made the updation of these compendia necessary.

Therefore, it was decided to compile the contents of these compendia in a subject-wise fashion. It would require nine volumes, replacing all the four earlier compendia, i.e., those published in 1985, 1994 and 2001. The present compendium is the fifth volume in this series and relates to "Disciplinary Matter".

The new Compendia would also be available on the websites www.haryana.gov.in and www.csharyana.gov.in. Interested persons can easily download them or any part thereof. The compendia would also be circulated amongst all Administrative Secretaries, Heads of Departments and other offices. The public can also obtain them from the market.

Efforts have been made to include all available Government instructions issued by General Administration Department of the Haryana Government till 30th June, 2009. Although we have taken all possible precautions while compiling the Compendia, there may be some omission or lapse on our part. We would welcome any feedback or suggestion from users of the Compendia.

I acknowledge the hard work put in by the GS-III Branch of General Administration Department, in general, and Shri Rajeev Ranjan, IAS, Joint Secretary, Shri Sushil Kumar Jain, Under Secretary, Sh. Subhash Ahuja, Superintendent and Smt. Raj Kumari, Assistant, in particular, for compiling all Compendia in a very short period of time. Shri Vikas Yadav, HCS, Controller, Printing & Stationary, Shri Vishal Chadha, PCAT, and their team of officials also took steps to ensure a speedy publication. They deserve our appreciation.

I hope that this Compendium would be handy and useful to all concerned.

**Dated Chandigarh,
The 1st July,, 2009**

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I

PUNISHMENT & APPEAL

PUNJAB GOVERNMENT HOME GAZETTE

NOTIFICATION

12th February, 1952

(As amended upto the 1st January, 1960)

No. 9369-G-51/681-- The following instructions for the submission of receipt and transmission of memorials and petition to His Excellency the Governor or Government of the Punjab State are published for general information, in so far as they relate to memorials and petitions from persons who are, or have been in the Civil Service of the Punjab State :-

PART-I PRELIMINARY

1. *Definitions :— In these instructions*

- (1) “Head of Department” means the authority shown in column 5 of the Appendix D to the Punjab Budget Manual (4th Edition) in respect of the Government servants whose pay is charged to the corresponding head of account in column 2 of that Appendix.
- (2) “Memorial” includes petitions, letters and applications of the nature of memorials.
- (3) “Governor” means the Governor of the Punjab State.
- (4) “Government” means the Punjab Government in the Administrative Department.

2. *Scope of Instructions.*

- (1) These instructions shall apply to memorials addressed to the Governor of Punjab or the State Government by persons who are, or have been in the civil service of the Punjab State in respect of matters arising out of such employment or in respect of the termination of such employment and who are or were subject to the rule making power of the Governor.
- (2) These instructions shall not effect any rules or orders made by competent authority in respect of representations submitted by recognised associations of Government servants and shall be in addition to and not in derogation of the rules governing the conditions of service of the memorialist.

PART II-FORMAND MANNER OF SUBMISSION OF MEMORIALS

3. *Form of memorial.*

- (1) A memorial may be either in manuscript, typewritten or in print.
- (2) Every memorial shall be authenticated by the signatures of the memorials and submitted by the memorialist on his own behalf, or when the memorials are numerous, every person preferring the memorial shall so separately and in his own name unless the subject matter of the memorial is with respect to or arises out of one and the same order affecting them jointly, in which case it may be signed jointly.
- (3) Every memorial and the papers connected therewith, shall be accompanied by a rendering of it in the language for the time being authorised for use in the State for official purposes duly authenticated in the manner aforesaid.

4. *Contents of memorials.*

Every memorial shall :

- (a) contain all material statements and arguments relied upon by the memorialist ;
- (b) be complete in itself;
- (c) contain copies of the orders passed by the original as well as the other appellate authority against which the memorial has been preferred together with copies of his applications and/or appeal to such authorities ;
- (d) Mention in cases of dismissal, removal or reduction in rank or any such penalty, whether a reasonable opportunity was given to show cause against the action taken, as laid down in the/Punjab Civil Services (Punishment and Appeal) Rules, or such other Rules which are applicable to the facts of the case in regard to him; and
- (e) end with a specific prayer of relief sought.

5. *Methods of Submission.*

- (1) Every memorial shall be submitted to the Head of the Department to which the memorialist belongs of last belonged ; and through the authority from whose order the appeal or application for revision was preferred and rejected. It shall be accompanied by a letter requesting the Head of the Department, or authority concerned to transmit the memorial to the Government or the Governor, as the case may be.
- (2) The Head of the Department, on receipt of any memorial submitted through him in accordance with rule 5 (1)
 - (i) shall acknowledge its receipt;
 - (ii) shall, as soon as may be, forward the memorial, through the usual official channel, to the Government and inform the memorialist. The Government shall examine the same and submit to the Governor, through the Minister concerned, if prayed for in the memorial or if considered necessary.
- (3) The memorialist may forward an advance copy of the memorial to the Governor or government. The advance copy shall not be acknowledged.

PART-III WITHHOLDING OF MEMORIALS BY HEADS OF DEPARTMENTS

6. *Circumstances in which memorials addressed to the Governor of the Government may be withheld.*

If the heads of a Department to whom a memorial is presented or forwarded decides to withhold it, he shall inform the memorialist giving reasons therefore. A memorial may be withheld only on anyone or more of the following grounds :-

- (i) The memorialist has not complied in full with the provisions of Part II of these instructions.
- (ii) The memorial is illegible or unintelligible, or contains language which is, in the opinion of the Head of the Department, disloyal, disrespectful, or improper.
- (iii) A previous memorial from the memorialist on the same subject has been disposed of by the Government or Governor, and also the memorial, in the opinion of the Head of the

Department, discloses no new facts or circumstances which afford ground for a reconsideration of the subject.

- (iv) The memorial is
 - (a) an application for employment in Government service not made in pursuance of any rule or any advertisement regarding applications for such employment; or
 - (b) a request for exemption from or relaxation of the provisions of any law or rules prescribing the qualifications to be possessed by persons in the service of Government; or
 - (c) the memorial relates to a subject on which the Head of the Department is or was competent to pass orders and no application for redress has or had been made by the memorialist to the Head of the Department, in which case the memorialist will be informed as to his forum for redress.
- (v) The memorial is a representation against an order communicated to the memorialist more than six months before the submission of the memorial, and no satisfactory explanation of the delay is given.
- (vi) The memorial is a representation against the discharge by competent authority of a person.
 - (a) appointed on probation, during or at the end of the period of probation in accordance with the terms of appointment and rules governing the probationary service, or
 - (b) who as a temporary Government servant is appointed otherwise than under contract, on the expiration of period of the appointment, or
 - (c) engaged under contract in accordance with the terms of such contract.
- (vii) The memorial is a representation against an order from which the memorialist possesses a right of appeal under :
 - (1) rule or orders regulating his conditions of service, or
 - (2) the terms of his contract on service.
- (viii) The memorial is a representation against an order of a competent authority refusing to grant or recommend :—
 - (i) a special pension or ;
 - (ii) any pecuniary or other concession to which the petitioner is not entitled under any rules or orders or contract regulating his conditions of service :

Provided that the memorial withheld on account of failure to comply with the instructions provided in Part-II may be resubmitted at any time within one month of the date on which the memorialist has been informed of the reasons for withholding of the memorial and if resubmitted in a form which complies with instructions referred to above, shall not be withheld.

7. *List of memorials withheld*

The Heads of Departments shall send a quarterly return in the form given at Annexure on the 15th day of April, July, October and January to Government specifying all memorials withheld by them under instructions 6, during the proceeding quarter, and the reasons for withholding the same.

8. Notwithstanding any thing contained in the foregoing rules, the Governor or the Government, as the case may be, may of his or its own motion, or an application made, call for the records of any proceedings or orders relating to the memorial withheld by a subordinate authority, for the purpose of satisfying himself or itself as to the legality of propriety of such and may pass such order in reference thereto as he or it may be considered fit.

9. As soon as may be after a decision has been taken on the memorial, the authority making the order thereon shall communicate the same to the memorialist and forward a copy of the same to the Subordinate authority for such action as may be considered appropriate in the circumstances of each case.

ANNEXURE

(See Rule 7)

- (a) List of memorials withheld during the quarter ending the _____.
- (b) Name of Department _____

FORM (See Rule 7)

Sr. No.	Name and Particulars of Govt. Servant who memorialised	Brief subject of the memorial	Date of the submission of the memorial.	Head of Deptt. who withheld the memorial	Reasons with date of order withhold- ing the memorial.

* Amended-vide Punjab Government Notification No. 7602-GII-57/102928, dated the 25th November, 1957

Copy of P.G Letter No. 6888-G-55/16642, dated the 15th June, 1955, from the Chief Secretary to Government, Punjab, to all the Heads of Departments, etc., etc.

Subject :- The Punjab Departmental Enquiries (Powers) Act, 1955.

I am directed to forward a copy of the Act cited as subject for information and guidance and to say that one of the important causes of delay in the conduct of departmental enquiries against Government servants was the difficulty in securing the attendance of witnesses. The Enquiry Officer had no authority under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, to compel the attendance of any witness and it frequently happened that witnesses were unwilling to appear in departmental proceedings. This Act empowers the enquiring officer or authority to compel the attendance of witnesses and the production of documents in departmental proceedings on the lines of Section 8 of the Public Servants (Inquiries) Act, 1850.

THE PUNJAB DEPARTMENTAL, ENQUIRIES (POWERS) ACT, 1955

AN

ACT

to confer certain powers on the officers conducting enquiries under the Punjab Civil Services (Punishment and Appeal) Rules

Be it enacted by Legislature of the State of Punjab in the sixth year of the Republic of India as follows :-

Short title,
extent and
commencement.

- 1.** (1) This Act may be called the Punjab Departmental Enquiries (Powers) Act, 1955.
- (2) It shall extend to the whole of the State of Punjab.
- (3) It shall come into force at once.

Summoning of
Fitnesses and
production of
documents.

- 2.** For the purposes of an enquiry under the Punjab Civil Services (Punishment and Appeal) Rules, for the time being in force, the officer conducting such an enquiry shall be competent to exercise the same powers for the summoning of witnesses and for compelling the production of documents as are exercisable by a commission appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 (Act XXXVII of 1850), and all persons disobeying any process issued by such officer in this behalf shall be liable to the same penalties as if the same had issued from a Court.
-

Copy of Punjab Government Circular Letter No. 2053-ACD-55/753, dated 22nd August 1955 from the Chief Secretary to Government, Punjab, addressed to all the Heads of Departments, etc., etc.

Subject :- Fixation of the quantum of punishment in cases relating to false drawl of Travelling Allowance.

It has been noticed that different punishments are awarded to different officers for similar offences relating to preparation and submission of wrong Travelling Allowance Bills which arise in various departments of Government on the strength of the recommendations made by their respective Departments. Thus while some Government servants are let off with a warning or with the recovery of the amount charged in excess, others are punished by stoppage of increments for a certain period and some are even removed or dismissed. In the circumstances, the question of evolving some uniform policy regarding the nature and quantum of punishment in these cases has been under the consideration of Government for some time past.

2. It is the settled policy of Government that in all proved cases of corruption, no punishment short of dismissal, should be awarded, - *vide* Punjab Government letter, No. 122-ACC-48/38539, dated the 19th July, 1948. Government are, therefore, of the view that in the following category of cases relating to false drawl of travelling allowance, the normal punishment should be dismissal.

- (i) Charging travelling allowance for a journey not actually performed.
- (ii) Charging by a higher class to which one is entitled according to status for a journey performed in a lower class.
- (iii) Charging travelling allowance on transfer by submitting false certificates and bogus receipts in respect of transportation and luggage.
- (iv) Charging travelling allowance for the carriage of Camp equipment when actually it is not carried.

I am to request that these orders should be brought to the notice of all concerned for strict compliance.

3. There is another class of cases relating to false drawl of travelling allowance, viz. charging conveyance or permanent travelling allowance without maintaining a conveyance as prescribed under the rules. Government have considered this matter also. They are of the view that the question whether horses can be dispensed with altogether should be examined by the departments concerned. Where this can be done, the keeping of a horse and the horse allowance should both be dispensed with. Where, however, it is considered that the keeping of a horse is essential for the proper performance of duties, the horse allowance should be adequate. Government would like to know, in due course, the action taken in the matter.

Copy of letter No. 2297-P-56/18392, dated 4.5.56 from the Chief Secretary to Government, Punjab, to all the Heads of Departments.

Subject:- Channel of correspondence.

I am directed to refer to paragraph 37 of the Punjab Government Consolidated Circular No.5 which *inter alia* lays down that subordinate offices should always address higher authorities/ Government through their superior and any body infringing this rule and writing other to higher authorities or attempting in other ways to bring his wishes to the notice of Government will be liable to disciplinary action. Instances have come to the notice of Government where these instructions have not been observed by Government servants and where higher authorities have been approached over the head of their immediate superiors. This tendency shows indiscipline on the part of the Government servants and is required to be firmly curbed. I am accordingly to request you to warn all Government servants working under you not to write or approach otherwise the higher authorities or Government except through the proper channel viz. the Head of the office, Head of Department, etc. as the case may be, and that any Government servant infringing this rule will render himself of disciplinary action.

Copy of Punjab Government Circular Letter No. 4819-G. II-57/11919, dated 8th July, 1957 from the Chief Secretary to Government, Punjab, addressed to all the Heads of Departments etc, etc.

Subject:- Dismissal of Government servants on conviction.

I am directed to address you on the subject noted above and to say that an instance has come to the notice of the State Government in which a Government servant who had been convicted by a court on a charge involving moral turpitude was dismissed from service nearly a year after the date of his conviction. Consequently Government had to pay him subsistence allowance for the whole of the intervening period. The instructions already issued in Punjab Government letters No.-1048-ACC-51/940, dated the 6th August, 1951 and No. 8789-51/1/8129, dated the 6th November, 1951 on the subject are clear enough. If these had been carefully followed, this unnecessary expenditure would have been avoided. For the sake of clarification, I am to issue detailed instructions on the subject.

2. Rule 7.6 of the Punjab Civil Services Rules, Volume I, Part I, requires that a Government servant against whom a criminal charge is pending should be placed under suspension, if (i) the charge is connected with his position as a Government servant or (ii) is likely to prove embarrassing in the discharge of his duties as such, or (iii) involves moral turpitude. The implication of this rule is that if the criminal charge does not fall under any of these three categories, it will not be necessary to suspend the Government servant. It follows that on conviction in the case of such a charge, it will also not be necessary that the Government servant should be dismissed or removed from service. Thus rule 7.6 of the Punjab Civil Services Rules, Volume I, Part I had the effect of dividing cases in which Government servants have been convicted of criminal charge into two classes :-

- (i) Cases in which dismissal or removal from service should follow automatically ;
- (ii) Cases in which it need not so follow.

3. In cases falling under class (i) under proviso (b) to sub rule (2) of Rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules 1952, read with rule, 7, 6 of the Punjab Civil Services Rules, Volume I, Part I, the convicted Government servants should be dismissed or removed from service immediately on receipt of intimation of conviction without waiting for appeal or revision. It will not be necessary in such cases to follow the procedure laid down in Rule 7(1) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, regarding the holding of departmental enquiries. All that the Administrative Department need examine is whether the order passed should be one of dismissal or removal. It however, on appeal or revision, the conviction of the Government servant, is set aside, he should be immediately reinstated. In case it is decided to subject him to departmental proceedings after his acquittal or discharge by the appellate court, such action could as well be taken after reinstating him. The mere fact that an appeal has been filed by the Government servant against his conviction should not deter the punishing authority from infliction a suitable punishment on him as provided in proviso (b) to sub-rule (2) of Rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952.

In cases falling under class (ii) action should be taken on the merits of each case. In some cases, it may not be necessary to take any departmental action at all.

4. Under Rules 1 to 3 of Chapter VI-A of the High Court Rule and Orders, a Magistrate taking cognizance of an alleged offence against a Government servant is bound to report without delay to the District Magistrate about the commencement of such proceeding together with brief details of the case. On receipt of such a report the District Magistrate is required to forward a copy thereof to the local Head of the Department to which the accused officer belongs. A further report is required to be sent in the same way on the termination of the proceedings stating whether they have terminated in conviction, discharge or acquittal. In cases of conviction a copy of the judgement must also be forwarded to the Head of the Department concerned. Further, in Punjab Government letter No. 8689-G-51/1/8/189, dated the 6th November, 1951, instructions were issued to all Heads of Departments etc. that the prosecuting officers conducting cases against Government officers in courts should be directed to ensure that prompt intimation was sent to the Administrative authorities concerned wherever orders convicting any Government servant of a criminal offence were passed in cases handled by them. It seems that these instructions are not being carefully observed by courts prosecuting officers and District Magistrate and I am to request that the Heads of Departments concerned to ensure their compliance for the future. Prompt intimation of conviction to the authority empowered to dismiss the Government servant is an obvious and essential pre-requisite to the prompt dismissal or removal of that Government servant.

5. I am directed to emphasize that the instructions contained in this letter should be strictly followed in future. They supersede all previous instructions issued on the subject.

Copy of Punjab Government Circular Letter No. 6613-GI-58/20259, dated the 7th July, 1958 from the Chief Secretary to Government, Punjab, addressed to all the Heads of Departments etc., etc.

Subject :- Treatment of cases of Government servants not fully exonerated in departmental enquiries.

Sir,

I am directed to say that three types of situations arise when a Government servant is charge-sheeted and subjected to a departmental enquiry whether under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, or under any other rules applicable to the Government servant concerned.

- (i) *Either* the charge is fully proved;
- (ii) *Or*, the Government servant is fully exonerated;
- (iii) *Or*, as most frequently happens, the case falls in the area between (i) and (ii).

Cases coming under category (iii) may be described as 'doubtful cases.'

2. No difficulty is experienced in respect of cases of category (i) in case there is an element of corruption or dishonesty in the charge, instructions already exist that the only right penalty in such cases is dismissal. Punjab Government letter No.122-ACC-48/38539, dated the 19th July, 1948 may be referred to in this connection.

3. Similarly, cases of category (ii) also present on difficulty. If the Government servant was under suspension prior to the date on which the competent authority 'holds him to have fully exonerated, he is immediately and under sub-rule (2) of rule 7.3 of the Punjab Civil Services Rules, Volume I, Part I, he is entitled to full pay and allowances for the period of suspension. Further under sub-rule (4) of the same rule, he is entitled to have the period of his absence from duty treated as duty for all purposes.

4. Cases falling under category (iii) present certain difficulties and it is the object of this letter to clarify the policy of Government about how such cases should be treated. Difficulties arise in 'doubtful cases' for the following reasons :-

- (a) It is not always clear from the Inquiry Officer's report that the case is a doubtful one, and the tendency is for punishing authorities to treat all unproved cases as cases of exoneration, unless there is specific finding from the Inquiry Officer, in so many words, that the cases is a doubtful one.
- (b) Where a case does get identified as doubtful whether at the level of the Inquiry Officer or at the level of the punishing authority no attempt is made to classify the degree of doubt with the result that when any action is taken, it tends to be somewhat unjust in that no distinction is made between cases in which there is a high degree of doubt and cases in which this is not so.
- (c) Generally, no action is taken in doubtful cases because of a mistaken impression that on the analogy of criminal cases, where acquittal is the only alternative to conviction, exoneration and consequent reinstatement (if necessary) are the only alternatives to a finding of guilty in departmental enquiries.
- (d) Where this impression is not present, the question as to what action should be taken

in doubtful cases not having been covered by any specific instructions of Government, the action actually taken has tended to vary according to how strongly the particular punishing authority feels about inflicting penalties in doubtful cases.

5. Regarding (a) and (b), I am to emphasis that it is the duty of every punishing authority to satisfy himself on the following issues while considering the report of an Inquiry Officer :-

- (i) Whether the charge has been proved;
- (ii) If not, whether there is case for fully exonerating the Government servant concerned;
- (iii) If not, what is the degree of doubt.

The effort should be to arrive at definite conclusions on these issues. Some difficulty may be experienced about Issue No (iii) as there can obviously not be a mathematical valuation of the degree of doubt in any particular case. However, Government are satisfied that applying broad principles of judgment some reasonable assessment can be made. On one extreme, there would be causes in which the hypothesis of guilt is only a possible one. On the other extreme there may be cases in which it can be said that the hypothesis of guilt is a highly probable one or that the conduct of the charge sheeted officer is highly suspicious.

6. Rule 7(2) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, requires Inquiry Officers to include in the proceedings a statement if their findings and the grounds thereof. Similar provisions exist in other rules applicable to special categories of Government servants who are not governed by the Punjab Civil Services Rules. For the future Government desire that, in order to assist punishing authorities in arriving at definite conclusions on the issues mentioned in para 5. Inquiry Officers should in respect of each charge, express their findings and the grounds thereof clearly on the lines indicated in the preceding paragraph.

7. Regarding (c) in para 4, I am to clarify that the analogy of criminal cases is not applicable to departmental enquiries. The structure of the criminal law rests on the right of every citizen to enjoy individual liberty, and it follows from this that, is the event of a case not being proved, the accused must be immediately set at liberty. The principle on which the concept of departmental enquiries rests is not this. It is simply the right of the public to have reliable reasons in public service. In departmental cases, therefore, it is necessary for the punishing authority to ensure justice not only to the charge-sheeted Government servant but also to the public, who have a right to see that no officer continues in service in respect of whose reliability there is serious doubt. It follows from this that all doubtful cases in which the degree of doubt is substantial should result in some penalty being inflicted on the Government servant concerned. The assumption that has prevailed that the only option with Government or other punishing authorities in all doubtful cases is. to reinstate the officer being proceeded against is incorrect, and the principle that the "benefit of doubt" must always go to the charge-sheeted Government servant does not hold good in the same manner in departmental enquiries as it does in criminal trials. Government desire that, in future, there should be no misunderstanding on this point.

8. Regarding (d) in para 4, Government wish to lay down certain broad principles indicating the action that should be taken in 'doubtful cases. ' In this connection, I am first to invite your attention to the provisions of Sub-Rules (3) and (5) of Rule 7.3 of the Punjab Civil Services Rules, Volume I, Part I, according to which, when a suspended Government servant is reinstated following a departmental enquiry, in which he has not been fully exonerated, he is to be given such proportion of his pay and

allowances for the period of suspension as the competent authority may prescribe. His period of absence from duty is not to be treated as a period spent on duty unless the competent authority specifically directs that it shall be so treated for any specified purposes. I am to point out that these provisions only deal with such doubtful cases as merit reinstatement, and there too, they deal only with the question of pay and allowances during the suspension period and the nature of the service rendered during the same period. It must not be assumed from this rule that in doubtful cases, reinstatement is invariably to be ordered, or that where reinstatement is justified on merit, no action other than the one contemplated in Sub-Rules (3) and (5) can be taken. Government are of the view that, where the punishing authority is satisfied after going through the papers of the departmental enquiry, that the hypothesis of guilt is a probable one or that the conduct of the charge-sheeted officer is definitely suspicious some penalty short of dismissal should be inflicted. Its severity will depend on the facts of each case. In the worst cases, where dishonesty or corruption is involved, and the finding is one of the hypothesis of guilt being a highly probable one or the most probable one, or that the conduct of the charge-sheeted officer is highly suspicious, the penalty should be as severe as possible. No Government servant who has a bad reputation and abundant suspicion against him has any right to be kept in service and in such cases, therefore, the possibility of ordering removal should also be considered. In other cases, less severe penalties should be considered, taking all the circumstances of each case into account. When penalties other than removal are inflicted, the Government servant concerned would be reinstated (if under suspension) and the penalty to be imposed would be over and above the action to be taken in pursuance of sub-rules (3) and (5) of rule 7.3 *ibid*.

9. I am to add that, although the policy explained in this letter is a departure from the present practice in some departments, Government are advised that it is entirely within the law and in accordance with the principles governing questions of punishment and discipline amongst Government servants. I am to request that the instructions now being conveyed should be strictly followed by an concerned.

Copy of Punjab Government Circular Letter No. 5222-GIII-59/15305, dated the 17th September, 1959, from the Chief Secretary to Government, Punjab, addressed to all Heads of Departments etc., etc.

Subject :- **Reimbursement to Government servants of the cost of investigation into their conduct.**

I am directed to say that Government have reviewed the procedure detailed in—

- (1) Mr. Emerson's letter No., 5881 (H-Gaz.) dated February, 1928 ;
- (2) Punjab Government letter No. 1202-G-56/21150, dated the 20th/22nd March, 1956; and
- (3) Punjab Government letter No. 4319-GI-58/16255, dated the 30th May, 1958, regarding reimbursement to Government servants of the cost of investigation when their conduct has been the subject of inquiry either by an authority appointed under the Public Servants (Inquiries) Act (XXXVII of 1850) or by a departmental agency (including that of the Vigilance Department) under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, and the Departmental Enquiries (Powers) Act, 1955.

2. Government consider that in this matter of reimbursement there should be no discrimination between Government servants whose conduct is the subject of investigation under the Public Servants (Inquiries) Act, 1850, and those whose conduct is being investigated under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, and the Department Enquiries (Powers) Act, 1955.

According to the existing instructions the cost of defence witnesses is to be met by the Government in the case of investigation only under the Public Servants. (Inquiries) Act, 1850, whether the officer or official under suspicion succeeds in clearing himself or not, provided that the charges of those witnesses only are to be paid whom the commission declares to be necessary witnesses. But in the case of enquiries under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, Government have the discretion of granting or withholding sanction to these charges. In this connection, it is observed that when an Inquiry Officer is appointed, his duties are, as an agent of Government to assist them in arriving at the truth regarding various allegations. The rules do not necessarily require an Inquiry Officer to be appointed. It is only a convenience and has to be resorted to in complicated cases. Moreover, the Inquiry Officer has discretion to refuse the summoning of a particular defence witness though he has to record his reasons for doing so. In other words, the control rests with him and he can exercise it to prevent wasteful evidence. In these circumstances, it seems only fair that Government should bear the cost of defence witnesses in the case of investigation under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, also.

Keeping these factors in view Government hereby prescribe the following procedure in the matter:

- (1) Expenses of defence witnesses whether in connection with investigation by an authority under the Public Servants (Inquires) Act, 1850 or an inquiry under the Punjab Civil Services (Punishment and Appeal) Rules, 1952. The expenses of defence witnesses should be met by Government in accordance with the prescribed scales as explained in clauses (a) and (b) of sub-paragraph 3 below whether the Government servant under suspicion succeeds in clearing himself or not, provided that the charges

of those witnesses only should be paid whom the Commission or the Inquiry Officer declares to be necessary witnesses. Further the witnesses should be directly paid by the Commission/Enquiry Officer.

- (2) Request for reimbursement of the fees of the counsel whether in the matter of investigation by an authority under the Public Servants (Inquiries) Act, 1850, or in the matter of an inquiry under the Punjab Civil Services (Punishment and Appeal) Rules, 1952. When the officer or official is allowed to be represented by a counsel, reimbursement of the fees of the counsel should be allowed in cases where the officer or official under suspicion is successful in clearing himself. In other cases the request for the reimbursement of the fees of the counsel should be considered on its merits. Reimbursement of fees of the counsel should be done at the rates laid down in Chapter II of the Punjab Law Department Manual for payment of fees to counsel in criminal cases.
- (3)
 - (a) Payment of expenses to non-official witnesses, summoned for the prosecution or Defence should be made according to the rates specified in Chapter 5-C of Volume I of the High Court Rules and Orders in respect of witnesses attending Civil Courts.
 - (b) Government servants summoned as witnesses should be given the usual certificates of attendance to enable them to draw their normal Travelling Allowance and the Daily Allowance to which they are entitled in accordance with the provisions of the Punjab Civil Services Rules, Volume III, Travelling Allowances Rules.
 - (c) The expenditure on non-official witnesses should be debited to the same head of account to which the pay of the officer/official concerned is debitable when an enquiry is proceeding against him.
 - (d) Payment to non-official witnesses should be made out of the contingent grants of the offices/ departments concerned.
3. The three letters quoted in the first paragraph of this communication are hereby cancelled.

Copy of Circular letter No. 12277-V(1)-59/13470, dated the 10th December, 1959, from the Secretary to Government, Punjab, Vigilance Department, addressed to all Heads of Departments, Registrar, Punjab High Court, etc.

Subject :- Departmental enquiries-time-limit.

I am directed to say, that the question of prescribing some time-limit to complete processes of investigation and enquiry in departmental proceedings came up for discussion in the Conference of Commissioner and Deputy Commissioners etc. held at Simla in September, 1959.

2. Government feels that officials are often harassed by the length of time taken to complete the processes of investigation and enquiry even in cases, which do not eventually result in a charge-sheet, often the official concerned is subjected to anxiety by the knowledge that an investigation is proceeding against him. Government accordingly realise that there should be a very strict limit to the time an official is subjected to such process.

3. In this background, keeping in view practical considerations, as far as possible, Government have taken the following decisions :-

- (1) The whole process of investigation and enquiry should be completed within six months (excluding period of reference to the Public Service Commission and period where proceedings are stopped owing to a reference to a court of law).
- (2) An extension of the period by another three months may be obtained under the orders of the Minister in-charge.
- (3) If extension beyond nine months i.e. period (i) and (ii) above, is needed, full facts and justification must be placed before the Cabinet and their approval taken.

4. I am to request that these instructions may be kept in view by all concerned for strict observance.

5. This supersedes all the previous instructions on the subject.

Copy of Circular letter No. 2247-AUL-59/33366, dated 20th/24th November, 1959 from the Chief Secretary to Government, Punjab, to All the Heads of Departments etc., etc.

Subject:— **Taking of decision by the lowest level--empowered and authorised as such.**

During the conference of Commissioners and Deputy Commissioners held at Simla in September, 1959, the question of the proper and full use of the powers delegated different stages of the hierarchy in State Departments was discussed. It was the view that officials often did not or were not allowed by higher authority, to exercise powers which they were, in fact, competent to exercise. This tendency not only led to unnecessary delays but also undermined the effectiveness of the various executives working in Government and created a certain amount of confusion. To check this tendency, therefore, the State Government has taken the following decisions :

- (a) Decisions should be allowed to be made at the lowest empowered and authorised to make these and it should normally be left to processes of appeal and representation available to the parties concerned to get such decisions reconsidered.
- (b) Where a decision taken by a lower authority is not approved by the higher authority, it should not be revised without taken into consideration, by obtaining through the proper channel, the views of the authority who has made the decision.
- (c) Individual case or classes of cases where a particular authority is empowered to take a decision should not be removed from the purview of that authority to a higher authority. However, the latter may, if it so wishes, issue any policy directions with regard to how a particular decision or policy is to be implemented.

2. Government would like to emphasise again that these instructions should be conveyed to all officers under you and should be complied with strictly so that interference with the functioning of a lower authority by higher authority does not take place, except for good reason, and in a regular authorised manner.

Copy of letter No. 9523-PI-59/37149, dated 27-11-1959 from the Chief Secretary to Government, Punjab, to all the Heads of Departments, etc., etc.

Subject - Channel of correspondence.

I am directed to say that as a step towards toning up discipline at all levels, it was decided in the Conference of Commissioners and Deputy Commissioners held at Simla in September, 1959 that it is imperative that the normal channels of correspondence should be observed in all Government Administration even though this may cause some delay in individual cases. I am to request that this decision may be brought to the notice of all Government servants under you for strict compliance.

Copy of Circular letter No. 3591-GS-61/14511, dated the 24th April, 1961, from the Chief Secretary to Government, Punjab, to all Heads of Departments, etc., etc.

Subject :- Departmental action in cases referable to Law Courts.

I am directed to inform you that instances have come to the notice of Government where Government servants, held guilty in departmental proceedings, succeed in Courts of Law on technical grounds and thus escape punishment of dismissal, etc., and consequently are also given full pay and allowances due to them under the orders of the Courts. Government feel that this is mainly due to the fact that these cases are dealt with in the Departments concerned by officials who were not fully acquainted with rules and procedure on the subject. Such cases not only bring a bad name to Government but also enable the guilty persons to escape proper punishment. With a view to avoid recurrence of such cases in future, Government have decided that whenever a new official comes into a Department and occupies a position where he has to deal with these cases, he should be specifically asked to make himself fully acquainted with rules and procedures relating to these cases. It has further been decided that the senior officers should occasionally collect officials of the Department and make them aware of the relevant rules. It is hoped that if this system is strictly adhered to, it will save Government from bad name and at the same time make escape for a guilty person on mere technical grounds impossible. These instructions may be brought to the notice of all Government servants working under you for strict compliance.

**Copy of Punjab Government Circular letter No. 5078-GS-61/21489, dated the 20th June, 1961,
from the Chief Secretary to Government, Punjab, to all Heads of Departments etc., etc.**

Subject:— Distinction between ‘Warning’ and ‘Censure’.

I am directed to say that certain doubts and misapprehensions have been raised regarding distinction between ‘Warning’ and ‘Censure’ as these have nowhere been defined in clear terms. The position, therefore, has been examined and is explained in the following paragraphs for the guidance of all Departments.

2. The foremost aspect to bear in mind is the fundamental and formal distinction between the two terms. An order of ‘Censure’ is *formal* and *public* act intended to convey that the person concerned has been held guilty of some blame-worthy act or omission for which it has been found necessary to award him a formal punishment. Nothing can amount to a ‘Censure’ unless it is intended to be such a formal punishment and imposed for ‘good and sufficient reasons’ after following the prescribed procedure. A record of the punishment so imposed is kept on the officer’s confidential roll and the fact that he has been ‘censured’ will have its bearing on the assessment of his merit or suitability for promotion to higher posts.

3. There may be occasions, on the other hand, when a superior officer may find it necessary to criticise adversely the work of an Officer working under him (e.g. point out negligence, carelessness, lack of thoroughness, delays, etc.) or he may call for an explanation for some act or omission and taking all circumstances into consideration, it may be felt that; while the matter is not serious enough to justify the imposition of the formal punishment. of ‘Censure’, it calls for some informal action, such as the communication of a written warning, admonition or reprimand. If the circumstances justify it, a mention may also be made of such a warning etc. in the officer’s confidential roll. However, the mere fact that it is so mentioned in the character roll does not convert the warning etc. into a ‘Censure’. Although such comments, remarks, warning etc. also would have the effect of making it apparent or known to the person concerned that he has done something blame worthy and, to some extent, may also affect the assessment of his merit and suitability for promotion, they do not amount to the imposition of the penalty of ‘Censure’ because it was not intended that any *formal* punishment should be inflicted.

4. The fact that a mere informal ‘warning’ cannot be equated to a formal ‘censure’ should not however, be taken as tantamount to suggesting that a written warning may be freely given without caring whether or not it is really justified. It is a matter of simple natural justice that written warnings, reprimands etc. should not be administered or placed on an officer’s confidential record unless the authority doing so is satisfied that there is good and sufficient reason to do so. It may be reiterated here that in the discharge of the responsible task of recording the confidential reports, every reporting officer should be conscious of the fact that it is his duty not only to make an objective assessment of his subordinates’ work and qualities but also to see that he gives to his subordinates at all times the advice, guidance and assistance to correct their faults and deficiencies. If this part of the reporting officers duty has been properly performed there should be no difficulty about recording adverse entries because they would normally refer to the defects which have persisted in spite of the reporting officers’ efforts to have been corrected. If after having taken such care the reporting officer finds that for the purpose of a truly objective assessment mention should be made of any warning admonition

etc. issued especially those which have not produced the desired improvement, it is his right and duty to so mention them.

5. I am to request that these instructions may be brought to the notice of all Government Servants working under you. The receipt of this letter may please be acknowledged.

**Copy of Circular letter No. 5201-8GS-62/12393, dated the 24th April, 1962, from
Shri E.N. Mangat Rai, I.C.S. Chief Secretary to Government, Punjab, to all the
Heads of Departments etc., etc.**

Subject :- Representations from wives/parents of Officers/Officials.

I am directed to say that there is fairly widely current practice that a large number of letters/representations are addressed to the higher authorities by the wives or members of the families of Government servants for redressing their grievances, thus short circuiting all unusual channels through which a case should normally pass. Government consider that it is not correct on the part of Government employees to forward representation under the cloak wives or members of their family and not come out directly themselves to their departmental authorities. Therefore, I am to inform you that it has been decided that all such letters/representations should be ignored, unless they are unusual circumstances such as illness of an acute type where the official can not normally be expected to write a letter or explain the position himself.

2. These instructions may kindly be brought to the notice of all Government Servants under your control for information. The receipt of this communication may also be acknowledged.

Copy of Punjab Government Circular letter No. 9872-5GS-62/29821, dated the 28th August, 1962 from the Chief Secretary to Government, Punjab to all the Heads of Departments, etc., etc.

Subject :— Submission of representations and advance copies thereof by Government servants in respect of matters connected with their conditions of service.

I am directed to point out that rules 10 and 12 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 provide for a restricted number of appeals in case; which are appealable under these rules. There are, however no specific instructions to govern the representations and petitions submitted by Government servants in cases, which are not covered by the Punishment and Appeal Rules. As a result, it has been noticed that whenever any officers in a key position is transferred, certain Government servants think, that it is a good opportunity to reopen finally settled cases connected with their conditions of service of disciplinary matters, which may be even several years old. There is also a growing tendency among Government servants to send advance copies of representations to all higher authorities without giving an opportunity to the officers to whom these are addressed to examine the cases and without waiting for their reply. All this leads to unnecessary increase in work at all levels which could be cut down. But it is realised that whereas it is necessary to ensure a check on the creation of unnecessary extra work in all departments, it is also necessary to ensure a fair chance of representation to Government employees. To meet this situation, it has been considered necessary to lay down clear instructions governing the submission of representations and petitions and the sending of advance copies thereof by Government servants. After careful consideration the following procedure is laid down for the guidance of all departments :-

- (a) whenever in any matter connected with his service rights or conditions, a Government servant wishes to press his claim or to seek redress of a grievance, the proper course for him is to address his immediate official superior or the Head of office or such other authority at the lowest level, as is competent to deal with the matter. When a case has thus been decided by the lowest competent authority, one representation should be allowed to the next higher authority. Where the lowest competent authority is Government itself, one representation should be allowed, asking for a review of Government orders.
- (b) If an official sends up a representation in addition to those permitted under (a) above on, the ground that certain new facts have come to light, that representation will be considered by the original deciding authority, who will be competent to withhold it and reject it if he finds that in fact no new data has been given which would provide any material ground for reconsideration.
- (c) Every representation should be submitted within six months of the order against which it represents.
- (d) In addition to the representation allowed under (a) above one memorial shall be allowed as at present, which shall be decided at Government level as laid down in the memorial instructions published with the Punjab Government notification No. 9369-G-51/1-681, dated the 12th February, 1952.
- (e) According to instruction 6 of the said memorial instructions, a second memorial can be submitted if it furnishes new material grounds which urge reconsideration. The

second memorial can be withheld by the Head of a Department if he considers that in fact no new grounds have been furnished which call for reconsideration. These instructions may continue because an official who has been unjustly dealt with under clause (b) above, can seek relief here.

- (f) An advance copy of a representation can only be sent to the authority to whom it is addressed. An official can, however, send an advance copy of a representation to the next higher authority if he does not hear from the authority originally addressed about the disposal of his representation for a period of 4 months. This would imply that no action need be taken by an authority normally not expected to deal with a representation as the original authority, on a representation which does not contain a specific statement that the official concerned has not heard for 4 months from the authority to whom he had made his representation. If the Government servant persists in prematurely addressing the next higher authority, suitable disciplinary action should be taken against him.
- (g) If the advance copy of representation contains a specific statement that four months have elapsed from the submission of representation to the original authority, it should be examined by the next higher authority to ascertain whether on the facts as stated, some grounds appear to exist *prima facie* for interference or for further consideration. Where no such grounds appear to exist, the advance copy of the representation may be ignored or summarily rejected and the reasons communicated briefly to the Government servant through the original authority.
- (h) Even where some grounds for interference or further consideration appear to exist to the highest authority referred to in (g) above, the authority originally addressed about the disposal of the representation should be asked within a reasonable time to forward the original representation, with its report and comments on the points urged. There should ordinarily be no justification for the passing of any orders on an advance copy of the representation without thus ascertaining the comments of the original authority.

2. Some Government servants, it has been noticed sent copies of their representations to outside authorities, i.e., authorities which are not directly concerned with the consideration thereof (e.g. another Minister, Secretary etc.) In some cases Government servants have even addressed their representations to such other quarters not directly concerned. This is a most objectionable practice contrary to official propriety and subversive of good discipline, and all Government servants are expected scrupulously to eschew it.

3. I am to request that the instructions detailed above should be brought to the notice of all State Government servants under you, for strict compliance and a certificate to that effect should be forwarded to Government in due course. I am to add that these instructions do not apply to All India Services who are governed by separate instructions relating to them.

Copy of Punjab Government Circular letter No. 7820-6GS-63/21608, dated the 27th June, 1963, from the Chief Secretary to Government, Punjab, to all Heads of Departments etc., etc.

Subject :— Expeditious disposal of cases involving financial liability of Government Delays in taking disciplinary action.

I am directed to invite your attention to the instructions contained in Punjab Government letter No. 5356-G(C)-56/1986, dated the 26th/31st July, 1965 and No. 6757-6GS-60/31334, dated the 27th September, 1960, which *inter alia* laid down that cases involving financial liability of Government should receive your personal attention for fixing responsibility on the Government servants concerned, taking timely action against all the delinquents and that it should be handled at all levels at the highest possible priority so as to eliminate any chance of loss owing to delayed action against those who are found guilty of negligence of duty in this behalf. The Public Accounts Committee have again pointed out that notwithstanding their repeated observations regarding inordinate delays in undertaking investigations into the irregularities immediately after they come to notice, inordinate delays continue to occur in regard to investigation and fixation of responsibility for various lapses. Such a state of affairs cannot be viewed with equanimity. They have further observed that in the Engineering Departments in particular, investigation and departmental proceedings have been allowed to drag on by which Government might find itself handicapped in taking action against the officials concerned either because they might retire or the relevant records might not be available. The Committee have noticed a general tendency, particularly on the part of Engineering Departments to cover up lapses on the part of the officials/officers and to give evasive or equivocal explanations. Government have taken a very serious view of such state of affairs.

2. All Departments are expected to investigate the irregularities as soon as they come to their notice and to take prompt and suitable action against the delinquent officials so that the decision taken could be fully implemented. With a view to remedy the situation to which the Committee has drawn attention, it has again been considered necessary to impress upon you (especially the Engineering Departments) to ensure speedy investigation of all cases involving financial irregularities committed by Government employees and timely action against all lapses.

3. The receipt of this Communication may kindly be acknowledged.

Copy of letter No. 5213-5GS-63/23036, dated the 8th/16th July, 1963, from the Financial Commissioner, Planning and Additional Chief Secretary to Government, Punjab, to all Heads of Departments etc., etc.

Subject :- Admissibility of pay and allowances to Government employees on reinstatement.

I am directed to say that the provisions contained in sub-rules (2) and (4) of rule 7.3 of Punjab C.S.R., Volume I, Part I lay down *inter alia* that when a Government employee who was dismissed, removed or suspended from service is reinstated after he has been fully exonerated or, in the case of suspension after it has been held that the suspension was wholly unjustified, the Government employee shall be given full pay and allowances to which he would have been entitled, had he not been dismissed, removed to suspended from service as the case may be, and that the period of absence from duty shall be treated as period spent on duty for all purposes. The question regarding the admissibility of pay and allowances to such reinstated Government employees as secured employment during any period between dismissal, removal, discharge or termination of service and reinstatement, has been under the consideration of the Government, and it has been decided that the pay and allowances admissible to them for the period prior to their reinstatement shall be reduced by the emoluments earned by them during such employment if the pay and allowances exceed such emoluments. If the pay and allowances admissible to them are equal to or less than the emoluments earned by them, no amount shall be paid to them.

2. These instructions will take effect from the date of issue. The receipt of this communication may be acknowledged.

Copy of Circular letter No. 8482-DSGSI-65/34106, dated the 19th October, 1965, from the Chief Secretary to Government, Punjab to all the Heads of Departments, etc., etc.

Subject :— Submission of representations and advance copies there by Government servants in respect of matters connected with their condition of service.

I am directed to say that in para I of Punjab Government, Circular letter No. 9872-5GS-62/2982I, dated the 28th August, 1962, on the subject cited above, it was, inter alia, mentioned that there were no specific instructions to govern the representations and petitions submitted by Government Servants in cases which were not covered by the Punishment and Appeals. It has now been brought to the notice of this department that there are specific instructions of the Government for making representations/appeals against non-selection for a selection post, adverse remarks in confidential reports and fixation of interse seniority with effect from 1st November, 1956, as a result of integration of the Pepsu and the Punjab State Services, which are some of the matters connected with the conditions of service for which no provision has been made in the punishment and Appeal Rules. In this context, a question has arisen whether the instructions dated 28th August, 1962 referred to above, supersede all such instructions on the subject. In this respect, I am to clarify that the instructions dated 28th August, 1962 are applicable only to representation and petitions by Government employees in respect of matters connected with their conditions of service such as posting and transfer, probation confirmation, seniority, fixation of pay, leave etc. for which no specific right of appeal representations has been provided, in the relevant Services Rules/Government instructions. Therefore, these instructions do not supersede the instructions contained in Punjab Government Circular letter No. 9129-G-56/3962, dated the 17th September, 1956, No. 2334-ASI-60/15708, dated the 3rd May, 1960 and the instructions issued by the various Administrative Departments for inviting appeals of Government employees against the fixation of inter-se-seniority with effect from 1st November, 1956 as a result of integration of the Pepsu and the Punjab State Services.

2. These instructions may be brought to the notice of all Government employees under your administrative control for future guidance.

Copy of Punjab Government Circular letter No. 2180-4GSI-66, dated 10th May, 1966 from the Chief Secretary to Government, Punjab, to all Heads of Departments, etc., etc.

I am directed to refer to Punjab Government letter No., 9369-G-51/681, dated the 12th February, 1952, which lays down the instructions for the submission and receipt of memorials and petitions from persons who are, or have been in the Civil Service of the Punjab State. Under para 2(1) of these instructions a Government employee is competent to file a memorial to the Governor in respect of matters arising out of such employment. The question whether a memorial against adverse remarks in the Confidential reports of Government employees is admissible or not has been considered at length and it has now been decided that no memorial lies against adverse remarks communicated to the employees on the basis of his confidential report. Accordingly para 2(1) of the memorial instructions may be amended to read as follows :

“These instructions shall apply to memorials addressed to the Governor of Punjab or the State Government by persons who are or have been in the Civil Service of the Punjab State in respect of matters arising out of such employment: or in respect of the termination of such employment and who or were subject to the rule making power of the Governor”. However these instructions will not apply to representations made against adverse remarks, communicated on the basis of annual confidential reports.

Copy of letter No. 2029-5GS-69/9077, dated 8-5-1969 from the Chief Secretary to Government, Haryana, to all the Heads of Departments etc., etc.

Subject :- Submission of representations and advance copies thereof by Government employees in respect of matters connected with their conditions of service.

Sir,

I am directed to invite reference to composite Punjab Government letter No. 9872-5GS-62/29821, dated 28th August, 1962 (copy enclosed) on the subject noted above, which lays down the procedure for the submission of representations and advance copies thereof by Government employees in respect of matters connected with their conditions of services. It has been observed that there have been instances of contravention of these instructions and Government employees have forwarded their representations in connection with their promotion, fixation of seniority and other service matters through Members of Haryana Vidhan Sabha or other influential persons. It may be pointed out that such action on the part of Government employees is subversive of discipline and also involve a violation of Rule 20 (copy enclosed) of the Punjab Government Employees (Conduct) Rules, 1966. It is, therefore, requested that the Government instructions and rules referred to above may be brought to the notice of all Government employees working under you and it may be made clear to them that contravention of these instructions will be viewed seriously and that the defaulting employees will render themselves liable to severe disciplinary action.

GS-69/30299

From

The Chief Secretary to Government, Haryana.

To

All Heads of Departments, the Commissioner, Ambala Division and all Deputy Commissioners and Sub-Divisional Officers in Haryana.

The Registrar, Punjab and Haryana High Court and all District & Sessions Judges in Haryana.

Dated Chandigarh, the 16th December, 1969.

Subject :- **Procedure for imposing penalties under Rule 8 of Punjab Civil Services (punishment & Appeal) Rules, 1952.**

Sir,

I am directed to address you about the interpretation to be placed on Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 which is to the effect that no order imposing any of the following minor penalties on a Government employees shall be passed, unless he has been given an adequate opportunity of making any representation that he may desire to make, and such representation had been taken into consideration-

- (i) Censure;
- (ii) with-holding of increments or promotion, including stoppage at an efficiency bar, if any and
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach or orders.

In this connection attention is invited to the observations made by the Punjab and Haryana High Court in the case Kalyan Singh Vs. the State of Punjab (Civil Writ No. 2523 of 1965) an extract of which is given below :-

“The difference between rules 7 and 8 is this whereas under rule 7 alike Article 311 (2) of the Constitution, two opportunities have to be afforded to a delinquent officer the requirement of the first opportunity is not mandatory in case of imposition of penalties referred to in Rule 8. The enquiry envisaged in the first part of clause (2) of Article 311 in which the delinquent Officer has to be given a reasonable opportunity of being heard in respect of those charges is not made obligatory under rule 8. In the Constitutional provision, the imposition of the relevant penalties is prohibited without giving a reasonable opportunity of making representation against the penalty proposed. This requirement has been interpreted as to entitle the delinquent official to represent not only against the quantum of punishment, but also against alleged guilt, irrespective of the earlier opportunity which the official may have availed of. The very language of Rule 8 of the disciplinary rules shows that the ‘adequate opportunity’ of making any representation envisaged by that rule has in the nature of things to be a real opportunity to represent against the alleged guilt of the official as well as against the quantum of the punishment proposed, if any, such proposal has been made in the Show Cause Notice.”

2. The position is that in cases involving the imposition of minor penalties under Rule 8 of the rules *ibid* it is sufficient if a statement of allegations is forwarded to the Government employee concerned along with intimation as to the penalty proposed to be imposed on him, and after considering the representation submitted by the Government employee, the punishing authority passes final orders in the case. The issue of a separate second show cause notice about the proposed penalty is thus not necessary as in the case of the imposition of a major penalty. If however the proposed penalty is not for any reason intimated to the Government employee when the statement of allegations is sent to him then a further show cause notice indicating the proposed penalty must also be issued to him before final orders are passed against him.

3. It is requested that these instructions may be noted for careful compliance.

Yours faithfully,

Sd/-

Deputy Secretary, Political & Services,
for Chief Secretary to Government, Haryana.

A copy each is forwarded to the Financial Commissioner, Revenue, Haryana, and all Administrative Secretaries to Government, Haryana, for information and guidance.

Sd/-

Deputy Secretary Political & Services,
for Chief Secretary to Government, Haryana.

To

1. The Financial Commissioner, Revenue, Haryana & All Administrative Secretaries to Government, Haryana.

U.O. No. 6987-5GS-69,

Dated Chandigarh, the 16th December, 1969.

विषय: - सरकारी कार्य निपटान में विलम्ब की समाप्ति-शाखाओं में पुराने विलम्बित मामलों के आंकड़ों का संग्रह करना ।

क्या सभी प्रशासकीय सचिव, हरियाणा सरकार, कृपया उपरलिखित विषय पर ध्यान देंगे ?

2. मामलों के निपटान में देरी को समाप्त करने तथा प्रशासकीय सचिवों को उनकी शाखाओं में लम्बित मामलों से उन्हें सूचित रखने के उद्देश्य से जनवरी, 1961 में ये अनुदेश जारी किए गए थे कि लम्बित केसों का विवरण निर्धारित प्रपत्र में एकत्रित करके प्रशासकीय सचिवों के नोटिस में लाया जाया करें। यह देखने में आया है कि इन अनुदेशों का पालन नहीं किया जा रहा है और आवश्यक विवरण तैयार नहीं किए जा रहे हैं। यह एक गम्भीर चूक है और अब यह निर्णय किया गया है कि भविष्य में संलग्न प्रपत्र तैयार किए जायें तथा एक अतिरिक्त प्रति सहित प्रत्येक मास की 7 तारीख तक सम्बन्धित प्रशासकीय सचिव को प्रस्तुत किए जायें। तत्पश्चात् प्रशासकीय सचिव द्वारा दूसरी प्रति मुख्य सचिव, (प्रशासनिक सुधार शाखा में) को मुख्य मंत्री महोदय की सूचना के लिए भेजी जानी चाहिए।

3. यह निवेदन किया जाता है कि उपर्युक्त अनुदेशों का दृढ़ता से पालन किया जाए।

4. कृपया इस पत्र की पावती भेजें।

उप सचिव, सचिवालय स्थापना,
कृते : मुख्य सचिव, हरियाणा सरकार।

सेवा में

सभी प्रशासकीय सचिव, हरियाणा सरकार।

अशा: क्रमांक 1250 - 5ए.आर. - 70

दिनांक, चंडीगढ़, 5 अक्टूबर, 1970

एक-एक प्रति सभी वित्तायुक्तों को सूचनार्थ तथा वैसी ही कार्यवाही के लिये भेजी जाती है।

उप सचिव, सचिवालय स्थापना,
कृते : मुख्य सचिव, हरियाणा सरकार।

सेवा में

सभी वित्तायुक्त हरियाणा।

अशा: क्रमांक 1250 - 5ए.आर. - 70,

दिनांक, चंडीगढ़, 5 अक्टूबर, 1970.

क्रमांक 4000-5 जी. एस.-70/12875

प्रेषक

1. समस्त विभागीय अध्यक्ष, कमिश्नर अम्बाला मण्डल, समस्त उपायुक्त और उप मण्डल अधिकारी, हरियाणा।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय और जिला और सत्र न्यायाधीश हरियाणा ।
दिनांक, चण्डीगढ़, 30-5-1970.

विषय: - Departmental Proceedings — Extracts from the Judgments of the High Court and Supreme Court.

महोदय,

मुझे निदेश हुआ है कि उपरोक्त विषय पर मैं आपको भारत सरकार, गृह मंत्रालय के पत्र क्रमांक 7-3-70 ए.आई.एस.(II) दिनांक 6-4-70 को इसके संलग्न पत्र क्रमांक 106/18/69 ए.वी.डी. दिनांक 24-2-70 के अनुलग्नक सहित आपको सूचना तथा मार्गदर्शन के लिये भेजूं ।

2. कृपया इस पत्र की पावती दे देवें ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक तथा सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति सेवा में भेजी जाती हैं :-

वित्तियुक्त, राजस्व हरियाणा, सभी प्रशासकीय सचिव हरियाणा सरकार ।

मुख्यमंत्री, मंत्रीगण, समस्त संसदीय सचिवों की सूचना के लिये ।

हस्ता / -

उप सचिव, राजनैतिक तथा सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

प्रधान सचिव, मुख्य मंत्री हरियाणा, समस्त सचिव/निजी सचिव मन्त्रीगण/संसदीय सचिव ।

अशासकीय पत्र क्रमांक 4000-5 जी.एस.-70,

दिनांक 30-5-1970.

Compendium of Instructions on Disciplinary matter—Vol. V

Copy of letter No. 7/3/70-AIS (II), dated the 6th April, 1970, from the Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi to the Chief Secretary to Government, except Tamilnadu.

Subject :- Departmental proceedings-Extract from the Judgments of the High Courts and Supreme Court.

I am directed to forward herewith a copy of this Ministry's O.M. No. 106/18/69-AVD dated the 24th February, 1970, on the above subject, for information and guidance.

Confidential

No. 106/18/69/-AVD

**GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS**

New Delhi-1 the 24th February, 1970.

5th Phalguana, 1891.

OFFICE MEMORANDUM

An officer of the Indian Administrative Service was removed from service as a result of disciplinary proceedings taken against him by a State Government. The officer filed a writ petition in the High Court and the Court set aside the order of removal from service on the ground that the finding of the Board of Inquiry about the guilt of the officer had been affected to a significant extent by surmises and conjectures, and that the finding was given without due weight to crucial points of fact as well as law, which had a vital bearing on the charges. The Court observed that the Board of Inquiry being a Tribunal was expected to follow the principles of natural justice and the Court had to see that the proceedings against the delinquent had been held in a manner consistent with the rules of natural justice and that there was no violation of the statutory rules prescribing the mode of enquiry or a palpable error of law. The finding of guilt must be on the basis of proof which must be such as to create belief and not mere suspicion. In this connection extracts of certain judgments of some Courts are also enclosed. The essential point is that a conclusion must be based on satisfactory evidence so that there is no failure of natural justice. This is circulated for information.

Authorised for issue

Sd/-
(B.S. Kohli)
Section Officer To

Sd/-
(R.C. Joshi)
Under Secretary to the Govt. of India.

All the Ministers of the Government of India
(Chief Vigilance Officer)
New Delhi.

No. 106/18/69-AVD

dated the 24th February, 1970

DEPARTMENT PROCEEDINGS—THEIR NATURE

Extract from the Judgment's of the High Courts and Supreme Court

“It is alleged that the respondent took out from his pocket a wallet and from it produced what appeared to Mr. Rajgopalan to be a folded hundred rupee note. Mr. Rajgopalan showed his stern disapproval of this conduct, whereupon the respondent said ‘No’ and put the wallet with the note in his pocket. After a few minutes the interview ended and the respondent left Mr. Rajgopalan’s place,”

It remains to be considered whether the respondent is not right when he contends that in the circumstances of this case, the conclusion of the Government is based on no evidence whatever. It is a conclusion which is perverse and, therefore, suffers from such an obvious and patent error on the face of the record that the High Court would be justified in quashing it. In dealing with writ petitions filed by public servants who have been dismissed, or otherwise dealt with so as to attract Art. 311 (2) the High Court under Art. 226 has jurisdiction to enquire whether the conclusion of the Government on which the impugned order of dismissal rests is not supported by any evidence at all. It is true that the order of dismissal which may be passed against a Government servant found guilty of misconduct, can be described as an administration order; nevertheless, the proceedings held against such a public servant under the statutory rules to determine whether he is guilty of the charges framed against him are in the nature of quasijudicial proceedings and there can be little doubt that a writ of certiorari, for instance, can be claimed by a public servant, if he is able to satisfy the High Court that the ultimate conclusion of the Government in the said proceedings, which is the basis of his dismissal, is based on no evidence. In fact, in fairness to the learned Attorney-General, we ought to add that he did not seriously dispute this position in law.

High Court can issue writ if it is satisfied that the order of dismissal is based on no evidence.

He, however, attempted to argue that if the appellant acted bona-fide, then the High Court would not be justified in interfering with its conclusion though the High Court may feel that the conclusion is based on no evidence. His contention was that cases where conclusion are reached by the Government without any evidence, could not in law be, distinguish from the cases of mala fide; and so he suggested that perverse conclusions of fact may be and can be attacked only on the ground that they are mala fide, and since mala fides were not alleged in the present case, it was not open to the respondent to contend that the view taken by the appellant can be corrected in writ proceedings.

We are not prepared to accept this contention. Mala fide exercise of power can be attacked independently on the ground that it is mala fide. Such an exercise of power is always liable to be quashed on the main ground that it is not a bona fide exercise of power. But we are not prepared to hold that if mala fides are not alleged and bona fide are assumed in favour of the appellant, its conclusion on a question of fact cannot be successfully challenged even if it is manifest that there is no evidence to support it. The two informatives are separate and distinct though, conceivably, in some cases both may be present. There may be cases of no evidence even where the Government is acting bona fide; the said infirmity may also exist where the Government is acting mala fide and in that case the conclusion of the Government not supported by any evidence may be the result of mala fides but that does not mean that if it is proved that there is no evidence to support the conclusion of the Government, a writ of certiorari will not issue without further proof of mala fides.

When the Order of dismissal is based on no evidence, writ can be issued without proof of mala fide.

That takes us to the merits of the respondents contention that the conclusion of the appellant that the charge framed against the respondent had been proved, is based on no evidence. The learned Attorney General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by the appellant is a reasonably possible view this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondent's case is there any evidence on which a finding can be made against the respondent that charge was proved against him. In exercising its jurisdiction under Art. 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion.

High Court cannot consider the question of sufficiency or adequacy of evidence while exercising jurisdiction under Art. 226. That is a matter within the competence of the disciplinary authority. But the High Court must enquire whether there is any evidence at all.

Now, in this state of the evidence, how can it be said that the respondent even attempted to offer a bribe to Mr. Rajgopalan ? Mr. Rajgopalan makes a definite statement that the respondent did not offer him a bribe. He merely refers to the fact that the respondent took out a paper from his wallet and the said paper appeared to him like a hundred rupee note double folded. Undoubtedly, Mr. Rajgopalan suspected the respondent's conduct, and so, made a report immediately. But the suspicion entertained by Mr. Rajgopalan cannot in law, be treated as evidence against the respondent even though there is no doubt that Mr. Rajgopalan is a straight forward and an honest officer. Though we fully appreciate the anxiety of the appellant to root out corruption from public service, we cannot ignore the fact that in carrying out the said purpose, mere suspicion should not be allowed to take the place of proof even in domestic enquiries. It may be that the technical rules which govern criminal trials in courts may not necessarily apply to disciplinary proceedings, but nevertheless, the principle that in punishing the guilty scrupulous care must be taken to see that the innocent are not punished applies as much to regular criminal trials as to disciplinary enquiries held under the statutory rules. (Union of India Vs. H. C. Goel, A.I.R.1964-S.C. 364).

Where suspicion can not take the place of proof.

“It is true that so far as departmental proceedings are concerned, they are not governed by the Indian Evidence Act. In other words, the strict provisions laid down in the Indian Evidence Act are not applicable to departmental proceedings. Nevertheless the proceedings are subject to rules of natural justice. The question, therefore, is as to what a principle of natural justice is involved in such a case. The rules of natural justice are not codified and cannot be stated with exactitude. In departmental proceedings, it is unnecessary to import the strict procedure applicable to judicial trials. But where the departmental enquiry consists of the trial of a charge in which the punishing authority either by himself or through his delegate has a statutory duty to hear the delinquent or his witnesses, the procedure adopted is to a certain extent like a judicial trial and it is an open question as to whether such proceedings are purely administrative or are to be considered as quasi-judicial. (Amulya Kumar Vs. L.M. Bakshi, A.I.R.1958 Calcutta 470).

Departmental proceedings though not governed by the Indian Evidence Act are subject to the rules of natural justice.

“Generally when a fact finding Tribunal arrives at its own conclusions of fact after due consideration of the evidence before it the High Court will not interfere. It is necessary, however, that every fact for and against the person proceeded against must have been considered with due care and the Tribunal must have given its finding in a manner which would clearly indicate what were the questions which arose for determination, what was the evidence pro and contra in regard to each one of them and what were the findings reached on the evidence before it. The conclusions reached by the Tribunal should not be coloured by any irrelevant considerations or matter of prejudice and if there are any circumstances which required to be explained by the person charged, he should be given an opportunity of doing so. On no account whatever should the Tribunal base its findings on suspicious, conjectures or surmises nor should it act on no evidence at all or on improper rejection of material and relevant evidence partly on evidence and partly on suspicious conjunctions and surmises and if it does any thing of the sort, (its findings even though on questions of fact will be liable to be set aside by the High Court.)

Conclusions of Tribunal should not be coloured by any irrelevant considerations of matter or prejudice. Fact finding Tribunal.

In order to find a person guilty on circumstance trial evidence the circumstance or the circumstances must be such as would irresistibly lead to an inference of the guilt of the person charged with the offence. Thus where in a disciplinary action against a public servant, the inference of guilt drawn by the Tribunal from the circumstances is not the only irresistibly inference, then there is an error of law committed which may merit rectification by a writ court.

Should not base its findings on suspicion, conjectures and surmises nor should it act on no evidence.

Held on facts that the conclusions of the Inquiring Officer in a disciplinary action against a public servant were not based on evidence but on wrong inferences drawn from evidence and that he did not exhibit the proper sense of responsibility, as a fact finding Tribunal in arriving at his conclusions and therefore his report was quashed under Art. 226. (*Golam Mohiuddin Versus State of West Bengal*, A.I.R.1964 Calcutta 503).

Circumstantial evidence must be such as to irresistibly lead to inference of guilt. Conclusions-basis on wrong inferences from evidence.

In the present appeal it has been urged before us by Mr. Viswanath Sastri on behalf of the appellants that the view taken by the High Court that the findings of the Tribunal were not supported by any evidence is obviously incorrect and that the High Court has in fact purported to reappraise the evidence which it had no jurisdiction to do. It is common-ground that in proceedings under Arts. 226 and 227 the High Court cannot sit in appeal over the findings recorded by a competent tribunal in a departmental enquiry so that if we are satisfied that in the present case the High Court has purported to reappraise the evidence for itself that would be outside its jurisdiction. It is also common-ground that if it is shown that the impugned findings recorded by the Administrative Tribunal are not supported by any evidence the High Court would be justified in setting aside the said findings. That is how the narrow question which falls for our decision in the present appeal is : Was the High Court right in holding that there was no evidence on which the findings of the Administrative Tribunal could be sustained

Inquiry Report can be quashed. High Court can not reappreciate the evidence for itself and sit in appeal over the findings recorded by a competent Tribunal in Departmental Enquiry.

There are two other considerations to which reference must be made. In its judgment the High Court has observed that the oral evidence admittedly did not support the case against the respondent. The use of the word “admittedly”, in our opinion amounts, some what to an overstatement; and the discussion that follows this over statement in the judgment indicates an attempt to appreciate the evidence which it would ordinarily not be open to the High Court to do in writ proceedings. The same comment falls to be made in regard to the discussion in the judgment of the High Court where it considered the question about the interpretation of the word “Chatrapur Saheb”. The High Court has observed that “in the absence of a clear evidence on the point the inference drawn by the Tribunal that Chatrapur Saheb meant the respondent would not be justified. This observation clearly indicates that the High Court was attempting to appreciate evidence. The judgment of the Tribunal shows that it considered several facts and circumstances in dealing with the question about the identity of the individual indicated by the expression “Chatrapur Saheb”. Whether or not the evidence on which the Tribunal relied was satisfactory and sufficient for justifying its conclusion would not fall to be considered in a writ petition. That in effect is the approach initially adopted by the High Court at the beginning of its judgment. However, in the subsequent part of the judgment the High Court appears to have been persuaded to appreciate the evidence for itself, and that, in our opinion is not reasonable or legitimate.

Whether or not the evidence on which the Tribunal relied was satisfactory & sufficient for justifying its conclusion cannot be considered in writ petition.

The High Court has also commented on the fact that the Tribunal should have examined Banjorji before relying upon statements made by him in his letter addressed to Mr. Patnaik. There is some force in this argument; but the finding of the Tribunal in regard to the purchase of the Austin car is based on several other considerations all of which have been duly proved. In fact about the main features of this transaction there was no serious controversy between the parties. The parties were at issue on the question as the effect of these broad features but that clearly is a question of fact which fell within the jurisdiction of the Tribunal. We have carefully considered the reasons given by the High Court in its judgment under appeal but we are unable to accept the contention pressed before us by Mr. Sinha for the respondent, that the conclusion of the High Court is right when it saves that the Tribunals findings against the respondent were based on no evidence. Whether or not the High court or this court agrees with the conclusions of the Tribunal is another matter. The question to be considered is whether the said conclusion could be set aside on narrow ground that they are not supported by any evidence. In our opinion it is difficult to accept the view that there is no evidence in support of the conclusions recorded by the Tribunal against the respondent.” (State of Orissa Versus Murlidhar Jena, A.I.R. 1963 S.C. 404).

“In considering whether a public officer is guilty of the misconduct charged against him; the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the court, does not apply and even if that rule is not applied, the High Court in a petition under Art. 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not constituted in a proceeding under Art. 26 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant; it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf and

whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support, the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Art. 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rule of natural justice or in violation of statutory rules prescribing the mode of enquiry or where the authorities have disable themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very fact of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a Proceeding for a writ under Art. 236 of the Constitution.....

In a petition under Art. 226 High Court is not a Court of Appeal over the decisions of the departmental authorities. It is not the function of the High Court to review the evidence and arrive at an independent finding on evidence. Departmental authorities are the sole judges of facts if inquiry is otherwise properly held.

In our judgment the proceedings before the departmental authorities were regular and were not vitiated on account of any breach of the rules of natural justice. The conclusions of the departmental officer were fully borne out by the evidence before them and the High Court had no jurisdiction to set aside the orders either on the ground that the “approach to the evidence was not consistent with the approach in a criminal case, nor on the ground that the High Court would have on that evidence come to a different conclusion. The respondent had also ample opportunity of examining his witnesses after he was informed of the charge against him. The conclusion recorded by the punishing authority was therefore not open to be canvassed, nor was the liability of the respondent to be punished by removal from service open to question before the High Court.” (State of Andhra Pradesh Versus S. Sree Rama Rao, A.I.R.1963 S.C. 1723)

High Court can not set aside an order on the ground that the Court would have come to a different conclusion on the evidence.

क्रमांक 720-5 जी. एस.-70/7100

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा के सभी विभागाध्यक्ष, आयुक्त अम्बाला मण्डल, सभी उपायुक्त और उप मण्डल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाई कोर्ट और हरियाणा के सभी जिला एवं सत्र न्यायाधीश ।
दिनांक, चण्डीगढ़, 2-4-1971

विषय: - निलम्बित कर्मचारियों को पंजाब सी.एस.आर. वाल्यूम 1 पार्ट 1 के नियम 7.3 के अधीन समय तथा वेतन का निर्णय करना ।

महोदय,

मुझे उपर्युक्त विषय पर आपका ध्यान दिलाने और यह कहने का आदेश हुआ है कि निलम्बित कर्मचारियों को बहाल करते समय पंजाब सी.एस.आर. वाल्यूम I पार्ट 1 के नियम 7.3 के अधीन निम्नलिखित बातों पर आदेश जारी करने आवश्यक हैं: -

- (क) क्या वेतन तथा भत्ता निलम्बित समय के दौरान कर्मचारी को मिलेगा और यह किस हिसाब से दिया जाएगा ।
- (ख) क्या निलम्बन का समय डियुटी समझा जायेगा अथवा नहीं ।
2. उपर्युक्त विषय पर निर्णय सक्षम दण्डीय प्राधिकारी (competent punishing authority) ने करना होता है।
3. उपरोक्त नियम के तहत निलम्बन के समय में वेतन तथा भत्ते में कटौती करने के लिये तथा निलम्बन के समय को किसी purpose के लिये डियुटी न मानने के लिये अपनाये जाने वाली कार्यविधि पर सरकार ने कानूनी दृष्टि से विचार किया है और यह निर्णय लिया है कि किसी कर्मचारी के निलम्बन समय के दौरान वेतन तथा भत्ते में कटौती करने अथवा निलम्बन के समय को किसी purpose के लिये डियुटी न मानने का आदेश जारी करने से पहले कर्मचारी को कारण बताओ नोटिस अवश्य दिया जाना चाहिए । उस नोटिस में प्रस्तावित कार्यवाही का वर्णन किया जाये ताकि कर्मचारी अपना स्पष्टीकरण दे सके । उस स्पष्टीकरण का निरीक्षण करने के बाद ही इन मामलों पर अन्तिम आदेश जारी किये जायें । इस कार्यविधि का दृढ़ता से अनुपालन किया जाये ।
4. इस पत्र की पावती भेजने का अनुरोध किया जाता है ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक तथा सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक प्रति निम्नलिखित की सेवा में सूचनार्थ तथा आवश्यक कार्यवाही के लिये भेजी जाती है ।

सभी वित्तायुक्त, हरियाणा सरकार, सभी प्रशासकीय सचिव, हरियाणा सरकार ।

आशा. क्रमांक 720-5 जी.एस.-70,

दिनांक चण्डीगढ़ 2-4-1971

Copy of letter No. 1362-5GS-71/18190, dated the 19-4-71 from the Chief Secretary to Government, Haryana, to the all Heads of Departments, etc.

Subject :- Passing of orders of a quasi judicial nature in speaking orders.

I am directed to invite reference to the subject noted above and to say that several instances have been brought to notice in which writ petitions filed by Government employees have been decided by the courts against the Government for the reason that the impugned orders by the authorities concerned were not in the form in which they should have been and did not meet the requirements of law. In this connection your attention is invited to the following extract from the judgment dated 17-9-1970 in the civil writ No. 2790 of 1969 K.K. Jagia *Versus* Haryana State:--

“In this petition, the petitioner has challenged the order dated March 5, 1969 and the order of rejection of his memorial by the Governor. The order dated March 5, 1969, deserves to be quashed on the ground that it is not a speaking order. The disciplinary proceedings against the petitioner were taken for punishing him in respect of the misconduct alleged against him and those proceedings were quasi-judicial in nature. The order of punishment was also quasi-judicial as has been held by their Lordships of the Supreme Court in *Bachhittar Singh Versus* State of Punjab and another A.I.R. 1963 S.C. 393. The order dated March 5, 1969 as communicated to the petitioner, does not contain any reason nor does it indicate even outlines of the process of reasoning of the punishing authority while finding his explanation to the show cause notice as unsatisfactory. In his writ petition, the petitioner has set out the objections that he raised to the findings or adverse remarks of the Inquiry Officer, which required careful study by the punishing authority. The punishing authority had also to state as sees why the objections raised by the petitioner could not entertained or were found to be unsatisfactory. The proceedings and the order being quasi judicial in nature, the petitioner had the right to file a memorial to the Governor, a writ petition under Article 226 of the Constitution in this Court and an appeal to the Supreme Court under Article 136 of the Constitution. It was, therefore, necessary for the punishing authority to state its reasons in support of the order. The reasons had to be stated in the order itself or should have been communicated to the petitioner by way of an annexure to that order.”

2. In view of the position indicated in the judgment mentioned it is obviously essential that whatever orders of a quasi-judicial nature are passed under the Punjab Civil Services (Punishment and Appeal) Rules, 1952 or any other Rules or Acts should invariably be sufficiently detailed ones and should indicate *inter-alia* the pleas taken by the employee concerned and the reasons on account of which they are considered unsatisfactory and are rejected. The detailed reasons may however either be set out in the orders themselves or may as an alternative be included in an annexure with the order.

3. It will be appreciated that the matter is of great importance because if orders are not passed in the correct form as required under the law, decisions will be given against the Government in such cases which will involve heavy financial liability and also raise administrative difficulties. It is, therefore, requested that these instructions should be complied with strictly and should be brought specifically to the notice of all the authorities concerned for similar compliance by them. It may be added that in the event of failure to follow the instructions a very serious view of the matter will be taken by the Government.

4. It is requested that the receipt of this communication may please be acknowledged.

क्रमांक 964-2 जी. एस.-11-71/12773

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष, आयुक्त अम्बाला, सभी उपायुक्त तथा सभी उप मण्डल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा, हरियाणा उच्च न्यायालय, सभी जिला एवं स्तर न्यायाधीश, हरियाणा ।

दिनांक, चण्डीगढ़, 29 मई, 1971

विषय: - विभागाध्यक्षों को प्रशासन तथा वित्त सम्बन्धी शक्तियों का प्रत्यायोजन ।

महोदय,

मुझे निदेश हुआ है कि उपर्युक्त विषय पर आपको सम्बोधित करते हुए लिखूँ कि प्रशासकीय तथा वित्तीय शक्तियों का विभागाध्यक्षों को प्रत्यायोजन का प्रश्न सरकार के विचाराधीन रहा तथा इस पर अब यह निर्णय किया गया है कि निम्नलिखित और शक्तियाँ विभागाध्यक्षों को सौंप दी जाएँ ।

- (1) श्रेणी III के सभी पदों पर नियुक्ति का अधिकार चाहे वह पद तकनीकी अथवा अतकनीकी और चाहे उन पर नियुक्ति पदोन्नति द्वारा की गई हो अथवा अन्य किसी तरह;
- (2) विभागाध्यक्षों द्वारा नियुक्त किए गए श्रेणी III के सरकारी कर्मचारियों को हर प्रकार का दण्ड “मेजर या माइनर” देने का अधिकार उस अवस्था में जहाँ श्रेणी III के कर्मचारी सरकार द्वारा भर्ती किए गए हों, विभागाध्यक्षों को प्राधिकार उन्हें केवल माइनर दण्ड देने का होगा;
- (3) श्रेणी II के राजपत्रित पदों पर पदस्थ अधिकारियों को एक स्टेशन से दूसरे स्टेशन पर स्थानांतर करने का अधिकार; तथा
- (4) श्रेणी II के अधिकारियों को माइनर (छोटे) दण्ड का अधिकार जहाँ तक मेजर दण्ड देने का प्रश्न है उसका अधिकार वर्तमान की तरह सरकार में ही रहेगा ।

आप से निवेदन है कि उपरोक्त निर्णय पर ध्यान रखते हुए जहाँ कहीं वर्तमान नियमों में संशोधन, वांछनीय हो, किया जाए ताकि उपरोक्त निर्णय कार्यान्वित हो सके । यहाँ यह भी सूचित किया जाता है कि पंजाब पुनर्गठन एक्ट 1966 की धारा 82 (6) के अन्तर्गत भारत सरकार की इस विषय में मंजूरी ले ली गई है ।

2. विभागाध्यक्षों द्वारा उक्त प्रत्यायोजन हुई शक्तियों का प्रयोग करना तभी सम्भव होगा जब कि सम्बन्धित सेवा नियमों में विधि-अनुसार संशोधन कर लिया जायेगा ।

इस कार्य के लिए आवश्यक कार्यवाही जितनी शीघ्र हो सके की जाए ।

इस पत्र की पावती भेजने की भी कृपा करें ।

भवदीय,

हस्ता / -

(ल. म. गोयल)

उप सचिव, सचिवालय स्थापना हरियाणा सरकार ।

पृ. क्रमांक 964 - 2 जी.एस. 11-71/12774

दिनांक चण्डीगढ़ 29 मई, 1971

एक प्रति महालेखापाल हरियाणा को सूचनार्थ भेजी जाती है । वित्तियुक्त (राजस्व), हरियाणा सरकार, सभी प्रशासकीय/हरियाणा सरकार को आवश्यक कार्यवाही हेतु भेजी जाती है ।

क्रमांक 3610-3 जी. एस.-1-71/21438

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा के सभी विभागाध्यक्ष, आयुक्त अम्बाला मण्डल, सभी उपायुक्त तथा उप मण्डल अधिकारी ।
2. रजिस्ट्रार, उच्च न्यायालय, पंजाब तथा हरियाणा, चण्डीगढ़ तथा जिला और सत्र न्यायाधीश ।
दिनांक, चण्डीगढ़, 21 जुलाई, 1971

विषय: - विधान के नियम 311(2) की शर्त (सी)-राज्य की सुरक्षा के हित में जांच का करवाना ठीक नहीं है-राष्ट्रपति के आदेश प्राप्त करना ।

महोदय,

मुझे निदेश हुआ है कि सरदारी लाल बनाम भारत सरकार तथा दूसरे के केस में सर्वोच्च न्यायालय के निर्णय दिनांक 21-1-71 (सिविल अपील नं. 576 आफ 1969) की प्रति भेजूं और कहूं कि जैसा इस निर्णय से पता चलता है सर्वोच्च न्यायालय ने निर्णय दिया है, कि विधान के नियम 311(2) की शर्त (सी) की धारा में जो functions दिए हुए हैं, राष्ट्रपति उसे किसी दूसरे को नहीं सौंप सकते तथा उन्हें निजी रूप में इस बात पर सन्तुष्ट होना चाहिए कि जो जांच नियम 311(2) के अधीन निर्धारित है, वह राज्य की सुरक्षा के हित में करना ठीक नहीं है । इस निर्णय का आशय यह होगा कि राज्य के सरकारी कर्मचारियों के केसों में नियम 311(2) की शर्त (सी) के अधीन जब कभी कार्यवाही करनी हो, तो राज्यपाल को इस बारे में निजी रूप से सन्तुष्ट होना चाहिए ।

2. ऊपर दी गई कानूनी व्यवस्था को ध्यान में रखते हुए यह निर्णय लिया गया है कि जब कभी राज्य के किसी सरकारी कर्मचारी को नियम 311(2) की शर्त (सी) के अधीन बिना जांच के सेवा से पदच्युत करना हो, हटाना हो या जबरदस्ती रिटायर करना हो, तो राज्यपाल के आदेश अवश्य प्राप्त करने चाहिए । इस प्रयोजन के लिए स्वतः स्पष्ट नोट तैयार करके राज्यपाल को कार्यभारी मन्त्री तथा मुख्य मन्त्री की मार्फत भेजा जाए । इस स्वतः स्पष्ट नोट के साथ सब कागजात जिन में हर प्रकार के आवश्यक तथ्य हों, राज्यपाल को भेजा जाए, जिसके आधार पर उनकी तसल्ली हो सके कि कानून की सारी आवश्यकता पूरी होती है और इस केस में जांच का किया जाना राज्य की सुरक्षा के हित में नहीं है।

3. मैं निवेदन करता हूं कि यह हिदायतें दृढ़तापूर्वक अमल में लाने के लिए नोट कर ली जाएं, और इस पत्र की पावती भी भेजे ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति वित्तायुक्त राजस्व, सभी प्रशासकीय सचिव, हरियाणा को सूचनार्थ तथा आवश्यक कार्यवाही के लिये भेजी जाती है ।

क्रमांक 7743-5 जी. एस.-1-71/36993

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष, आयुक्त अम्बाला मण्डल, हरियाणा के सभी उपायुक्त तथा उप मण्डल अधिकारी ।
2. रजिस्ट्रार, पंजाब एवं हरियाणा उच्च न्यायालय तथा हरियाणा के सभी जिला एवं सत्र न्यायाधीश ।
दिनांक, चण्डीगढ़, 28 दिसम्बर, 1971

विषय: - **विभागाध्यक्षों को वित्तीय एवं प्रशासकीय शक्तियां देना ।**

महोदय,

मुझे निदेश हुआ है कि मैं आपका ध्यान उपर्युक्त विषय पर हरियाणा सरकार के पत्र संख्या 964-2 जी. एस.- II -71/12773, दिनांक 29 मई, 1971 की ओर दिलाऊं जिसमें अन्य बातों के साथ-साथ यह भी बताया गया कि विभागाध्यक्ष वर्ग II के राजपत्रित अधिकारियों को लघु दण्ड देने के लिये सक्षम हैं । अब आगे यह भी निर्णय लिया गया है कि विभागाध्यक्ष वर्ग II के राजपत्रित अधिकारियों को चेतावनी देने तथा चेतावनी की एक प्रति सम्बन्धित अधिकारी की वैयक्तिक फाईल में लगाने के निदेश देने के लिये भी सक्षम होंगे ।

2. कृपया इस पत्र की पावती भेजिए ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,

कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति सभी वित्तायुक्त तथा हरियाणा सरकार के सभी प्रशासकीय सचिवों को सूचनार्थ भेजी जाती है ।

संख्या 727-I जी. एस.-1-72/7138

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष, आयुक्त अम्बाला मण्डल, हरियाणा के सभी उपायुक्त तथा उप मण्डल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय तथा हरियाणा के सभी जिला तथा सेशन न्यायाधीश ।

दिनांक, चण्डीगढ़, 20 मार्च, 1972

विषय: - पंजाब प्रशासन सुधार आयोग की सिफारिशों को लागू करना-सिफारिश नम्बर 16-मेजर दण्ड देने के लिये अदक्षता को कारण मानना ।

महोदय,

मुझे निदेश हुआ है कि मैं उपर्युक्त विषय के सम्बन्ध में आपको लिखूँ तथा आपका ध्यान पंजाब सिविल सेवाएं (दण्ड एवं अपील) नियमावली 1952, के नियम 7(5) के नीचे लिखे नोट (1) में दिए गए निम्नलिखित उपबन्ध की ओर दिलाऊँ:-

“...When reports received against an officer or a preliminary inquiry shows that he has failed to reach or maintain a reasonable standard of efficiency, he may and should be charged accordingly and a finding on such a charge may be valid ground for infliction of any authorised departmental punishment which may be considered suitable in the circumstances of the case..”

इस सम्बन्ध में यह देखने में आया है कि विभागों द्वारा आमतौर पर उपर्युक्त उपबन्ध का प्रयोग नहीं किया जा रहा है तथा अदक्षता के आधार पर अनुशासनिक कार्यवाही नहीं की जा रही है । उपरोक्त उपबन्ध के अनुसार कार्यवाही का किया जाना अति आवश्यक है और इस बात पर जितना भी बल दिया जाए वह कम है । इसलिए अनुरोध है कि जब भी परिस्थितियों के अनुसार आवश्यक हो, उपरोक्त उपबन्ध को पूर्णतः प्रयोग में लाया जाए ।

2. आपसे अनुरोध है कि आप कृपया इन हिदायतों को ध्यानपूर्वक नोट कर लें और उन की पालना के लिये इन हिदायतों को सभी सम्बन्धित अधिकारियों/कर्मचारियों के भी ध्यान में ला दें । कृपया इस पत्र की पावती भेजी जाए।

भवदीय,

हस्ता / -

उप सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति हरियाणा के सभी वित्तायुक्तों तथा सभी प्रशासनिक सचिवों, मुख्य मन्त्री का प्रधान सचिव, मुख्य मन्त्री/मन्त्रियों/उप-मन्त्रियों के सचिवों/निजी सचिवों को सूचनार्थ भेजी जाती है ।

क्रमांक 2770-I जी. एस.-1-72/14511

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा राज्य के सभी विभागाध्यक्ष ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय, चण्डीगढ़ ।

दिनांक, चण्डीगढ़, 10 मई, 1972

विषय: - श्रेणी I तथा II के अधिकारियों के विरुद्ध विभागीय जांच ।

महोदय,

मुझे निदेश हुआ है कि मैं उपर्युक्त विषय पर आपका ध्यान दिलाऊँ और कहूँ कि ऐसा देखने में आया है कि कई सरकारी कर्मचारियों के विरुद्ध की गई विभागीय जांच के सम्बन्ध में जो कार्यविधि अपनाई जाती हैं उसमें कुछ त्रुटियाँ रह जाने के कारण से उनकी अपीलें उच्च न्यायालय में स्वीकार हो जाती हैं । अतः उपरोक्त तथ्य को ध्यान में रखते हुए यह निर्णय लिया गया है कि श्रेणी I तथा II के अधिकारियों के विरुद्ध विभागीय जांच के सम्बन्ध में यदि चार्ज शीट जारी करनी हो या जांच के पश्चात् सजा देनी हो तो उपरोक्त दोनों प्रकार की कार्यवाही करने से पहले विधि परामर्शी से मन्त्रणा प्राप्त कर ली जाए कि क्या प्रस्तावित कार्यवाही कानून के अनुसार है । यदि उपरोक्त दोनों प्रकार के केसों में विधि परामर्शी की राय लिए बिना ही आवश्यक कार्यवाही कर ली गई तो ऐसी कार्यवाही का सरकार द्वारा गम्भीर नोटिस लिया जाएगा ।

2. यह अनुरोध किया जाता है कि भविष्य में उपरोक्त आदेशों का दृढ़ता से पालन किया जाए तथा इस पत्र की पावती भी भेजी जाए ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं

कृते: मुख्य सचिव, हरियाणा सरकार ।

एक प्रति सभी वित्तायुक्त तथा सभी प्रशासकीय सचिव, हरियाणा सरकार को सूचनार्थ तथा आवश्यक कार्यवाही हेतु भेजी जाती है और अनुरोध किया जाता है कि भविष्य में सरकार के उपरोक्त आदेशों का दृढ़ता से पालन किया जाए ।

No. 3128-IGSI-72/18132

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments; the Commissioner Ambala Division; all Deputy Commissioners and all Sub Divisional Officers (Civil) in Haryana.
2. The Registrar, Punjab and Haryana High Court and all District and Sessions Judges, Haryana.

Dated Chandigarh, the 16th June, 1972

Subject :- Passing of orders of a quasi-judicial nature in speaking orders.

Sir,

I am directed to refer to the Haryana Government Circular Letter No. 1362-5GS-71/18190, dated the 19th April, 1971. (Copy enclosed for ready reference) On the subject noted above, vide which your attention was invited to an extract from the judgement dated 17-9-1970 in Civil Writ No. 2790 of 1969 “K.K. Jagia v/s Haryana State.” In view of the position indicated in the said judgement, you were requested that whatever orders of a quasi-judicial nature were passed under the Punjab Services (Punishment and Appeal) Rules, 1952 or any other Rules or Acts they should invariably be sufficiently detailed orders and could indicate, inter-alia, the pleas taken by the employee concerned and the reasons on account of which they were considered unsatisfactory and were rejected.

2. The Government of India had set up a Committee to go into the problem of arrears in the High Courts and to suggest remedial measures. The Committee while submitting its report has expressed its “strong” view that Tribunals and Heads of Departments exercising quasi-judicial functions should make “speaking orders” i.e., they should indicate in their orders the grounds on which the orders are made. It has been considered that if speaking orders are passed, it might facilitate quicker disposal of cases, and the need for making speaking orders in matters affecting rights of the parties has been repeatedly pointed out by the Supreme Court and the High Courts in a number of cases. In fact, it is now being regarded as a principle of natural justice that such orders should contain reasons. Keeping in view the above suggestion of the ‘High Courts Arrears Committee’ the State Government once again reiterate the instructions contained in their letter No. 1362-5GS-71/18190, dated the 19th April, 1971 and strongly emphasise that various authorities exercising quasi-judicial functions under any Rules or Acts should make speaking orders in all matters affecting rights of the parties.

3. It should be appreciated that this matter is of great importance and any failure in this regard, an authority exercising quasi judicial functions may result in reversal of the decisions in the courts of law resulting in financial liability and also administrative difficulty for the State Government. It is, therefore, requested that these instructions and the instructions :—

Issued vide Haryana Government letter No. dated 19-4-71 referred to above should be complied with strictly and should be brought specifically to the notice of all concerned for

Punishment & Appeal

similar compliance by them. It may be added that in the event of failure to follow the instructions, a very serious view of the matter will be taken by the Government.

4. It is requested that the receipt of this communication may please be acknowledged.

Yours faithfully,

Deputy Secretary, Political,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all Financial Commissioners and Administrative Secretaries for information and ensuring strict compliance of these instructions.

क्रमांक 5179 - I जी. एस. - 1-72 / 228576

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा के सभी विभागाध्यक्ष, आयुक्त अम्बाला मण्डल, सभी उपायुक्त तथा सभी उप मण्डल अधिकारी ।
 2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय तथा हरियाणा के सभी जिला एवं सत्र न्यायाधीश ।
- दिनांक, चण्डीगढ़, 28-9-72

विषय: - अनुशासनिक मामलों में इन्कवायरी आफिसर द्वारा रिपोर्ट प्रस्तुत किए जाने के बारे में अनुदेश।
महोदय,

मुझे निदेश हुआ है कि मैं उपर्युक्त विषय की ओर आपका ध्यान दिलाऊँ और कहूँ कि जब सरकारी कर्मचारियों को पनिशमेंट एण्ड अपील रूल्ज के तहत शो-काज नोटिस दिया जाता है तो कई दफा वह रजिस्ट्री द्वारा उनको भेजा जाता है । इसी प्रकार दूसरे जरूरी आदेश भी सम्बन्धित कर्मचारियों को कई दफा रजिस्ट्री द्वारा भेजे जाते हैं जिसके लिये सरकारी फाईल में इस प्रकार का प्रमाण होता है कि ऐसा शो-काज नोटिस या जरूरी पत्र इत्यादि कर्मचारियों को रजिस्ट्री द्वारा भेजे गए हैं और जहां रजिस्टर्ड पत्रों को अकनोलिजमेंट ड्यू कर दिया जाता है तो उस स्थिति में प्राप्तकर्ता का हस्ताक्षर इत्यादि भी सम्बन्धित फाईल पर या कार्यालय में मौजूद रहता है जिस से यह पता चल जाता है कि उन्हें पत्र प्राप्त हो गया है तथा ऐसा किस तिथि को हुआ ।

2. सरकार के नोटिस में यह बात आई है कि जब किसी अधिकारी के विरुद्ध जांच चल रही हो और उसे शो-काज नोटिस इत्यादि भेजा गया हो तो जांच अधिकारी इस बात की पुष्टि नहीं करते कि क्या कर्मचारियों को वास्तव में शो-काज नोटिस रजिस्ट्री द्वारा भेजा गया था तथा क्या इसका प्रमाण फाईल में मौजूद है या कि नहीं । वे केवल इस बात को परिज्यूम कर लेते हैं कि उन्हें शो-काज नोटिस इत्यादि रजिस्ट्री द्वारा भेजा जाना है क्योंकि बताया गया है, इसलिये रजिस्ट्री जरूर की दी गई होगी तथा सम्बन्धित कर्मचारी को अवश्य मिल गई होगी ।

3. सरकार ने इस स्थिति पर विचार किया है और यह निर्णय लिया गया है कि जब भी जांच अधिकारी किसी कर्मचारी के विरुद्ध जांच करें तो वह इस बात को अवश्य देखें कि क्या वास्तव में उन्हें शो-काज नोटिस रजिस्ट्री द्वारा जारी कर दिया गया है और इसका प्रमाण सम्बन्धित फाईल में मौजूद है । इस बात को परिज्यूम नहीं किया जाना चाहिए कि शो-काज नोटिस रजिस्ट्री द्वारा जारी कर दिया गया होगा ।

4. इसके अतिरिक्त यह भी ध्यान में लाया जाता है कि ऐसा परिज्यूम करना गैर कानूनी भी है । हाल ही में पंजाब तथा हरियाणा हाई कोर्ट द्वारा 1967 वर्ष की सिविल रिट नम्बर 2846 में इस बारे में निर्णय लिया गया है तथा इस निर्णय में हाई कोर्ट ने निम्नलिखित ओबजरवेशन की है: -

“It is really regrettable that neither the Enquiry Officer nor the Collector, nor the Commissioner applied his mind to the requirements of law to find out whether the letters alleged to have

been sent to the petitioner by registered post had in fact been posted, as in the absence of the proof of that fact no presumption could be drawn that the letters had reached him because they were not received back undelivered. The Enquiry Officer based his conclusions on that presumption and so did the Collector, but the Commissioner did not deal with the matter.”

5. इसलिये आपसे अनुरोध किया जाता है कि भविष्य में जांच अधिकारी जांच करते समय या विभागीय कार्यवाही करते समय उपरोक्त हिदायतों की ओर खासतौर पर पंजाब तथा हरियाणा हाईकोर्ट द्वारा की गई आलोचना को ध्यान में रखें तथा स्थिति की पूरी तरह जांच करके ही कार्यवाही की जाए और कोई परिजम्पशन draw की जाये। यह हिदायतें सभी सम्बन्धित अधिकारियों/कर्मचारियों के नोटिस में ला दी जाएं ताकि इनका दृढ़तापूर्वक पालन किया जाए।
6. आपसे यह भी अनुरोध किया जाता है कि इस पत्र की पावती भेजी जाए।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार।

एक-एक प्रति निम्नलिखित को सूचनार्थ तथा आवश्यक कार्यवाही के लिये भेजी जाती है।

वित्तायुक्त तथा हरियाणा सरकार के सभी प्रशासकीय सचिव।

No. 7252-1 GS-72/1885

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments; the Commissioner, Ambala Division; all Deputy Commissioners; and all Sub Divisional Officers in Haryana.
2. The Registrar, Punjab and Haryana High Court; and all District and Sessions Judges, Haryana.

Dated, Chandigarh, the 23rd January, 1973.

Subject:— Disciplinary action against the Government Employee under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, as applicable to the State of Haryana.

Sir,

I am directed to refer to the judgement delivered by the Supreme Court on 18-9-1972 in Civil Appeal No. 2129 (N) of 1969 Shri B.D. Gupta *Versus* the State of Haryana (copy enclosed) and to draw attention to the following observations contained in it :--

- (a) “It is to our mind essential for a “Show Cause Notice” to indicate the precise scope of the notice and also to indicate the points on which the officer concerned is expected to give a reply.”
- (b) “We have no doubt in our minds that in this case also justice and fair play demand that the Government should have given the appellant a reasonable opportunity to show cause why an order affecting his pay and emoluments to his prejudice should not be made.”

2. As regards (a) above, it may be noted that whenever a “Show Notice” is to be served upon an employee under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 or under any other provision the precise scope of the notice should be indicated therein and also the points on which the employee concerned is expected to furnish a reply or explanation. In other words, the “Show Cause Notice” should contain the allegations in detail so that the delinquent employee becomes aware of, them and has the opportunity of defending himself against each of the allegations.

3. As regards (b) above, instructions have already been issued *vide* Haryana Government Circular letter No. 720-5GS-70/7100, dated 2-4-1971 that condition when any cut in the pay and allowances during the period of suspension is to be imposed in the terms of Rules 7.3. of C.S.R. Vol. I, Part I, a “Show Cause Notice” should be served upon the delinquent employee and final orders should be passed only after receipt of his reply in response to the notice.

4. Attention in this connection may also be drawn to the Government instructions contained in Circular letters No. 1362-5GS-71/18190, dated 19-4-1971 and No. 3128-IGSI-72/18132, dated 16-6-1972 which provide that the final orders in all disciplinary cases should be “Speaking Orders” as specified therein.

5. I am to request that these instructions should be complied with strictly and should also be brought specifically to the notice of all the authorities under you for similar compliance by them. It may also be noted that in the event of failure to follow these instructions, a very serious view of the matter will be taken by the Government.

6. The receipt of this communication may also be acknowledged.

Yours faithfully,

Sd/-

Deputy Secretary, Political & Services,
for Chief Secretary to Government, Haryana.

A copy is forwarded to the Financial Commissioners, Revenue and the Administrative Secretaries to Government, Haryana, for information and ensuring strict compliance of these instructions.

B.D. GUPTA *Versus* STATE OF HARYANA (S.C.)

Supreme Court of India

Before:- **A.N. Grover, M.H. Beg and A.K. Mukherjea, JJ. Civil Appeal No. 2129(N) of 1969, Decided on 18-9-72.**

Shri B.D. Gupta (Appellant)

Versus

State of Haryana (Respondent)

- A. Constitution of India, Article 311 Punjab Civil Services (Punishment and Appeal) Rules, 1952, Rule 7.2--Departmental Enquiry--Show Cause Notice merely stated that reply of delinquent officer to charges and allegations was *unsatisfactory--Held*, notice was vague. It did not indicate which part of explanation and on what material it was unsatisfactory--The notice should indicate the points on which the officer is expected to give reply--The notice denied real opportunity to officer to defend himself.

The show cause notice to the delinquent officer merely stated in vague general terms that officer's reply to the charges and allegations was unsatisfactory. As one read the notice, the questions that at once assailed one's mind were many. In what way was the explanation unsatisfactory? Which part of the explanation was unsatisfactory? On what materials did the Government think that the explanation was unsatisfactory. It is essential for a show cause notice to indicate the points on which the officer concerned was expected to give a reply.

(Para 9)

- B. Punjab Civil Services Rule, Col. I, Rule 7.3--Suspension pending enquiry--Only subsistence allowance paid during suspension--On reinstatement, order passed withholding any payment in excess of subsistence allowance already *paid--Held*, order seriously prejudiced the delinquent officer--Opportunity to show cause before

passing an order affecting pay and emoluments be given.

Held, before passing an order under Rules 7.3 of the Punjab Civil Services Rules, Vol. I, the authority concerned has to form an opinion as to whether the Government servant has been fully exonerated and, also whether in the case of suspension, the order of suspension was wholly unjustified. Justice and fair play demanded that the Government should have given the appellant a reasonable opportunity to show cause why order affecting his pay and emoluments to his prejudice should not be made (Paras 13 and 16),

- C. Natural justice--Order adversely affecting the employee financially--Order be passed after objective consideration and after full opportunity.

If an order affects the employees financially, it must be passed after an objective consideration and assessment of all relevant facts and circumstances and after giving the person concerned full opportunity to make out his own case about that order.

(Para 17)

Cases referred.

1. M. Gopala Krishna Naidu *Versus* State of Madhya Pradesh 1967 Services Law Reporter 100: (1968) ISCR 355.
2. State of Assam and anr *Versus* Raghava Rajagopalachari Civil Appeals Nos. 1561 and 1562 of 1966 decided by Supreme Court on 6-10-1967.

JUDGMENT

Mukherjea, J. This appeal on special leave is from an order of the Division Bench of the Punjab and Haryana High Court dismissing summarily an appeal directed against a judgment and order of a Single Judge of that Court by which a petition of the appellant under Art. 226 of the Constitution of India was dismissed. The matter arises in connection with disciplinary proceeding under the Punjab Civil Services (Punishment and Appeal) Rules, 1952 which had a very chequered career.

2. For a proper appreciation of the points raised in this case it is necessary to set out some of the salient facts. The appellants joined the Punjab Irrigation Department as a temporary Engineer in 1939 and in course of time became an Executive Engineer in that department. In December, 1954 he was arrested in connection with a case under Sec. 5(2) of the Prevention of Corruption Act which had been registered against one K.R. Sharma, Superintending Engineer, with whom the appellant had been working as a Personal Assistant. The appellant was however enlarged in bails about the same time. The appellant was suspended with effect from 13 December, 1954 and certain departmental proceedings were started against him. In November, 1956 the appellant was served with a charge sheet under Rule 7.2 of the Punjab Civil Service (Punishment and Appeal) Rules, 1952. There was two distinct charges made against the appellant which will, for the sake of convenience, be described hereinafter as Charge No. 1(a) and Charge No. 1(b). Both the charges were based on allegations that the appellant had taken illegal gratification. We are not concerned for the purposes of this appeal with the details of the charges. On 18th December, 1956 the appellant submitted a reply to the charge sheet to which he added certain supplementary replies between May and July, 1957. On 18th February, 1958 the appellant was reverted from the post of Executive Engineer (under suspension) to that of an Assistant Engineer

(under suspension). In May, 1958 Government decided to defer the enquiry in respect of Charge 1(b) until there was a decision in regard to Charge 1(a). In October, 1958 the Enquiry Officer submitted to Government a report in respect of Charge 1(a) which exonerated the appellant completely. The Government then waited for another six months before appointing another Enquiry Officer to conduct the enquiry in regard to Charge 1(b). The appellant, it appears, asked Government on more than one occasion to supply him with a copy of the report of the first Enquiry Officer in respect of Charge 1 (a). Government, however, declined to supply any copy. In December, 1960 the criminal case which had been started against the appellant in 1954 ended in discharge of the appellant. On 19th April, 1961 the appellant was dismissed from service on the basis of a report of the second Enquiry Officer regarding Charge 1(b). This order of dismissal was, however, quashed in March, 1963 by the High Court of Punjab and Haryana. The appellant was, thereafter, reinstated and forthwith placed under another order of suspension in May, 1963. A third Enquiry Officer was appointed simultaneously for a fresh enquiry into charge 1 (b). In February, 1965 the appellant got a decree in a civil suit by which he was allowed to recover the balance of his pay and allowances for the period of suspension and for quashing the order of occasions. Between 1963 and 1964 the appellant made various attempts through what was apparently a high powered board called the Establishment Board to bring about a closure of the Enquiry proceedings initiated against him. Nothing happened until 15th December, 1965 when, once again Government appointed a new Enquiry Officer to replace the earlier officer who had been appointed in February, 1965. In January, 1966 the appellant was reinstated as Executive Engineer and in October, the same year, the entire enquiry against the appellant was withdrawn. One would have thought that this would be the end of the unusually protracted proceedings against the appellant. On the contrary, however, on 26th October, 1966 Government served a fresh "Show Cause notice" on the appellant by which the appellant was told that his explanation of 18th December, 1956 in reply to the charges and allegations levelled against him had been found unsatisfactory by Government and that Government proposed to censure his conduct.

3. Immediately upon receipt of the said "Show Cause Notice" the appellant asked for a copy of the statement made by one S.D. Khanna, Sub-Divisional Officer under Sec. 164 of the Code of Criminal Procedure. The appellant justified his demand for a copy of S.D. Khanna's statement by reference to two facts. First, Charge No. 1(b) related to an alleged demand by the appellant for illegal gratification in the presence of S.D. Khanna and he was, therefore, entitled to have a copy of the statements made by S.D. Khanna before the police and the Magistrate. Secondly, the appellant pointed out, under the order of the High Court he was expecting a copy of Khanna's statement to-be supplied to him on 27th October, 1966. He did not, however, receive a copy because the Government withdrew the charge sheet against him on 18th October, 1966. If, therefore, by a fresh "Show Cause Notice" the appellant was called upon to indicate his earlier reply to the charge sheet, he was, re claimed, entitled to a copy of the statement of S.D. Khanna. On 24th November, 1966, however, the Secretary to the Government of Haryana turned down the appellant's request for a copy of Khanna's statement. Therefore, on 16th December, 1966 the appellant submitted a reply to the "Show Cause Notice".

4. On 27th February, 1957 the Government passed an order imposing the penalty of censure on the appellant. The substantive part of the order is in the following terms :-

"Year explanation has been duly considered and the same has been found to be unsatisfactory. The Governor of Haryana is accordingly pleased to order that the penalty of censure be imposed on you. Your conduct is, there fore, censured."

5. On the same day another order was communicated to the appellant by which the Governor of Haryana had directed that under Rule 7.3 (3) of the Punjab Civil Services Rules, Volume I, Part I, the appellant should not be allowed anything more than what had already been paid to him as subsistence allowance during the period of his suspension from 31st May, 1963 to 6th January, 1966. The order included also a direction that the period of absence from duty of the appellant on account of suspension from 31st May, 1963 to 6th January, 1966 was to be treated as a period spent on duty for all other purposes.

6. In June, 1967 the appellant was given a notice of compulsory retirement which was subsequently withdrawn. In October, 1968, however, the appellant was compulsorily retired. In the meantime, however, in November, 1967 the appellant had filed a writ petition in the High Court of Punjab and Haryana challenging the validity of the two orders dated 27th February, 1967—one inflicting on him the punishment of censure and the other with holding from him his usual pay and allowances beyond what had been paid to him as subsistence allowance during the period of suspension. The writ petition was dismissed by a Single Judge of the High Court on 6th November, 1968 the appellant went in appeal before a division bench of High Court. The appellant was, however, dismissed *in limine*. Upon being refused a certificate for appeal to this Court, the appellant asked for special leave which was granted to him on 3rd October, 1969.

7. Only two contentions were raised on behalf of the appellant before us. First, it was contended that the appellant did not get a reasonable opportunity to reply to the “Show Cause Notice” dated 26th October, 1966 on the basis of which he had been censured by the Government in as much as the notice was too vague to enable him to give an effective reply. Secondly, it was contended that the order of 27th February, 1967 which withheld from the appellant any payment in excess of the subsistence allowance he had drawn during the period of his suspension was liable to be struck down on the ground that it had been passed without giving him any opportunity to make a representation against it. We shall now deal with these contentions one by one.

8. The appellant’s complaint about the “Show Cause Notice” of 26th October, 1966 is one that has to be accepted as substantial. For a proper appreciation of the appellant’s contention, the Memorandum containing the “Show Cause Notice” may be set out in extenso. It was in the following terms:--

“Your explanation dated the 18th December, 1956 in reply to the statements of charges and allegations has been considered and found to be unsatisfactory. The president of India, after taking a lenient view, has tentatively decided to Censure your conduct and also to place a copy thereof on your personal file.

2. Before the proposed punishment is inflicted, you are given an opportunity of making representation against the action proposed to be taken. Any representation which you make in this connection will be considered before taking the proposed action. Such representation, if any, should be made in writing and submitted so as to reach me not later than the 7th day from the receipt of this communication by you. In case no reply is received within the aforesaid period it will be presumed that you have no explanation to offer.”

9. The only ground on which the Government proposed to censure the appellant is the fact that the appellant’s explanation dated 18th December, 1956 in reply to the Statement of charges and

allegations had been found unsatisfactory by Government. By the expression “Charges and Allegations” in this “Show Cause Notice”, reference obviously is to the letter of 22nd October, 1956. That letter, it will be remembered, contains two charges, namely, Charge 1(a) and Charge 1(b). The appellant’s explanation of 18th December, 1956 which is said to have been found unsatisfactory by Government was a reply not only to Charge 1(a) but also to Charge 1(b). Of these two charges so far as Charge 1(a) is concerned the appellant had been completely exonerated in October, 1958. There is noting, however, in the “Show Cause Notice” of 26th October, 1966 to indicate clearly that the dissatisfaction of Government with the appellant’s reply of 18th December, 1956 had nothing to do with Charge 1(a). The “Show Cause Notice” merely states in vague general terms that the appellant’s reply to the charges and allegations was unsatisfactory. Even if we were to assume, though there is no reasonable ground for this assumption, that Government did not have in mind the contents of Charges 1(a) while serving this “Show Cause Notice”, there is nothing in the “Show Cause Notice” to give an indication that the particular allegations regarding which the appellant had failed to furnish a satisfactory explanation were referable only Charge 1(b). The notice is vague on other grounds as well. As one reads the first paragraph of the notice, the questions that at once as sail one’s mind are many. In what way was the explanation of the appellant unsatisfactory? Which part of the appellant’s explanation was so unsatisfactory? On what materials did the Government think that the appellant’s explanation was unsatisfactory. It is to our mind essential for a “Show Cause Notice” to indicate the precise scope of the notice and also to indicate the points on which the officer concerned is expected to give a reply. We have no manner of doubt that the “Show Cause Notice” in the instant case did not give the appellant any real opportunity to defend himself against the complaint that his previous explanation of 18th December, 1956 had been unsatisfactory. The appellant did not, therefore, get any chance at all to show that he did not deserve a censure upon his conduct.

10. We were told that since the appellant was aware of the charge and also aware the reply he had given to the charges made against him, it was enough for Government to tell him that his answer was unsatisfactory. It was argued that since the “Show Cause Notice” really pointed this out and mentioned that the very lenient sentence of censure upon the appellants conduct was going to be imposed, there was nothing further that Government could be expected to do in this case. We have no hesitation in rejecting this contention made out on behalf of the State. It is manifestly clear that the “Show Cause Notice” was too vague to permit the appellant to deal with it effectively and that consequently the order of censure passed on him is bad and liable to be struck down.

11. We now come to the second contention raised on behalf of the appellant that the order passed by the Governor of Haryana which directed the with-holding from the appellant any payment in excess of the subsistence allowance he had already received during the period of his suspension between 31st May, 1963 and 6 January, 1966 was bad in so far as the appellant had not been given a prior opportunity to make a representation against such order.

12. The relevant order was passed under Rule 7.3 of the Punjab Civil Services Rules (Vol. I Part I) which is in the following terms :—

“7.3 (1) When a Government servant, who has been dismissed, removed or suspended is reinstated the authority competent to order the reinstatement shall consider and make a specific order :—”

(a) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty; and

- (b) whether or not the said period shall be treated as a period spent on duty.
- (2) Where the authority mentioned in sub rule (1) is of opinion that the Government servant has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government servant shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or suspended, as the case may be.
- (3) In other cases, the Government servant shall be given such proportion of such pay and allowances as such competent authority may prescribe:
- Provided that the payment of allowances under clause (2) or clause (3) shall be subject to all other conditions under which such allowances are admissible.
- (4) In a case falling under (2) the period of absence from duty shall be treated as a period spent on duty for all purposes.
- (5) In a case falling under clause 3 the period of absence from duty shall not be treated as a period spent on duty, unless such competent authority specifically directs that it shall be so treated for any specified purpose.

Provided that if the Government servant so desires, such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government servant."

13. It is clear that before passing an order under Rule 7.3 the authority concerned has to form an opinion as to whether the Government servant has been fully exonerated and, also whether, in the case of suspension, the order of suspension was wholly unjustified.

14. It was urged on behalf of the appellant that before the authority formed such an opinion, it was incumbent upon it to afford him an opportunity, to make suitable representation in this behalf. Reliance was place upon the judgment of this Court in *M.Gopala Krishan Naidu Versus State of Madhya Pradesh (1)*. The applicant in that case had been exonerated of the charges framed against him in a departmental enquiry. Government held, however, that the appellant's suspension and the departmental enquiry instituted against him "were not wholly unjustified." The relevant order, after reinstating the appellant with effect from the date of the order and directing the appellant's retirements from the same date on the ground that he had already attained the age of superannuation contained a further direction that the entire period of the appellant's absence from duty should treated as a period of the appellant's duty; should be treated as a period spent on duty under Fundamental Rule 54(5) for the purpose of pension only, but that "he should not be allowed any pay beyond what he had actually received or were allowed to him by way of subsistence allowance during the period of his suspension." The appellant in that case contended that his case really came under Fundamental Rule 52(2) and not under Fundamental Rule 54 (5) and that the Government should have granted him an opportunity to be heard before deciding as to the rule which applied to his case. It was contended on behalf of the Government that the order regarding allowances was a mere consequential order and in passing such an order it was not necessary to give a hearing to the party affected by the order. This Court, however, hold that an order passed under Fundamental Rule 54 is not always a consequential order of a mere continuation of the departmental proceeding taken against the employee. Since consideration under Fundamental Rule 54 depends on facts and circumstances in their entirety and since the order may

result in pecuniary loss to the Government servant consideration under the Rule “must be held to be an objective rather than a subjective function.” Shelat, J. who delivered the judgement of the Court went on to observe: “The very nature of the function implies the duty to act Judicially. In such a case if an opportunity to show cause against the action proposed is not afforded, as admittedly it was not done in the present case, the order is liable to be struck down as invalid on the ground that it is one in breach of the principles of natural justice.”

15. We have no doubt in our minds that in this case also justice and fair play demand that the Government should have given the appellant a reasonable opportunity to show cause why an order affecting his pay and emoluments to his prejudice should not be made.

16. The decision in M.Gopala Krishana Naidu’s (1) case had been cited before the High Court. The High Court, however, sought to distinguish that case from the instant case on facts. The High Court held that since in M.Gopala Krishana Naidu’s case the proceedings had been dropped and the officer concerned reinstated. He never got an opportunity to show to the appointing authority that his suspension had been unjustified and that he was entitled to full pay and allowances, while in the instant case the appellant has already, according to the High Court, received all reasonable opportunity to show cause against the punishment that has been meted out against him. With respect, we do not think that there is any real difference in substance between the facts of the instant case and those in M. Gopala Krishna Naidu’s ‘(1) case. The appellant in that instant case did not really get an opportunity to defend himself against charge 1(b). It will be remembered that in this case also the Government abandoned the proceedings against the appellant with regard to charge 1(b). Had the proceedings been completed, it is not altogether impossible that the appellant would have been exonerated also of that charge just as he had been exonerated of Charge 1(a) earlier. To that extent the appellant did not get any opportunity to show that the suspension order against him had been unjustified and that he was, therefore, entitled to full pay and allowances. From this point of view, there is really no difference between the instant case and the case of M. Gopala Krishana Naidu (1).

17. Besides, the real ratio in M. Gopala Krishana Naidu’s (1) case was that if an order affects the employee financially, it must be passed after an objective consideration and assessment of all relevant facts and circumstances and after giving the person concerned full opportunity to make out his own case about that order. In the instant case the order unquestionably is one that seriously prejudices the appellant. We would further like to add that the fact that even the order of punishment was made without giving the appellant a real opportunity to make an effective representation against it make the second order affecting his pay and allowances still more vulnerable.

18. Mr. Mahajan appearing for the State sought to rely in this connection upon an unreported decision of this Court in the State of Assam and Anr. *Versus* Raghava Rajagopalachari (2). That case was a case dealing with Fundamental Rule 54 which is more or less similar to Rule 7.3 of the Punjab Civil Services Rules, under which this second order of 27th February, 1967 had been passed by the Governor. The relevant portion of Fundamental Rule 54 is in the following terms:—

“F.R. 54 when the suspension of a Government servant is held to have been unjustifiable or not wholly justifiable; or

When a Government servant who had been dismissed, removed or suspended is reinstated; the revising or appellate authority may grant to him for the period of his absence from duty—

(a) if he is honourably acquitted, the 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 revising or appellate authority may prescribe. In a case falling under clause (a) the period of absence from duty will be treated as a period spent on duty. In a case falling under clause (b) it will not be treated as a period spent on duty unless the revising or appellate authority so direct.”

19. This Court held that clause (b) of the Fundamental Rule 54 would be applicable in all cases where the officer concerned is not honourably acquitted. Since in that case the Government Servant had clearly not been fully exonerated of the charges levelled against him it was open to Government to decide what period of absence from duty during the period of suspension should be treated on duty and, also what proportion of should be treated as period spent on duty and, also what proportion of pay and allowances should be given to him. This decision cannot apply to the instant case for the simple reason that Government, by withdrawing the proceedings initiated against the appellant in respect of Charge 1 (b) made it impossible for the appellant to get himself fully exonerated. Since the appellant had been exonerated of Charge 1(a) and since Charge 1(b) was withdrawn, it is impossible for Government to proceed on the basis as if the appellant has not been fully exonerated or to assume that the order of suspension was one which was not wholly unjustified. In that view of the matter, we do not think that the case of the State of Assam and Anr. *Vs. Raghav Rajgopalachari* (2) can be of any assistance to the respondents.

20. In the result this appeal succeeds. The judgment and order of the High Court are set aside. The orders dated 27th February, 1967 impugned in the appellant’s petition before the High Court are quashed. The appellant will get the costs of this appeal as well as costs incurred below.

(English Version of letter No. 1283-5GSI-73/8185 dated 27-3-73)

Subject :- List Showing the names and particulars of persons dismissed/debarred from Government Service.

I am directed to refer to the provision contained in notes (1) and (2) under Rule 4 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 according to which the Punishing Authorities have full discretion to publish in the Gazette reasons for dismissal where such publication is considered desirable in the public interest. Furthermore, the authority passing an order of dismissal is required to intimate the name and other relevant particulars of an person dismissed to the Deputy Inspector General of Police C.I.D., Punjab (now Haryana) as well as to the Deputy Commissioner and the Superintendent of Police of the district where such person was a permanent resident, in order to guard against the inadvertent re-employment of persons dismissed from Government Service.

2. The matter has been considered further by Government and it has been decided that in future the Departments should also supply similar information to the Chief Secretary to Government (in General Service I Branch) directly after an order of dismissal has been passed by any punishing authority. The information so received from various departments will than be compiled and circulated quarterly by the State Government to all the departments and corporate bodies in Haryana and also to the Central Government and to the other State Governments.

3. I am to request that these instructions may please be noted carefully and brought to the notice of all concerned for strict compliance. The receipt of this letter may also be acknowledged.

No. 504-IGSI-73/7866

From

The Chief Secretary to Government, Haryana.

To

1. All Head of Departments; Commissioners, Ambala and Hisar Divisions; All Deputy Commissioners; and All Sub-Divisional Officers in Haryana.
2. The Registrar, Punjab and Haryana High Court; and All District and Sessions Judges, Haryana.

Dated, Chandigarh, the 27th March, 1973.

Subject:- The Punjab Departmental Enquiries (Powers) Act, 1955.

Sir,

I am directed to say that it has come to the notice of Government that departmental enquiries conducted by Enquiry Officers appointed under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, or any other similar rules applicable to other services, are quite often delayed inordinately on account of the failure of the witnesses to appear before the Enquiry Officers despite the issue of repeated summons. One reason appears to be that the provisions of section 2 of the Punjab Departmental Enquiries (Powers) Act, 1955 (copy enclosed) which empower Enquiry Officers to compel the attendance of witnesses and the production of documents are not within their notices or are not availed of by them in appropriate cases.

2. I am to point out that Government attach great importance to the expeditious completion of departmental enquiries and there can be no justification for the aforementioned provisions not being utilised when necessary. You are, therefore, requested to take due note of these provisions for appropriate use and also to bring them to the notice of all officers/officials working under you for use when they are appointed Enquiry Officers so that there is no avoidable delay in departmental enquiries on account of failure of witnesses to appear or because of non-production of documents.

3. It is requested that the receipt of this communication may please be acknowledged.

Yours faithfully,

Sd/-

Deputy Secretary, Political & Services,
for Chief Secretary to Government, Haryana

A copy each is forwarded to the Financial Commissioner Revenue, and all Administrative Secretaries to Government, Haryana, for information and necessary action.

Extracts of Section 2 of Punjab Departmental Enquiries (Powers) Act, 1955.

2. For the purposes of an enquiry under the Punjab Civil Services (Punishment and Appeal) Rules, for the time being in force, the officer conducting such an enquiry shall be competent to exercise the same powers for the summoning of witnesses, and for compelling the production of documents as are exercisable by a commission appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 (Act XXXVII of 1850), and all persons disobeying any process issued by such officer in this behalf shall be liable to the same penalties as if the same had issued from a Court.

Summoning of Witnesses and production of documents.

संख्या 3267-5 जी.एस.-1-73/15224

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष, अम्बाला तथा हिसार मण्डल के आयुक्त, सभी उपायुक्त तथा उप-मण्डल अधिकारी हरियाणा ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायलय, चण्डीगढ़ तथा सभी जिला एवं सत्र न्यायाधीश हरियाणा।

दिनांक, चण्डीगढ़ 15 जून, 1973

विषय :- दूसरा मैमोरियल प्रस्तुत करने के बारे में अवधि ।

महोदय,

मुझे निर्देश हुआ है कि मैं आप का ध्यान संयुक्त पंजाब सरकार की अधिसूचना क्रमांक 9369-जी.51/681, दिनांक 12-2-52 द्वारा जारी की गई हिदायतों की ओर दिलाऊँ और कहूँ कि इन हिदायतों के पैरा-6(III) के अनुसार दूसरा मैमोरियल उसमें कोई नये तथा महत्वपूर्ण तथ्य शामिल किये गये हैं, दिया जा सकता है। इन हिदायतों के पैरा 6(V) के अनुसार मैमोरियल सम्बन्धित आदेश के जारी होने की तिथि के बाद 6 महीने के अन्दर किया जा सकता है। हिदायतों में दूसरा मैमोरियल दिये जाने के लिए कोई अवधि निश्चित नहीं की गई है। सरकार ने इस बारे में विचार कर निर्णय लिया है कि दूसरा मैमोरियल पहले मैमोरियल पर निर्णय लिये जाने के बाद 6 मास के अन्दर-अन्दर प्रस्तुत किया जा सकता है।

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते : मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को सूचनार्थ तथा आवश्यक कार्यवाही के लिये भेजी जाती है :-

वित्तायुक्त राजस्व, हरियाणा तथा हरियाणा सरकार के सभी प्रशासकीय सचिव ।

क्रमांक 4985 - I जी.एस. - L73 / 23997

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल, सभी उपायुक्त तथा उप-मंडल अधिकारी ।
2. रजिस्ट्रार, उच्च न्यायालय पंजाब तथा हरियाणा, चण्डीगढ़ तथा हरियाणा के सभी जिला एवं सत्र न्यायाधीश ।

दिनांक, चण्डीगढ़, 24 सितम्बर, 1973

विषय :- पंजाब सिविल सेवा (दण्ड तथा अपील) नियमावली, 1952 के नियम 8 के अधीन लघु दण्ड देने के लिए कार्यविधि ।

महोदय,

मुझे निदेश हुआ है कि मैं उपर्युक्त विषय पर आपका ध्यान हरियाणा सरकार के परिपत्र क्रमांक 6987-5 जी.एस.-69/30229, दिनांक 16-12-69 द्वारा जारी की गई हिदायतों की ओर दिलाऊँ जिनमें पंजाब सिविल सेवा (दण्ड तथा अपील) नियमावली, 1952 के नियम 8 के अन्तर्गत किसी दोषी सरकारी कर्मचारी के खिलाफ जाने वाली कार्यविधि की व्याख्या की गई थी । इन हिदायतों में कल्याण सिंह बनाम पंजाब राज्य, 1965 की सिविल याचिका संख्या 2523 के केस में पंजाब तथा हरियाणा उच्च न्यायालय द्वारा दिए गए निर्णय की ओर ध्यान दिलाते हुए यह कहा गया था कि यदि नियम 8 के अधीन किसी सरकारी कर्मचारी को कोई लघु दण्ड (Minor Punishment) दिया जाना हो तो दोषी कर्मचारी को आरोप पत्र भेजते समय प्रस्तावित लघु दण्ड (Minor Punishment) बताया जाना चाहिए और यदि आरोप पत्र के साथ प्रस्तावित दण्ड कर्मचारी को न बताया गया तो प्रस्तावित लघु दण्ड देने से पहले सम्बन्धित कर्मचारी को एक दूसरा “कारण बताओं नोटिस” अवश्य दिया जाना चाहिए जिसमें कि प्रस्तावित दण्ड बताया गया हो ।

2. पंजाब तथा हरियाणा उच्च न्यायालय के उपरोक्त निर्णय को सुप्रीम कोर्ट ने शादी लाल बनाम पंजाब राज्य (ए.आई.आर. 1973 एस.सी. 1124) के केस में ओवर रूल कर दिया है (सुप्रीम कोर्ट के निर्णय के सम्बन्धित भाग की एक प्रति संलग्न है) । सुप्रीम कोर्ट के इस निर्णय में यह स्पष्ट किया गया है कि उपरोक्त नियमावली का नियम 8, जिसके तहत लघु दण्ड (Minor Punishment) दिए जाते हैं, केवल इतना ही चाहता है कि जिन आरोपों के आधार पर किसी कर्मचारी के विरुद्ध कार्यवाही की जा रही वे उसे बता दिए जाएं । सम्बन्धित कर्मचारी को प्रस्तावित लघु दण्ड (Minor Punishment) से सूचित करने की किसी स्टेज पर आवश्यकता नहीं है । उपरोक्त नियमावली के नियम 7 के तहत बड़ा दण्ड देने की कार्यवाही करने के लिये जो दो बार कारण बताओ नोटिस देने वाली व्यवस्था है वह संविधान की धारा 311(2) के आधार पर है और नियम 8 के तहत कार्यवाही करते समय उपरोक्त धारा कोई अड़चन नहीं डालती ।

3. अतः सुप्रीम कोर्ट के उपरोक्त निर्णय को ध्यान में रखते हुए हरियाणा सरकार की उपरोक्त दिनांक 16-12-69 की हिदायतों को रद्द समझा जाए । यह स्पष्ट किया जाता है कि नियम 8 के तहत कार्यवाही करते समय प्रस्तावित लघु दण्ड (Minor Punishment) सम्बन्धित कर्मचारी को बताने की आवश्यकता न ही कारण बताओं नोटिस जारी करते समय है और न ही उसका जवाब प्राप्त होने पर उसे प्रस्तावित लघु दण्ड बताने के लिए “शो काज नोटिस”

जारी करने की आवश्यकता है। दूसरे शब्दों में दोषी कर्मचारी को लगाए गए आरोपों के बारे में उत्तर प्राप्त होने पर नियुक्ति प्राधिकारी जो भी लघु दण्ड (Minor Punishment) उचित समझे वह सीधे दे सकते हैं तथा प्रस्तावित लघु दण्ड, दोषी कर्मचारी को किसी स्टेज पर भी (आरोप पत्र के साथ या “शो काज नोटिस द्वारा”) बताये जाने की आवश्यकता नहीं है।

4. अनुरोध है कि भविष्य में उपरोक्त हिदायतों के अनुसार कार्यवाही की जाए।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार।

इसकी एक-एक प्रति निम्नलिखित को सूचना और मार्गदर्शन के लिये भेजी जाती है।

वित्तियुक्त राजस्व, तथा सभी प्रशासकीय सचिव, हरियाणा सरकार।

No. 8495-29-SII-73/545

From

The Chief Secretary to Government, Haryana.

To

All the Head of Departments, Commissioners, Ambala and Hisar Divisions etc., etc.

Dated, Chandigarh, 15-1-1974

Subject:- Delegation of Financial and Administrative Powers to the Heads of Departments

I am directed to refer you on the subject noted above and to say that Govt. has decided to delegate the following powers to the Head of Departments to impose minor punishment in the cases of Class II officers working under them:--

1. Censure.
2. With-holding of increments or promotion including stoppage of efficiency bar for a period of not more than one year.
3. Recovery from pay of the whole, promotions including stoppage, loss caused to Government by negligence or break of order upto the extent of Rs. 1000/-.

Kindly acknowledge the receipt of this letter.

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Government, Haryana.

क्रमांक 4500-I जी.एस.-175/25009

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा के सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल, उपायुक्त तथा सभी उप-मंडल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाई कोर्ट तथा हरियाणा के सभी जिला एवं सत्र न्यायाधीश ।
दिनांक, चण्डीगढ़, 22 अगस्त, 1975

विषय: - पंजाब सिविल सर्विसिज रूज्ज वाल्यूम-II के रूल 2.2 (बी) में दी गई व्यवस्था के अन्तर्गत सरकारी कर्मचारी/अधिकारी के विरुद्ध उसकी रिटायरमेंट से पहले आरम्भ की गई विभागीय कार्यवाही को रिटायरमेंट के बाद भी जारी रखने के लिए क्राइटेरिया का अपनाना ।

महोदय,

मुझे निदेश हुआ है कि मैं उपर्युक्त विषय की ओर आपका ध्यान दिलाऊँ और कहूँ कि पंजाब सिविल सर्विसिज रूज्ज, वाल्यूम-II के रूल 2.2 (बी) में (वित्त विभाग की अधिसूचना क्रमांक 3548-2 एफ.आर.-72/24080, दिनांक 24-7-1972 द्वारा संशोधित) यह व्यवस्था है कि किसी सरकारी अधिकारी/कर्मचारी के विरुद्ध उसके द्वारा किये गये मिसकण्डक्ट के कारण या सरकार को पहुंचाई गई वित्तीय हानि के कारण उसकी रिटायरमेंट से पहले आरम्भ की गई विभागीय कार्यवाही को उसकी रिटायरमेंट के बाद भी पैन्शन में कटौती के लिये उसी प्रकार जारी रखी जा सकती है जैसे उसकी सेवा में होते हुए रखी जानी है, चाहे यह विभागीय कार्यवाही पंजाब सिविल सर्विसिज (पनिशमेंट एण्ड अपील) रूज्ज, 1952 के रूल 7 (जो मेजर पैन्लटी के लिये होता है) या रूल 8 (जो माईनर पैन्लटी के लिये होता है) के तहत आरम्भ की गई हो व इस बारे में कोई distinction नहीं है । पैन्शन में कटौती के लिये अधिकारी/कर्मचारी के विरुद्ध उसकी रिटायरमेंट के बाद जारी रखी जाने वाली विभागीय कार्यवाही के बारे में कोई क्राइटेरिया अपनाने के लिये प्रश्न सरकार के विचारधीन था अतः सरकार ने ध्यान पूर्वक विचार करके समानता के लिये यह निर्णय लिया है कि उपरोक्त रूल 2.2 (बी) के तहत पैन्शन में कटौती के लिये किसी अधिकारी/कर्मचारी के विरुद्ध उसकी रिटायरमेंट से पहले आरम्भ की गई केवल ऐसी विभागीय कार्यवाही को उसकी रिटायरमेंट के बाद जारी रखा जाये जो कि पंजाब सिविल सर्विसिज (पनिशमेंट एण्ड अपील) रूज्ज 1952 के नियम 7 (जो मेजर पैन्लटी के लिये होता है) के अन्तर्गत आरम्भ की गई थी तथा नियम 8 (जो माईनर पैन्लटी के लिये होता है) के तहत आरम्भ की गई विभागीय कार्यवाही को रिटायरमेंट के बाद जारी न रखा जाये। इन हिदायतों के बारे में वित्त विभाग की सहमति भी प्राप्त कर ली गई है । आपसे अनुरोध है कि भविष्य में उपरोक्त हिदायतों को ध्यान में रखा जाये तथा अपने अधीन कार्य कर रहे अधिकारियों/कर्मचारियों के ध्यान में भी ला दी जायें ।

2. कृपया इस पत्र की पावती भेजी जाये ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को सूचनार्थ तथा आवश्यक कार्यवाही हेतु भेजी जाती है:-

वित्तायुक्त तथा सभी प्रशासकीय सचिव, हरियाणा सरकार ।

No. 6545-4GSI-75/37934

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala and Hisar Divisions, All Deputy Commissioners and Sub-Divisional Officers in Haryana.
2. The Registrar, Punjab and Haryana High Court and all the District & Sessions Judges in Haryana.

Date, Chandigarh, the 31st December, 1975.

Subject :- **Proviso (c) to Article 311(2) of the Constitution-Rule 7(2) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952-Satisfaction of the Governor that in the interest of the security of the State it is not expedient to hold an enquiry.**

Sir,

I am directed to invite your attention to Haryana Government letter No. 3610-5GSI-71/21438, dated the 21st July, 1971 on the subject noted above and to say that in a recent judgement in Shamsher Singh's case (AIR 1974 SC 2192), the Supreme Court has over-ruled their earlier decision taken in the case Sardari Lal Vs. Union of India (Civil Appeal No. 576 of 1969). The Supreme Court has now pointed out that "the rules of business and the allocation among the Ministers of the said business indicate that the decision of any Minister or Officers under the Rules of Business made under these two articles viz. Article 77(3) in the case of President and Article 166(3) in the case of a Governor of the State, is the decision of the President or the Governor respectively." In the said judgement it has been held that neither the said judgement it has been held that neither the President nor the Governor has to exercise executive functions personally.

2. It would thus be clear that the requirements of proviso (c) to Article 311 (2) of the Constitution would be satisfied if the matter is submitted to the Minister-in-charge under the rules of business and receives his approval. Accordingly, it has been decided that in so far as the employees of the State Government are concerned, the procedure indicated in para 2 of the letter referred to in Para I above need not be followed hereafter. However, all cases coming within the proviso (c) to Article 311 (2) of the Constitution and the corresponding provision of Rule 7(2) (b) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 should invariably be submitted to the Minister-in-charge for necessary orders.

3. I am to request that these instructions may be brought to the notice of all concerned for strict compliance and, the receipt of this letter may also be acknowledged.

Yours faithfully,

Sd/-

Deputy Secretary, General Administration,
for Chief Secretary to Government, Haryana.

Compendium of Instructions on Disciplinary matter—Vol. V

A copy each is forwarded for information and necessary action to the :—

Financial Commissioner, Haryana and all Administrative Secretaries to Govt. Haryana.

Sd/-

Deputy Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

The Financial Commissioner Haryana and All Administrative Secretaries to Govt. Haryana.

U.O. No. 6545-4GSI-75.

Dated, Chandigarh, the 31st December, 1975.

क्रमांक 3178-5 जी.एस.-I-76/13162

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष, आयुक्त, अम्बाला तथा हिसार मण्डल, सभी उपायुक्त तथा उप-मण्डल अधिकारी हरियाणा ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाई कोर्ट, चण्डीगढ़ तथा जिला एवं सत्र न्यायाधीश हरियाणा ।
दिनांक, चण्डीगढ़, 24 मई, 1976

विषय: - **अभिवेदकों को personal hearing का अवसर देने के बारे में ।**

महोदय,

मुझे निदेश हुआ है कि उपरोक्त विषय पर आपका ध्यान आकर्षित करूं और कहूं कि सरकार के ध्यान में यह आया है कि जब किसी कर्मचारी द्वारा कोई अभिवेदन दिया जाता है जिसमें personal hearing का अवसर दिये जाने के लिए अनुरोध किया गया हो तो विभागों द्वारा ऐसे अभिवेदन पत्र पर विचार करते समय कर्मचारी को personal hearing दिये जाने के बारे में कोई टिप्पणी नहीं दी जाती । कृपया भविष्य में सुनिश्चित करें कि ऐसे प्रत्येक केस में आवश्यक टिप्पणी दी जाये और यदि संबंधित कर्मचारी को personal hearing नहीं दी जानी हो तो इसके स्पष्ट आदेश संबंधित फाईल पर हों ।

2. कृपया इन हिदायतों को दृढ़ता से पालना हेतु अपने अधीन कार्य करने वाले कर्मचारियों के ध्यान में लाया जाये ।

भवदीय,

उप सचिव, सामान्य प्रशासन,
कृते : मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को सूचनार्थ तथा आवश्यक कार्यवाही हेतु भेजी जाती है :-

1. वित्तायुक्त, हरियाणा सरकार के सभी प्रशासकीय सचिव, हरियाणा सरकार ।

उप सचिव, सचिवालय स्थापना,
कृते : मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. वित्तायुक्त, हरियाणा सरकार के सभी प्रशासकीय सचिव, हरियाणा सरकार ।

अशा: क्रमांक 3178-5 जी.एस.-76

दिनांक, चण्डीगढ़, 24 मई, 1976.

क्रमांक 3874 - 6 जी.एस. - I - .76 /17089

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

हरियाणा सरकार के सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल,

सभी उपायुक्त तथा उप मंडल अधिकारी ।

दिनांक, चण्डीगढ़, 29 जून, 1976

विषय: - विभागीय जांचों के सिलसिले में अधिकारियों/कर्मचारियों को आरोप-पत्र देने में विलम्ब ।

महोदय,

सरकार के नोटिस में आया है कि विभागीय जांचों के सम्बन्ध में बहुत केसों में निलम्बित कर्मचारियों/अधिकारियों को चार्जशीट करने में बहुत विलम्ब हुआ है । इससे एक तो सम्बन्धित अधिकारी/कर्मचारी को बहुत कठिनाई होती है, दूसरे मामले के अन्तिम निपटान में भी विलम्ब होता है ।

2. ऐसे निलम्बित अधिकारियों/कर्मचारियों को आरोप-पत्र देने में विलम्ब लोक हित में नहीं है । इसलिए आपसे अनुरोध किया जाता है कि ऐसे मामलों में जहां कार्यवाही के लिये प्रथम-दृष्ट्या केस बनता हो, आरोप-पत्र तत्काल जारी किया जाए । वैसे भी सरकार की हिदायतों के अनुसार निलम्बन काल की अवधि कम से कम समय के लिए होनी चाहिए और इस उद्देश्य की पूर्ति के लिये यह भी आवश्यक हो जाता है कि ऐसे निलम्बित कर्मचारियों को “कारण बताओ नोटिस” इत्यादि परम अग्रता से जारी किया जाए ताकि उनके विरुद्ध कार्यवाही पूरी करने में अनावश्यक देरी न हो ।

3. अतः आपसे अनुरोध है कि भविष्य में अधिकारियों/कर्मचारियों खास तौर पर निलम्बनाधीन अधिकारियों/कर्मचारियों को आरोप-पत्र देने में देरी न होने दी जाए और प्रथम दृष्ट्या केस होने पर आरोप-पत्र तत्काल दिया जाए ।

भवदीय,

हस्ता / -

उप सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

क्रमांक 78-6 जी.एस.-I-77/1118

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल, हरियाणा के सभी उपायुक्त और उप मंडल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय, और हरियाणा के सभी जिला एवं सेशन न्यायाधीश ।

दिनांक, चण्डीगढ़, 25 जनवरी, 1977

विषय:- विभागीय जांचों के सिलसिले में अधिकारियों/कर्मचारियों को आरोप-पत्र देने में विलम्ब ।

महोदय,

उपर्युक्त विषय पर सरकार के परिपत्र क्रमांक 3874-6 जी.एस.-I-76/17089, दिनांक 29-6-76 की ओर आपका ध्यान आकर्षित करते हुए मुझे यह कहने का निदेश हुआ है कि प्रायः विभागीय जांचों को पूर्ण करने में बहुत विलम्ब हो जाता है और कई केसों में संबंधित अधिकारियों/कर्मचारियों की सेवानिवृत्ति के कई वर्ष पश्चात् तक भी जांचे पूर्ण नहीं होती हैं । इससे एक तो संबंधित अधिकारी/कर्मचारी को बहुत कठिनाई होती है, दूसरे मामले में अन्तिम निपटान में विलम्ब लोक हित में भी नहीं है ।

2. अतः आपसे अनुरोध है कि भविष्य में विभागीय जांचों को पूर्ण किया जाए ।

भवदीय,

हस्ता/-

उप सचिव, सामान्य प्रशासन,

कृते: मुख्य सचिव, हरियाणा सरकार ।

एक प्रति :-

वित्तियुक्त तथा हरियाणा सरकार के सभी प्रशासकीय सचिवों को इस विभाग के अशा. क्र. 3874-6 जी. एस.-I-76, दिनांक 29-6-76 के क्रम में सूचना तथा आवश्यक कार्यवाही के लिये प्रेषित की जाती है ।

क्रमांक 4970-3 जी.एस.-1-77/23097

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

हरियाणा के सभी विभागाध्यक्ष, अम्बाला तथा हिसार के आयुक्त,
सभी उपायुक्त तथा उप-मण्डल अधिकारी ।

दिनांक, चण्डीगढ़, 26 अगस्त, 1977

विषय :- सरकारी कर्मचारियों के प्रतिवेदन/अपीलों के निपटाने में अनावश्यक देरी ।

महोदय,

मुझे निदेश हुआ है कि मैं उपरोक्त विषय की ओर आप का ध्यान दिलाऊँ और कहूँ कि राज्य सरकार के ध्यान में यह बात लाई है कि विभिन्न विभागों में काम करने वाले सरकारी कर्मचारियों के प्रतिवेदनों तथा अपीलों के निपटान में अनावश्यक देरी की जाती है जिसके फलस्वरूप सम्बन्धित कर्मचारी परेशान रहते हैं और सरकारी काम सुचारूँ रूप से नहीं हो पाता । सरकार इस स्थिति को गम्भीरता से देखती है । कृपया ऐसी अपीलों/प्रतिवेदनों का निपटान करने हेतु विशेष ध्यान दिया जाए । इस बारे मासिक लम्बित मामलों की सूचना सरकार के पत्र क्रमांक 1250-5 ए.आर.-70, दिनांक 5-10-70 के अन्तर्गत प्रस्तुत करते समय इन मामलों की विशेष रूप से समीक्षा की जाए ।

2. कृपया इस पत्र की पावती भेजें ।

भवदीय,

हस्ता / -

उप सचिव, सामान्य प्रशासन,

कृते : मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति वित्तायुक्त, राजस्व तथा हरियाणा के सभी प्रशासकीय सचिवों तथा सूचना एवं आवश्यक कार्यवाही के लिए भेजी जाती है ।

2. उनसे अनुरोध किया जाता है कि लम्बित प्रतिवेदनों/अपीलों के शीघ्र निपटान की ओर विशेष ध्यान दिया जाए ।

3. कृपया इस पत्र की पावती दें ।

हस्ता / -

उप सचिव, सामान्य प्रशासन,

कृते : मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. वित्तायुक्त, राजस्व हरियाणा, हरियाणा के सभी प्रशासकीय सचिव ।

अशा: क्रमांक 4970-3 जी.एस. 1-77

दिनांक, 26 अगस्त, 1977.

क्रमांक 25/33/78 जी.एस.- I

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल, सभी उपायुक्त तथा उप-मंडल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाई कोर्ट ।

दिनांक, चण्डीगढ़, 10 नवम्बर, 1978

विषय: - पंजाब सिविल सेवा नियमावली, जिल्द - II के रूल 2.2 (बी) में दी गई व्यवस्था के अन्तर्गत सरकारी कर्मचारी/अधिकारी के विरुद्ध उसकी सेवा निवृत्ति से पहले आरम्भ की गई विभागीय कार्यवाही का सेवा निवृत्ति के बाद भी जारी रखने के लिए माप-दण्ड का अपनाना ।

महोदय,

मुझे निदेश हुआ है कि मैं उपर्युक्त विषय पर हरियाणा सरकार के अनुदेश क्रमांक 4500-1 जी.एस. - 75/25009, दिनांक 22 अगस्त, 1975 की ओर दिलाऊं जिसमें सरकार ने यह निर्णय किया था कि पंजाब सिविल सेवा नियमावली, जिल्द - II के रूल, 2.2(बी) के तहत पेंशन में कटौती के लिए किसी अधिकारी/कर्मचारी के विरुद्ध उसकी सेवा निवृत्ति से पहले आरम्भ की गई केवल ऐसी विभागीय कार्यवाही को उसकी सेवा-निवृत्ति के बाद जारी रखा जाए जोकि पंजाब सिविल सेवाएं (दण्ड तथा अपील) नियमावली, 1952 के नियम 7 (जो बड़े दण्ड के लिये होता है) के अन्तर्गत आरम्भ की गई हो तथा नियम 8 (जो लघु दण्ड के लिये होता है) के तहत आरम्भ की गई विभागीय कार्यवाही को सेवा-निवृत्ति के बाद जारी रखा जाए ।

2. अब सरकार ने यह निर्णय लिया है कि यदि वित्तीय हानि किसी गलत कार्यवाही या गफलत के कारण हो और उसकी सीधी जिम्मेवारी सेवा-निवृत्त कर्मचारी पर आती हो तो विभागीय कार्यवाही जो चाहे रूल 8 के अन्तर्गत आरम्भ की गई हो, को सेवानिवृत्ति के बाद भी जारी रखा जाए ताकि वित्तीय हानि की वसूली पेंशन से की जा सके ।
3. उपर्युक्त हिदायतों इस सीमा तक संशोधित समझी जायें ।
4. आपसे अनुरोध है कि भविष्य में इन हिदायतों को ध्यान में रखा जाए तथा अपने अधीन कार्य कर रहे सभी अधिकारियों/कर्मचारियों के ध्यान में भी ला दी जाएं ।
5. कृपया इसकी पावती भेजी जाए ।

भवदीय,

हस्ता / -

उप सचिव, सामान्य प्रशासन,

कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति वित्तायुक्त तथा सभी प्रशासकीय सचिव, हरियाणा सरकार को सूचनार्थ तथा आवश्यक कार्यवाही हेतु भेजी जाती है ।

प्रतिलिपि क्रमांक 23/3/78-5 जी.एस.-1, दिनांक 1-12-78 जो मुख्य सचिव, हरियाणा की ओर से वित्तायुक्त, राजस्व और सभी प्रशासकीय सचिवों, सभी विभागाध्यक्षों, आयुक्त अम्बाला तथा हिसार मण्डल तथा राज्यपाल के सचिव को भी प्रेषित है ।

विषय:- मैमोरियल के निपटान के बारे में अवधि ।

क्या वित्तायुक्त राजस्व, हरियाणा तथा सभी प्रशासकीय सचिव, हरियाणा कृपया उपर्युक्त विषय पर संयुक्त पंजाब सरकार के गृह विभाग की अधिसूचना क्रमांक 9369-जी.-51/681 दिनांक 12-2-1952 (जिसकी प्रति हरियाणा सरकार के परिपत्र क्रमांक 3267-5 जी.एस.-1-75/15224 के साथ सभी विभागाध्यक्ष आदि को भेजी गई थी जिसमें मैमोरियल सम्बन्धित हिदायतें रखी हैं, की ओर ध्यान देंगे ?

2. राज्यपाल के सचिव ने सरकार के ध्यान में यह लाया है कि उन के कार्यालय में बहुत से मैमोरियल जिनकी सूची संलग्न है निपटान हेतु काफी समय से लम्बित पड़े हैं । क्योंकि सभी सम्बन्धित विभागों द्वारा निर्धारित माध्यम से उनके बारे में कोई टिप्पणी नहीं भेजी गई थी । इस सूची के अध्ययन से पता चलेगा कि बहुत से मैमोरियल काफी पुराने हो चुके हैं । सम्भवतः इनमें से कुछ मैमोरियलों को विभागाध्यक्षों द्वारा उपरोक्त अधिसूचना में दी गई हिदायतों को पैरा-6 के तहत रोक लिया होगा, परन्तु पैरा 7 के तहत रोके गए मैमोरियलों को ब्यौरा त्रैमासिक सूची द्वारा सम्बन्धित प्रशासकीय विभाग तथा राज्यपाल के सचिव को नहीं भेजा गया । यह अनुभव किया जाता है कि यदि किसी मैमोरियल पर उचित अवधि में निश्चय नहीं लिया जाता तो उसका प्रयोजन ही समाप्त हो जाता है । अतः अनुरोध है कि यह सुनिश्चित किया जाए कि :-

- (1) लम्बित मैमोरियल जिनका ब्यौरा संलग्न सूची में दिया गया है, का निपटान हिदायतों के अनुसार बिना और विलम्ब के हो । इन में से जो मैमोरियल विभागाध्यक्ष द्वारा रोके गये हों उनका ब्यौरा एक विशेष सूची द्वारा निर्धारित प्रोफार्मा में राज्यपाल के सचिव को शीघ्रतः भेजे जाए, और
- (2) भविष्य के लिए प्रशासकीय विभाग मैमोरियल पर अपनी टिप्पणी निर्धारित माध्यम से राज्यपाल महोदय को मैमोरियल प्राप्त होने की तिथि से 3 मास के अन्दर-अन्दर भेजे और रोके गए मैमोरियलों की त्रैमासिक रिपोर्ट नियमित रूप से राज्यपाल के सचिव को नियत तिथि तक आवश्यक भेजी जाए ।

3. कृपया उपरोक्त हिदायतों को सभी सम्बन्धित के ध्यान में तत्काल अनुपालना हेतु ला दिया जाए ।

विषय : अधिकारियों/कर्मचारियों के विरुद्ध पंजाब दण्ड एवं अपील नियमावली, 1952 के अधीन कार्यवाही करते समय विभागीय जांच के लिए जांच अधिकारी नियुक्त करना ।

क्या हरियाणा सरकार के सभी प्रशासकीय सचिव, उपर्युक्त विषय की ओर ध्यान देने का कष्ट करेंगे ?

2. राज्य सरकार के कर्मचारियों/अधिकारियों के विरुद्ध पंजाब दण्ड एवं अपील नियमावली, 1952 के अन्तर्गत विभागीय जांच के लिये चौकसी विभाग में आई.ए.एस. काडर के एक अधिकारी, जांच अधिकारी (चौकसी) नियुक्त है तथा उनके कार्यालय में जिला न्यायावादी तथा रीडर सहित पूरा अमला उपलब्ध किया गया है, जिससे कि जांच सुचारू रूप से हो सके । इस समय जांच अधिकारी के पास किसी भी विभाग की नियमित जांच लम्बित नहीं है ।
3. उपरोक्त स्थिति को ध्यान में रखते हुए यह निर्णय लिया गया है कि जिन श्रेणी - I तथा II के अधिकारियों के विरुद्ध नियमित विभागीय जांच प्रस्तावित हो तो वह सभी केस उपर्युक्त अधिकारी को भेज दिये जाएं । इसके अतिरिक्त भविष्य में जिन केस में (केवल श्रेणी - I तथा II से सम्बन्धित) विभागीय जांच बारे निर्णय लिया जाए तो जांच अधिकारी (चौकसी) को ही इस कार्य हेतु नामित किया जाए ।
4. यह हिदायतें, जोकि अग्रिम आदेशों तक लागू रहेंगी, सभी सम्बन्धित के ध्यान में कठोरतापूर्वक कार्यवाही हेतु ला दी जाएं ।

हस्ता / -

उप सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

सभी प्रशासकीय सचिव, हरियाणा सरकार ।

अशा. क्रमांक 25/1/79 - जी.एस.

दिनांक, चण्डीगढ़, 30-4-79

HARYANA GOVERNMENT

PUNJAB CIVIL SERVICES (PUNISHMENT AND APPEAL) RULES, 1952

(Published with the Punjab Government Notification No. 7123-C-52/8525, dated the 11th, February, 1953)

(As amended upto 31st March, 1982)

In supersession of the rules published with Punjab Government Notification No. 6693-G-40/47845, dated the 26th, November, 1940 as amended from time to time, and in exercise of the powers conferred by the proviso, to Article 309 of the Constitution of India, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules to regulate the conduct and discipline affecting persons serving in a civil capacity in connection with the affairs of the State of Punjab until provision in that behalf is made by an Act of the State legislature.

1. Short title and extent:- (1) These rules may be called the Punjab Civil Services (Punishment and Appeal) Rules, 1952.

(2) Except as expressly provided by or under any law for the time being in force as respects disciplinary matters or rights similar there no applicable to the case of any person holding a civil post under the State, these rules shall apply to all persons belonging to the services and posts in connection with the affairs of the State of *Haryana whether in service before or after the commencement of the Constitution but they shall not apply to :-

- (a) persons appointed to All-India Services ;
- (b) persons having been appointed by the Secretary of a State or the Secretary of State-in-Council to a Civil Service of the Crown in India who continue to serve under the Government of India or of a State on or after the Commencement of the Constitution ;
- (c) persons in respect of whose conditions of Service and disciplinary matters and the conduct there of special provision has been made by agreement entered into before or after those rules come into force.

2. Definitions :- In these rules, unless there is anything repugnant in subject or Context.-

- (a) "Government" means the *Haryana Government ; and
- (b) "Head of the Department" means the authority prescribed as the head of Department in Appendix 'D' to the Punjab Budget Manual in the case of each Department under the Administrative control of Government.

3. Saving clauses:- All Powers, rights and remedies provided by these rules shall be in addition to and not in derogation of the proviso of such rules as may be made by the Governor of *Haryana in exercise of the powers conferred by provision to Article 309 of the Constitution of India to regular the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the State of Punjab.

* Substituted vide Haryana Govt. Notification No. G.S.R. 23/Const./Arts. 309/Amd. (1) 69, dated 21st January, 1969.

4. Penalties:- The following penalties may, for good and sufficient reasons as hereinafter provided, be imposed upon members of services to whom these rules are applicable, namely:-

- (i) censure ;
- * (i) (a) warning with a copy of the personal file.
- (ii) with holding of increments or promotion, including stoppage at an efficiency bar, if any ;-
- (iii) reduction to a lower post or time-scale or to a lower stage in a time-scale;
- ** (iv) recovery from pay of the whole or part of any pecuniary loss, caused by negligence or breach of orders, to Central Government or a State Government or to a Company Association or body of individuals whether incorporate or not, which is wholly or substantially owned or controlled by Government or to a Local Authority set up by an Act of Parliament or of the legislature of a State,”
- (v) Suspension ;
- (vi) removal from the Civil Service of the Government which does not disqualify from future employment.
- (vii) dismissal from the Civil Service of the Government which ordinarily disqualify from future employment.

* Inserted vide Haryana Govt. Notification No. G.S.R. 76/Const./Arts. 187, 309 and 318/Adm. (1) 76 dated 2nd April, 1976. (Published Gazetted dated 6-4-76)

** Substituted vide Haryana Govt. Notification No. GS.R. 27/Const./Arts. 187, 309 and 398/Adm. dated 10th March, 1973.

Explanation :- (i) The termination of employment :-

- (a) of a person appointed on probation, during or at the end of the period of probation, in accordance with the terms of the appointment and the rules governing the probationary service; or
- (b) of a temporary Government servant appointed, otherwise than under contract, on the expiration of the period of the appointment on the abolition of the post or before the due time in accordance with terms of the appointment ; or
- (c) of a person engaged under a contract, in accordance with the terms of his contract, does not amount to removal or dismissal within the meaning of this rule; or rule 7.

Explanation (ii) :-

**** (ii) Stoppage at an efficiency bar or an employee under the provisions or Rule 4.8 of Civil Service Rules, Volume I, Part I or analogous provision of any other rules applicable

* Substituted vide Haryana Govt. Notification No. G.S.R. 23/Const./Art.-309/Amd. (1)/69, dated 21-1-69.
** Substituted vide Haryana Govt. Notification No. G.S.R. 24/Const./Art.-309/Amd. (1)/63, Dated 21-1-69.
*** Inserted vide Haryana Govt. Notification No. G.S.R. 130/Const./Arts. 309 and 318/Amd/ (2) 74 dated 31st Oct. 1974.

to the employee on ground of unfitness to cross the bar does not amount to punishment under these Rules”.

Notes:— (i) Punishing authorities have full discretion to publish in the *Haryana Government Gazette reason for dismissal where such publication is considered desirable in the public interest.

(2) In order to guard against the inadvertent re-employment of person dismissed from Government service, the authority passing an order of dismissal shall intimate to the Deputy Inspector General Police, *Haryana Criminal Investigation Department, Deputy Commissioner, and the Superintendent of Police of the district of which the person concerned is a permanent resident, the name of such a person and any other particulars required for purposes of identification, unless the dismissal has been notified in the *Haryana Government Gazette. Similarly, if a person happens to be a resident of another State the aforesaid officer of that state should be informed accordingly.

(3) The provisions of this rule shall not be construed to derogate from the provisions of section 36 of the Punjab Courts Act, 1948, the payment of Wages Act, 1936, or any other law authorising the imposing of fines on the ministerial establishment governed by these laws and the authority competent to award the punishment of the fine may do so in addition to the punishments aforesaid.

(4) The discharge of a person appointed to hold a temporary appointment, otherwise than in accordance with the provisions of Explanation (b) amounts to removal or dismissal and is, therefore, appealable under these rules.

(5) The distinction between censure, the withholding of promotion and non-selection to a selection post, is of considerable importance. Both censure and the withholding of promotion are appealable under these rules. On the other hand, non-selection for a selection post is not appealable.

If an officer, because of an unsatisfactory record and un-favourable confidential reports, is not selected for a selection post and some other officer junior to him is selection in preference, this does not amount to the withholding of promotion. If any inquiry is held against an officer and an order of censure is passed on him, it is open to him to appeal if he does not appeal or his appeal is rejected, and if subsequently because of the existence of this censure in his record, he is not selected for a selection post, and some other officer junior to him is selected in preference, this also does not amount to the withholding of promotion. If, however an enquiry is held against an officer, and an order is passed that he should not be promoted to a selection post for a definite period or until he has obtained good reports, this order would amount to the infliction of the penalty of withholding promotion. This distinction between non-selection for a selection post and the withholding of a promotion may be summed up as being, that in the former case the officer in question is considered for selection but some other officers is preferred on his merits, while in the later case the officer in question has been declared before hand, as a disciplinary measure, to be ineligible for selection, irrespective of the merits of the other officers available.

(6) (i) While reduction of seniority as an independent penalty is not provided for in rule 4, and cannot be imposed as such, the loss of seniority as a result of an order of reduction to a lower post or time scale, being inherent in the order of reduction cannot be avoided.

* Substituted vide Haryana Govt. Notification No. G.S.R. 23/Const./Arts. 309/Amd. (1) 69, dated 21st January, 1969.

(ii) The seniority, on re-promotion of an officer reduced to a lower post or time scale, should be determined by the date of such re-promotion in accordance with the orders issued by the competent authority on the subject of seniority. Such an officer should not be restored to his original position unless this is specifically laid down at the time of punishment is passed, or revised on appeal.

(iii) An officer in respect of whom one of the penalties included in rule 4 (iii) was imposed, will on re-promotion count previous service in the higher grade under rule 4.4 of the Punjab Civil Services Rules, Volume I, Part I, unless the order of punishment or the order passed on appeal directs otherwise.

(iv) An order debarring an officer from counting his past service in the grade from which he is reduced, if and when re-appointed to it, amounts to an order of reduction to a stage of that grade lower than that admissible under rule 4.4. of the Punjab Civil Services Rules, Volume I, Part I, and does not, therefore, fall outside the scope of rule 4.

(7) Unauthorised desertion of his post by a public servant in the face of enemy action, or threat of enemy action clearly amount to grave misconduct and would, therefore, constitute a “good and sufficient” reasons within the meaning of rule 4, for removal of dismissal in addition to any penalty provided in the East Punjab Essential Services (Maintenance) Act, 1947. Loss of pension would then follow automatically in virtue of the provisions of rule 2.5 of the Punjab Civil Services Rules, Volume II, and it would also be possible to forfeit Government contribution, if any, to the individuals provident fund.

*"4-A, suspension, If having regard to the nature of the charges and the circumstances of any case, the competent authority, which initiates disciplinary proceedings is satisfied that it is necessary or desirable in public interest, to place under suspension of a Government employee to whom these rules are applicable, and against whom such proceedings have been started or are contemplated under these rules, it may place such a Government employee under suspension till the conclusion of the inquiry and passing of the final orders in the case”.

5. *Withholding of payment of emoluments of a Government servant suspected of embezzlement:*— When a Government servant is suspected of being concerned in the embezzlement of Government money, and is placed under suspension, the authority by competent to order his dismissal may, direct, that, unless he furnishes security for the reimbursement of the said money to the satisfaction of his immediate superiors, official the payment of any sums due to him by Government on the date of his suspension, shall be deferred until such time as the said authority passes final orders on the charges framed against him:

Provided that such Government servant shall be entitled to the payment of a subsistence allowance in respect of the period for which, the admissible emoluments, if any are withhold.

6. *Authority to impose punishment :-* Subject to the provision of clause (I) of Article 311 of the Constitution of India, the authorities competent to impose any of the penalties specified in rule 4 upon the persons to whom these rules apply, shall be such as may be prescribed by Government in the rules regulating the appointment and conditions of service of such persons.

* Substituted vide Haryana Govt. Notification No. G.S.R. 130/Const./Art. 187, 309 and 318/Amd. (2)/74, dated 31st October, 1974.

7. *Inquiry before imposition of certain penalties :-* (1) Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1850; no order of dismissal, removal or reduction, shall be passed against a person to whom these rules are applicable, unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(2) The grounds on which it is proposed to take such action, shall be reduced to the form of definite charge or charges which shall be communicated in writing to the persons charged, together with a statement of allegations on which each charge is based and of any other circumstances which it is proposed to take up into consideration in passing orders on the case and he shall be required within a reasonable time to state in writing whether he admits the truth of all or any, of the charges, what explanation of defence; if any, he has to offer and whether he desires to be heard in persons. If he so desires, or if the authority empowered to dismiss, remove, or reduce him so directs, an or all enquiry shall be held at which all evidence shall be heard as to such of the charges as are not admitted. The persons charged shall, subject to the conditions described in sub-rule (3), be entitled to cross examine the witnesses, to give evidence in person and to have such witness called, as he may wish, provided that the Officer conducting the enquiry may, for reasons to be recorded in writing, refuse to call any witness. The proceedings shall contain a sufficient record of the evidence and the Statement of the findings and the grounds thereof:

Provided that :

- (a) it shall not be necessary to frame any additional charge when it is proposed to take action in respect of any statement or allegation made by persons charged, in the course of his defence ; and
- (b) the provisions of the foregoing Sub-rule shall not apply where a person is dismissed, or removed or reduced on the ground of conduct which has led to his conviction on a criminal charge ; or where an authority empowered to dismiss or remove him, or reduce him in rank is satisfied that, for some reasons to be recorded by him in writing, it is not reasonably practicable to give him an opportunity of showing cause against the action proposed to be taken against him, or where in the interest of the security of the State, it is considered not expedient to give to that person such an opportunity.
- (3) If any question arise whether it is reasonably practicable to give to any person an opportunity to defend himself under sub-rule (2), the decision thereon of the punishing authority shall be final.

(4)(a) Where any person has made a statement on oath, in evidence before any criminal or civil court, in any case, in which the Government servant charge was party and had full opportunity to cross-examine such persons and where it is intended to prove the same facts as deposed to by such persons in such statement in any inquiry under the public servants (Inquiries) Act, 1850. It shall not be necessary to call such persons to give oral evidence in corroboration of that statement. The certified copy of the statement previously made by him in any such case may be read as part of the evidence:

Provided that the officer conducting the inquiry may, in the interest of justice order the production of witness in persons either for further examination or for further cross-examination by persons charged.

(b) The Government servant charged shall not be allowed, except at discretion of the Enquiring Officer to be exercised in the interest of justice, to call as a witness in his defence any

persons whose statement has already been recorded and whom he has had opportunity to cross examine, or whose previous statement has been admitted in the manner herein provided,

“(5) Where the punishing authority itself enquires into any charge or charges appoints an Enquiry Officer for holding enquiry against a person in the Service of the Government, it may, by an order; appoint a Government servant or a legal practitioner to be known as a “Presenting Officer” to present on its behalf the case, in support of the charge or charges.

The person against whom a charge are being enquired into, shall be allowed to obtain the assistance of a Government servant, if he so desires, in order to produce his defence before the Enquiring Officer. If the charge or charges are likely to result in the dismissal of the person from the service of the Government. Such person may, with the sanction of the Enquiring Officer, be represented by counsel:

Provided that, if in any enquiry, counsel is engaged on behalf of any department of Government the person against whom the charge or charges are being enquired into shall also be entitled to engage counsel:

Provided also that the assistance of particular Government employee will be allowed only if the enquiry authority is satisfied that he is of such rank as is appropriate in the circumstances of the case and that he can be spared by the department concerned for that purpose”.

Notes :- (a) Charges need not necessarily be framed in relation only to specific incidents or acts of misconduct. When reports received against an officer or a preliminary enquiry show that his general behaviour has been such as to be unfitting to his position, or that he has failed to reach or maintain a reasonable standard or efficiency, he may and should be charged accordingly, and a finding on such a charge may be valid ground for the infliction of any authorised departmental punishment, which may be considered suitable in the circumstances of the case. It will still be necessary to communicate the charges of misbehaviour or of inefficiency or of both as the case may be, to the officer concerned but the statement which is to be communicated to the officer in support of the charges need not specify particular acts of misconduct. It will be sufficient in the statement to give the list of the reports on the basis of which misbehaviour or in efficiency is alleged.

(2) This rule shall not apply where it is proposed to order the compulsory retirement from service of any Government servant subject to the rule-making power of the Government who after the 14th August, 1947 has been in the employment of a Government out-side the Union of India, for any period and whose retention in the public service of the State of *Haryana is in the opinion on the Government prejudicial to national security. In every such case, as aforesaid, it shall be sufficient for the Government to inform the person concerned of such opinion, and that in pursuance of that opinion it is proposed to order his compulsory retirement and to pass orders after taking into consideration, his representation, if any.

Any person compulsory retired from service in accordance with the procedure prescribed by this rule will be granted such compensation, pension, gratuity or Provident Fund benefits as would have been admissible to him had he been discharged from service due to the abolition of his post without any alternative suitable employment being provided, under the rules applicable to his service or post on the date of his retirement.

* Substituted vide Haryana Govt. Notification No. G.S.R. 93/Const./Art. 309/Amd. (2)-78, dated 24th August, 1978 (published in Gazette dated 29-8-78).

Compendium of Instructions on Disciplinary matter—Vol. V

(6) After the enquiry a Government servant has been completed, and after the punishing authority has arrived at a provisional conclusion in regard to the penalty to be imposed, the accused officer shall, if the penalty proposed is dismissal, removal or reduction in rank be supplied with a copy of the report of the enquiring authority and be called upon to show cause, within reasonable time, not ordinarily exceeding one month against the particular penalty proposed to be inflicted upon him. Any representation submitted by the accused in this behalf shall be taken into consideration before final orders are passed:

Provided that if the punishing authority disagrees with any part or whole of the findings of the enquiring authority, the point or points to such disagreement, together with a brief statement of the ground thereof, shall also be supplied to the Government servant.

(As amended *vide* Punjab Government Notification No. 3993-GII-57/2550, dated the 20th December, 1957)

8. Without prejudice to the provisions of rule 7, no order under clauses (i) (ii) (iii) or (iv) of rule 4 shall be passed imposing a penalty on a Government servant, unless he has been given an adequate opportunity of making any representation that he may desire to make, and such representation, has been taken into consideration:

Provided that this condition shall not apply in a case where an order based on facts had led to his conviction in a Criminal Court or an order has been passed superseding him *for* promotion to a higher post on the ground of his unfitness for that post on account of the existence of unsatisfactory record:

Provided further that the requirements of this rule may, for sufficient reasons to be recorded in writing be waived where it is not practicable to observe them and there they can be waived without injustice to the officer concerned.

9. Omitted *vide* Haryana Govt. Notification No. GSR/123/Const./Arts.1187, 309 and 318/Admn. (i) 75 dt. 10th Oct., 1975. (Published in Gazette dated 14-10-75)

10. *Right of Appeal:-* (1) Every person to whom these rules apply, shall be entitled to appeal, as hereinafter provided, to such superior authority, as may be prescribed by Government in the rules regulating his conditions of service against an order, not being an order of Governments.

- (a) (i) imposing upon him any of the penalties specified in rule 4 ;
- (ii) terminating his appointment under rule 9 ;
- (b) discharging him in accordance with the terms of his contract, if he has been engaged on a contract for a definite, or for an indefinite period, and has rendered under either form of contract continuous service for a period exceeding five years at the time when his services are terminated.
- * (c) reducing or withholding the amount of ordinary or additional pension admissible under the rules governing person;
- (d) terminating his appointment, otherwise than upon his reaching the aged fixed *for* superannuation.

* Amended *vide* Haryana Govt. Notification No. G.S.R. 49/Const./Art. 309/Amd./71, dated 21st May, 1971.

(2) Every person to whom these rules apply shall be entitled to free supply of the copies of the order against which he intends to file an appeal or revision under the rules.

11. *Order which may be passed by appellate authority.*- (i) In the case of an appeal against an order under rule 10 or any penalty specified in rule 4, the appellate authority: shall consider :

- (a) whether the facts on which the order was based have 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:

Provided that on penalty shall be increased unless opportunity is given to the person concerned to show cause why such penalty should not be increased.

(3) An authority from whose order, an appeal is preferred under these rules, shall give effect to any order made by the appellate authority.

12. *Second appeal where penalty is increased.*- In every case in which an appellate authority, other than Government, increases the penalty inflicted by an authority subordinate to itself upon a person to whom these rules apply, such person shall be entitled to submit a second appeal to the authority prescribed by Government in the rules regulating his conditions of service.

13. *Right of revision.* - After an appeal or the second appeal provided in rule 12 has been rejected a person to whom the rules apply, may apply for revision to such superior authority as may be prescribed by Government in the rules regulating his conditions of service:

Provided that the powers of revision shall be exercise only

- (a) if the appellate authority is one other than Government; and
- (b) on the ground of material irregularity in the proceedings of the Enquiry of appellate authority, or on the discovery of new and important matter of evidence, which, after the exercise of diligence was not within the knowledge of the petitioner, or could not be produced by him when the orders were made against him or on account of same mistake or error on the face of the record:

Provided further that Government may, at any time, revise any order passed by it in exercise of its appellate powers under these rules.

14. *Power of Superior authority to revise the proceedings of an inferior authority.* - (1) The Government or the Head of Department may call for and examine the records of any case in which a subordinate authority passed any order under rule 10 or has inflicted any of the penalties specified in rule 4 or in which no order has been passed or penalty inflicted and after making further investigation, if any, may confirm, remit, reduce or subject to the provision of sub-rule (i) of rule 11 increase the penalty or subject to provision of rule 7,8 and inflict any of the penalties specified in rule 4.

(2) The Government may, at the time of consideration of a Memorial submitted under its general or special instructions published from time to time, by a Government servant on whom a penalty is imposed, review any order passed by the Government under these rules:

Provided that the penalty already imposed shall not be enhanced unless an opportunity has been given to the Government servant who has submitted memorial to show cause why it may not be enhanced.

15. *Prohibition as to collective appeal:*- Every person preferring an appeal shall do so separately and in his own name.

16. *Manner of Presentation of appeal or application for revision. :-* Every appeal or application for revision preferred under these rules, shall contain and material statements and arguments relief on by the appellant or applicant, shall contain no disrespectful or improper language, and shall be completed in itself. Every such appeal or application for revision shall be submitted through the Head of the office to which the appellant or applicant belongs or belonged and through the authority from whose order the appeal or application for revision is preferred.

17. *Withholding of appeals or applications for revision :-*(1) An appeal or application for revision may be withheld by an authority subordinate to Government, if:

- (a) it is an appeal or application for revision in a case in which under these rules, no appeal or application for revision lies or ;
- (b) it does not comply with the provisions or rule 16; or
- (c) it is an appeal and 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
- (d) it is a repetition of a previous appeal or application for revision and is made to the same appellate or revisionary authority by which such appeal or application for revision has been decided and no new facts or circumstances are adduced which afford ground for a reconsideration of the case:

Provided that in every case in which an appeal or application for revision is withheld, the appellant or applicant shall be informed of the fact, and the reasons for it and, a copy thereof forwarded to the appellate authority, if any, together with a copy of the appeal or application for revision so withheld:

Provided further that an appeal or application for revision withheld on account only of failure to comply with the provisions of rule 16 may be re-submitted at any time within one month of the date on which appellant or applicant has been informed of the withholding of the appeal or application, and if re-submitted in a form which complies with those provisions, shall not be withheld.

(2) No appeal or application for revision shall lie against an order withholdings an appeal or application passed by a competent authority.

(3) Any appellate or revisionary authority may call for the record or any appeal or application for revision withheld by an authority subordinate to it, which under these rules may be made to it and may pass such order thereon as it considers fit.

18. *Savings of existing rights of appeal.*- Nothing in the rules shall operate to deprive any person of any right of appeal which he would have had if these rules had been made, in respect of any order passed before, they came into force. An appeal pending at the time when, or preferred after, these

rules, came into force shall be deemed to be an appeal under these rules, and rule 11 and 12 shall apply as if appeal was against an order appealable under these rules.

19. *Saving of the junctions of the Haryana Public Service Commission .-* Nothing in these rules shall be deemed to effect the functions of the Haryana Public Service Commission as specified in Article 320 of the Constitution of India, and as limited by the Haryana Public Service Commission (Limitations of Functions) Regulations, 1973 or other regulations made in that behalf.

Compendium of Instructions on Disciplinary matter—Vol. V

No. 21/1/83-IGSIII

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, the Commissioners, Ambala and Hissar Divisions, All Deputy Commissioners, and S.D.O's (Civil) in Haryana, and
2. The Registrar, Punjab and Haryana High Court, and All District and Sessions Judges in Haryana.

Dated, Chandigarh, the 6th July, 1983.

Subject:- Submission of memorial-Instructions regarding.

Sir,

I am directed to refer to the Composite Punjab Government Gazette Notification No. 9369-G-51/681, dated the 12th February, 1952 which lays down the instructions for submission and receipt of the memorials and petitions from persons who are or have been in the Civil Service of the State and to enclose a copy of the amendments to be made therein. These amendments should be inserted in the rules by the departments themselves so that the rules are brought upto date.

Yours faithfully,

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all Financial Commissioners and Administrative Secretaries to Government, Haryana for information and necessary action.

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

All Financial Commissioners and Administrative Secretaries to Government, Haryana.

U.O.No. 21/1/83-IGSIII,

dated, Chandigarh, the 6th July, 1983.

[Extract from Haryana Government Gazette, dated the 19th July, 1983]

HARYANA GOVERNMENT GENERAL SERVICES

Notification

The 6th July, 1983

No. 21/1/83/1-GSIII-The Governor of Haryana hereby makes the following amendments in the instructions issued, - *vide* Punjab Government Notification No. 9369-G-51/1-681, dated the 12th February, 1952, for the submission, receipt and transmission of memorials and petitions is so far as the relate to memorials and petitions from persons who are, or have been in the Civil Service of the Haryana State :-

AMENDMENT

For clause (ii) of sub-para (2) of para (5), the following shall be substituted :-

“(ii) shall, as soon as may be, forwarded the memorial through the usual official channel to the Government and inform the memorialist. The Government shall examine the same and submit, with their comments on the memorial, within three months of the receipt of the memorial, to the Governor, through the Minister concerned, if prayed for in the memorial, or if considered necessary.”

After para 6, the following para shall be inserted:-

“6A. The second memorial can be submitted within six months from the date of the communication of the decision of the first memorial, in case some important new facts or circumstances which may merit reconsideration on the subject, are brought out in the second, memorial.”

P. P. CAPRIHAN,

Chief Secretary to Government, Haryana.

Compendium of Instructions on Disciplinary matter—Vol. V

No. 62/25/88-6GSI

From

The Chief Secretary to Government, Haryana.

To

All the Deputy Commissioner, Haryana.

Dated, Chandigarh, the 26th Dec., 1989.

Subject :- Requisitioning of vehicles in district.

Sir,

I am directed to refer to the subject noted above and to state that the Haryana Agriculture University, Hisar has reported that its departmental vehicles are being requisitioned for by other district administration officers quite often under the orders of the Deputy Commissioners as a result of which the work relating to Krishi Gyan Kendras where a large number of farmers from all corners of the districts visits for guidance, consultation and procurement of seeds, suffers. The staff of the kendras have to pay frequent visits to see the crops as well as to attend to other problems of the farmers in their villages. The requisition of jeeps by the district administration dislocates the work of the scientists. The matter has been considered by the Government and it has been decided that the vehicle of the Haryana Agriculture University, Hisar may be requisitioned only in acute emergency and that too for the minimum necessary period so that the work of the Haryana Agriculture University, Hissar may not suffer.

Yours faithfully,

Sd/-

Superintendent General Services-I,
for Chief Secretary to Govt., Haryana.

Ends. No. 62/25/88-6GSI

Dated Chandigarh, the 26-12-89

A copy is forwarded to the Vice Chancellor, Haryana Agriculture University, Hissar with reference to his D.O. No. SVC/89/4989, dated 27-11-89.

Sd/-

Superintendent General Services-I,
for Chief Secretary to Govt., Haryana.

No. 62/8/90-6GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments;
Commissioners Ambala and Hisar, Rohtak
& Gurgaon Divisions.
 2. All Deputy Commissioners and S.D.O. (C) in Haryana.
 3. Registrar, Punjab & Haryana High Court.⁵
- Dated Chandigarh, the 23rd August, 1990.

Subject :- Regarding preparing the Charge sheet.

Sir,

I am directed to address you on the subject noted above and to say that it has come to the notice of Government that the cases of finalization of chargesheets are delayed in the departments for one reason or the other. One of the reason appears to be that the drafts of the chargesheets are got prepared from the Heads of Departments who in turn ask for the same from subordinate offices. It is not a healthy practice, particularly when the material for preparing the chargesheet is contained in the enquiry report and other records which are already available with the Punishing Authority. In order to avoid unnecessary delay, it has been decided that in future the chargesheets should be prepared in the office of the competent authority who is to sign and issue it.

2. You are requested to bring this decision to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Financial Commissioners/Commissioner Secretaries to Government, Haryana for information and necessary action.

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners/Commissioner & Secretaries
to Government, Haryana.

U.O. No. 62/8/90-6GSI

Dated 23-8-90.

क्रमांक 12/48/90-2 जी०एस०

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

- (1) सभी विभागाध्यक्षों, सभी मण्डलों के आयुक्त,
सभी उपायुक्त एवं उप मण्डल अधिकारी ।
- (2) रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय ।
दिनांक चण्डीगढ़ 27-8-1990

विषय: - दण्ड एवं अपील नियमावली के अधीन दोषी कर्मचारियों को उपयुक्त सजा प्रदान करना ।

महोदय,

मुझे आपका ध्यान उपरोक्त विषय की ओर दिलाते हुये यह कहने का निदेश हुआ है कि कई केसों में जिनमें कर्मचारियों के विरुद्ध दण्ड एवं अपील नियमावली (Punishment and Appeal Rules) के अधीन जांच चल रही होती है और उनके सेवा निवृत्त होने में एक वर्ष से भी कम समय होता है या पदोन्नति होने में कुछ ही दिन होते हैं तथा उक्त तथ्यों की विभाग को जानकारी होते हुए भी ऐसे केसों में दोषी कर्मचारी को वेतन-वृद्धियां रोकेन की सजा प्रदान की जाती है । इस प्रकार से अगली वेतन वृद्धि देय होने से पहले ही कर्मचारी सेवा-निवृत्त/पदोन्नत हो जाता है जिससे उसे सजा वास्तव में नहीं मिल पाती सजा देने का उद्देश्य ही निरर्थक हो जाता है ।

2. सरकार ने इस मामले पर विचारोपरांत यह निर्णय लिया है कि भविष्य में सजा देने से पहले यह सुनिश्चित कर लिया जाये कि दोषी कर्मचारी को ऐसी सजा प्रदान की जाये जो कर्मचारी को सेवा-निवृत्त/पदोन्नति इत्यादि से प्रभावहीन न हो ।

3. अनुरोध है कि उपरोक्त हिदायतें दृढ़ता से पालने के लिए अपने अधीन कार्य कर रहे सक्षम प्राधिकारियों के नोटिस में ला दिया जाये ।

भवदीय,

हस्ता / -

अधीक्षक सामान्य सेवायें शाखा - I,
कृते: मुख्य सचिव, हरियाणा सरकार ।

पृष्ठांकन क्रमांक 12/48/90-2 जी० एस० - I

दिनांक 27-8-1990.

एक प्रति हरियाणा के सभी वित्तायुक्त/आयुक्त एवं सचिव हरियाणा सरकार को इस विभाग के अशा : क्रमांक 39/5/78-जी०एस०-I, दिनांक 6-4-1978 के क्रम में सूचनार्थ तथा आवश्यक कार्यवाही के लिए भेजी जाती है।

हस्ता / -

अधीक्षक सामान्य सेवायें शाखा - I,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

हरियाणा के सभी वित्तायुक्त/आयुक्त एवं सचिव,
हरियाणा सरकार ।

अशा : क्रमांक 12/48/90-2 जी० एस० - I

दिनांक 27-8-1990.

No. 62/8/90-6GSI

From

The Chief Secretary to Govt., Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak & Gurgaon Divisions.
2. All Deputy Commissioners and S.D.O. (C)
3. Registrar, Punjab and Haryana High Court.

Dated Chandigarh, the 13th Sept., 1990.

Subject :- Regarding finalisation of disciplinary cases.

Sir,

I am directed to address you on the subject noted above and to say that it has come to the notice of Government that while examining disciplinary cases comments on the explanation of the officers/officials are being grossly delayed by the supervisory officers with the result the finalisation of the disciplinary case are delayed. It causes undue hardship to the employee particularly when their cases for promotion, selection grade and crossing of efficiency bar etc. are to be decided and also at the time of reviewing their cases for retention in Government service beyond the age of 50/55 years. The matter has been examined by Government and it has been decided that for submitting comments on the explanation, a reasonable period may be fixed and in case comments are not received within the stipulated period it should be made clear in a final notice that if the comments are not received within a fortnight thereafter the case would be decided without waiting for comments and disciplinary action initiated against the officers/officials responsible for the delay in furnishing comments.

You are requested to bring this decision to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Financial Commissioners/Commissioners & Secretaries to Government, Haryana for information & necessary action.

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners/Commissioners &
Secretaries to Government, Haryana.

U.O. No. 62/8/90-GSI

Dated Chandigarh, the 13th Sept., 1990.

Compendium of Instructions on Disciplinary matter—Vol. V

No. 28/3/94-3GSI

From

The Chief Secretary of Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hissar, Rohtak and Gurgaon Divisions, All Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
Dated Chandigarh, the 3rd May, 1994.

Subject :- Jurisdiction of the CAT in the matter of disciplinary action against Government servants.

Sir,

I am directed to address you on the subject mentioned above and to forward herewith a copy of OM No. 11012/6/94-Estt. (A), dated 28-3-94 received from the Deputy Secretary to Government of India, ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), New Delhi, for information and guidance.

Yours faithfully,

Sd/-

Under Secretary, General Administration-I,
for Chief Secretary to Government, Haryana.

A copy, alongwith a copy of its enclosure, is forwarded to all the Financial Commissioners/Commissioners and Secretaries to Government, Haryana for information and guidance.

Sd/-

Under Secretary, General Administration-I,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners/Commissioners
and Secretaries to Government, Haryana.

U.O. No. 28/3/94-3GSI

Dated Chandigarh, the 3rd May, 1994.

Copy of OM No. 11012/6/94-Estt. (A) dated, 28.3.94 received from the Deputy Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), New Delhi addressed to the Chief Secretaries of all States.

Subject :- Jurisdiction of the CAT in the matter of disciplinary action against Government servants.

The undersigned is directed to refer to this Department OM No. 11012/1/90-Estt. (A) dated 28th February, 1990 on the above subject to in which the ruling of the Supreme Court in Parma Nanda's case (1989(2) SLR 410) was circulated for information of the Ministries/Departments. In a recent Judgment in the case of State Bank of India Vs. Samarendra Kishore Endow (1994(1) SLR 516) the Supreme Court has reiterated the said ruling that a High Court or Tribunal has no power to substitute its own direction for that of the authority.

2. In this Judgment the Supreme Court has observed as under : -

On the question of punishment, learned counsel for the respondent submitted that the punishment awarded is excessive and that lesser punishment would meet the ends of justice. It may be noticed that the imposition of appropriate punishment is within the discretion and judgment of the disciplinary authority. It may be open to the appellate authority to interfere with it but not to the High Court or to the Administrative Tribunal for the reason that the jurisdiction of the Tribunal is similar to the powers of the High Court under Article 226. The power under article 226 is one of judicial review. It "is not an appeal from a decision, but a review of the manner in which the decision was made." In other words the power of judicial review is meant "to ensure that the individual receives fair treatment and not to ensure that the authority, after according fair treatment, reaches on a matter which it is authorised by law to decide for itself a conclusion which is correct in the eyes of the Court."

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It would perhaps be appropriate to mention at this stage that there are certain observations in Union of India Vs. Tulsiram Patel (AIR 1985 SC 1416) which, at first look appear to say that the Court can interfere where the penalty imposed is "arbitrary or grossly excessive or out of all proportion to the offence committed or not warranted by the facts and circumstances of the case or the requirements of that particular Government service". It must, however, be remembered that Tulsiram Patel dealt with cases arising under proviso (a) to Article 311(2) of Constitution. Tulsiram Patel overruled the earlier decision of this Court in Challappan (AIR 1975 SC 2216). While holding that no notice need be given before imposing the penalty in a case dealt with under the said proviso, the Court held that if a disproportionate or harsh punishment is imposed by the disciplinary authority, it can be corrected either by the Appellate Court or by High Court. These observations are not relevant to cases of penalty imposed after regular inquiry.

3. Ministries/Departments are requested to bring the above ruling of the Supreme Court to the notice of all concerned so that the same is appropriately referred to in all cases where the question of quantum of penalty comes up before the CAT or Supreme Court by way of SLP or otherwise.

क्रमांक 2/1/99-2 जी. एस. 1

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. आयुक्त अम्बाला, हिसार गुड़गांव तथा रोहतक मण्डल ।
 2. हरियाणा के सभी विभागाध्यक्ष ।
 3. रजिस्ट्रार, पंजाब एवं हरियाणा उच्च न्यायालय, चण्डीगढ़ ।
 4. सभी उपायुक्त, हरियाणा राज्य ।
- दिनांक चण्डीगढ़ 8 फरवरी, 2000

विषय: - दण्ड एवं अपील नियमावली के अधीन दोषी कर्मचारियों को सजा प्रदान करने सम्बन्धी दिशा निर्देश ।

महोदय,

मुझे निदेश हुआ है कि उपरोक्त विषय पर मैं आपका ध्यान सरकार के समसंख्यक पत्र दिनांक 27.8.90 की ओर दिलाऊँ जिस द्वारा सरकार ने यह हिदायतें जारी की थी कि दण्ड एवं अपील नियमावली के अधीन चल रही जांच में दोषी पाये जाने वाले कर्मचारियों को सजा देने से पूर्व यह सुनिश्चित कर लिया जाये व दोषी कर्मचारी को ऐसी सजा दी जाये जो निकट भविष्य में कर्मचारी की सेवा-निवृत्ति/पदोन्नति इत्यादि से प्रभावहीन न हो ।

2. सरकार के नोटिस में यह आया है कि विभिन्न विभागों द्वारा दोषी कर्मचारियों को सजा देते समय इन हिदायतों को ध्यान में नहीं रखा जा रहा अथवा जानकारी होते हुए भी दोषी कर्मचारी को वेतन वृद्धियां रोकने की सजा दी गई जिसके परिणामस्वरूप दोषी कर्मचारी को दी गई सजा निकट भविष्य में उसकी पदोन्नति सेवा निवृत्ति से प्रभावहीन हो गई तथा कर्मचारी दोषी होने पर भी सजा से बच गया । सरकार ने विभागों द्वारा की जा रही कोताही को गम्भीरता से लिया है।

3. मुझे निर्देश हुआ है कि मैं चर्चाधीन हिदायतें पुनः दोहराऊँ तथा अनुरोध करूँ कि यह हिदायतें दृढ़ता से पालना के लिए अधीन कार्य कर रहे सक्षम प्राधिकारियों के नोटिस में ला दी जायें ।

भवदीय,

हस्ताक्षर / -

अवर सचिव, सामान्य प्रशासन,

कृते: मुख्य सचिव, हरियाणा सरकार ।

एक प्रति सभी वित्तायुक्त/आयुक्त एवं सचिव, हरियाणा सरकार को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है ।

हस्ताक्षर / -

अवर सचिव, सामान्य प्रशासन,

कृते: मुख्य सचिव, हरियाणा सरकार।

सेवा में

सभी वित्तायुक्त/आयुक्त एवं सचिव, हरियाणा सरकार,

अशांक्रमांक 2/1/99-2जी. एस. 1

दिनांक 8.2.2000

From

The Chief Secretary to Government, Haryana.

To

1. All the Heads of Departments in Haryana.
2. The Registrar, Punjab and Haryana High Court.
3. The Commissioners Rohtak, Gurgaon, Hisar and Ambala Divisions and all the Deputy Commissioners in Haryana.
4. The Managing Directors of all Boards and Corporations in Haryana.
5. The Registrar, Maharishi Dayanand University, Rohtak, Kurukshetra University, Kurukshetra, Ch. Charan Singh Haryana Agricultural University, Hisar and Guru Jambheshwar University, Hisar.

Dated Chandigarh, the 27/1/2003

Subject:- Expeditious disposal of disciplinary proceedings pending against Government employees.

Sir,

I am directed to refer on the subject noted above and to say that it has come to the notice of the Government that finalisation of disciplinary proceedings takes very long time. At times such cases keep on lingering sometimes even after the retirement of the employees.

2. Government has further observed that disciplinary proceedings under rule 7 of the Haryana Civil Services (Punishment and Appeal), Rules, 1987 are prolonged unnecessarily, and several times, intentionally, so as to evade action against the delinquent officers, as a result of which several delinquent officers are able to get away scot-free. This is an unhappy state of affairs.

3. With a view to overcome/remedy this situation, the matter has been examined in detail and after careful consideration, it has been decided by the Government that disciplinary proceedings under rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 should be completed within a period of one year, right from decision of ordering action under rule 7 to actual order of punishment, in consultation with the Haryana Public Service Commission. For this purpose the following time schedule should be followed in such cases, so that there is no undue delay caused in disposal of the disciplinary proceedings:—

Compendium of Instructions on Disciplinary matter—Vol. V

Level/Stage of case	Time allowed for completing the required action.
1. Issue of charge-sheet under rule 7	Within 2 months from the passing of order by the competent authority.
2. Reply to be sought from the delinquent official	One month
3. Appointment of Enquiry Officer	One month
4. Completion of Enquiry proceedings	not more than 4 months
5. Issuing of second show cause notice regarding imposition of major penalty	one month
6. Consultation with Haryana Public Service Commission before passing final orders of punishment	one month
7. Final orders	Soon after hearing from the Haryana Public Service Commission and well before the expiry of time limit of one year.

These instructions should be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Under Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Financial Commissioners & Principal Secretaries and all the Administrative Secretaries to Government Haryana for information and necessary action.

Sd/-

Under Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners & Principal Secretaries and all the Administrative Secretaries to Government, Haryana.

U.O. No. 62/50/2001-6GSI

Dated Chandigarh, the 27-1-2003

A copy is forwarded to all the Branch Officers/Superintendents/Deputy Superintendents of Chief Secretary/F.C. office for information and necessary action.

Sd/-

Under Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Branch Officers/Superintendents/Deputy Superintendents of Chief Secretary/F.C. office.

U.O. No. 62/50/2001-6GSI

Dated Chandigarh, the 27-1-2003

क्रमांक 21/1/2003-1 जी. एस. 111

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष ।
2. आयुक्त अम्बाला, हिसार, रोहतक तथा गुड़गांव मण्डल, हरियाणा ।
3. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय, चण्डीगढ़ एवं सभी ज़िला एवं सत्र न्यायाधीश, हरियाणा।
4. सभी उपायुक्त तथा उप मण्डल अधिकारी (नागरिक), हरियाणा ।

दिनांक, चण्डीगढ़ 28 मई, 2003 ।

विषय: - मैमोरियल सम्बन्धी हिदायतों में संशोधन ।

महोदय,

मुझे निदेश हुआ है कि मैं उपरोक्त विषय पर आपका ध्यान संयुक्त पंजाब सरकार की अधिसूचना क्रमांक 9369 जी-51/1-681, दिनांक 12.2.1952 तथा तदोपरान्त हरियाणा सरकार द्वारा जारी हिदायतों क्रमांक 21/1/83-1 जी. एस. 111 दिनांक 6.7.1983 की ओर दिलाऊँ जिनमें मैमोरियल से सम्बन्धित प्रत्येक पहलू का विस्तृत विवरण दिया गया है ।

मैमोरियल से सम्बन्धित अनुदेशों के प्रावधानों को आगे जारी रखने की वांछनीयता के बारे गहन विचार किया गया है तथा पूर्ण विचारोपरान्त यह पाया गया है कि इन अनुदेशों में संशोधन की आवश्यकता है । सरकार ने यह निर्णय लिया है कि इन अनुदेशों में संशोधन कर दिया जाये तथा इन अनुदेशों में जहाँ कहीं भी “राज्यपाल” शब्द का प्रयोग किया हुआ है उसके स्थान पर “मन्त्री परिषद् द्वारा समय-समय पर गठित उप समिति” शब्द का प्रयोग किया जाये । इस संशोधन का यह प्रभाव होगा कि अभी तक जिन मैमोरियल का निपटान राज्यपाल महोदय के स्तर पर होता था अब उनका निपटान मन्त्री परिषद् द्वारा समय-समय पर गठित उप समिति द्वारा किया जायेगा । इस संशोधन हेतु राजपत्र में प्रकाशित अधिसूचना की एक प्रति अवलोकनार्थ संलग्न की जा रही है ।

कृपया उपरोक्त हिदायतों को सभी के ध्यान में ला दिया जाए ।

भवदीय

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

Compendium of Instructions on Disciplinary matter—Vol. V

एक प्रति सभी वित्तियुक्त एवं प्रधान सचिव/आयुक्त एवं सचिव, हरियाणा सरकार को सूचनार्थ एवं आवश्यक कार्यवाही हेतु भेजी जाती है ।

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

सभी वित्तियुक्त एवं प्रधान सचिव/आयुक्त एवं सचिव, हरियाणा सरकार ।

अशा: क्रमांक 21/1/2003-1 जी .एस. III

दिनांक 28.5.2003

एक प्रति प्रधान सचिव/मुख्य मन्त्री, उप प्रधान सचिव-1 एवं 2 वरिष्ठ सचिव मुख्य मन्त्री/वरिष्ठ सचिव/सचिव/निजी सचिव मन्त्री/राज्य मन्त्री/मुख्य संसदीय सचिव को सूचनार्थ हेतु भेजी जाती है ।

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

प्रधान सचिव/मुख्य मन्त्री, उप प्रधान सचिव-1 एवं 2 वरिष्ठ सचिव मुख्य मन्त्री/वरिष्ठ सचिव/सचिव/निजी सचिव मन्त्री/राज्य मन्त्री/मुख्य संसदीय सचिव ।

अशा: क्रमांक 21/1/2003-1 जी .एस. III

दिनांक 28.5.2003

एक प्रति सचिवालय/राजस्व कार्यालय के सभी शाखा अधीक्षकों, उप अधीक्षकों को सूचनार्थ एवं आवश्यक कार्यवाही हेतु भेजी जाती है ।

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

सचिवालय/राजस्व कार्यालय के सभी शाखा, अधीक्षक, उप अधीक्षक ।

अशा: क्रमांक 21/1/2003-1 जी. एस. III

दिनांक 28.5.2003

HARYANA GOVERNMENT

GENERAL SERVICES

NOTIFICATION

The 28th May, 2003

No. 21/1/2003-1GS-III-The Governor of Haryana hereby makes the following amendment in the notification No. 9369-G-51/1-681, dated 12-2-1952 regarding submission of memorials and petitions:-

AMENDMENT

- (1) The word "Governor" wherever appears in these instructions shall be substituted with the words "Sub-Committee of Council of Ministers to be constituted by it."

A.N. Mathur,

Chief Secretary to Government Haryana.

हरियाणा सरकार

सामान्य सेवाएँ

अधिसूचना

28 मई 2003

क्रमांक 21/1/2003.1जी०एस.111-राज्यपाल हरियाणा अधिसूचना क्रमांक. 9369 जी.51/1-681, दिनांक 12.2.1952 जो कि मैमोरियल तथा प्रार्थना पत्रों के प्रस्तुत करने से संबंधित है, में निम्न संशोधन करते हैं:-

संशोधन

1. इन हिदायतों में जहां कहीं भी "राज्यपाल" शब्द प्रयुक्त है उसके स्थान पर "मंत्रिपरिषद् द्वारा गठित उप समिति" शब्द पढ़े जायें।

ए० एन० माथुर

मुख्य सचिव हरियाणा सरकार

No. 21/1/2003-4GSIII

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
3. All Deputy Commissioners in Haryana.
4. All the Sub-Divisional Officers (Civil) Haryana.

Dated, Chandigarh, the 21st March, 2005

Subject:- Amendment/modification in the instructions applicable to various aspects of Memorials.

Sir,

I am directed to refer to Haryana Government letter No. 21/1/2003-1GSIII, dated 28-05-2003 on the subject noted above wherein it was *inter alia* laid down that the Memorials submitted in disciplinary matters by Haryana Government employees shall be considered and decided by a Sub-Committee of Council of Ministers to be constituted by it from time to time and the Memorial so decided will not be required to be submitted to the Governor. Now the matter has been further-considered by the Government and it has been decided to withdraw the instructions issued *vide* letter No. 21/1/2003-1GSIII as well as Notification No. 21/1/2003-1GSIII, dated 28.05.2003 and henceforth the Memorials shall be processed and presented by the Heads of Departments/Administrative Secretaries to the Governor of the Haryana for consideration and final disposal as per Notification No. 9369-G-51/1-681, dated 12.02.1952 with all amendments in it before 01.05.2003. A copy of the Notification issued *vide* letter No. 21/1/2003-4GSIII, dated 21.03.2005 is enclosed herewith for information.

These instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all The Financial Commissioners & Principal Secretaries/Commissioners & Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All The Financial Commissioners & Principal Secretaries/Commissioners
& Secretaries to Government, Haryana.

U.O.No.21/1/2003-4GSIII

Dated, Chandigarh, the 21st March, 2005

A copy each is forwarded to the Principal Secretary/Additional Principal Secretary-I/
Additional Principal Secretary-II/OSD-I/OSD-II/Sr. Special Private Secretaries/Sr. Private Secretaries/
Private Secretaries to Chief Minister/Ministers for the information of Chief Minister/Ministers.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

The Principal Secretary/Additional Principal Secretary-I/Additional Principal Secretary-II/
OSD-I/OSD-II/Sr. Special Private Secretaries/Sr. Private Secretaries/Private Secretaries to
Chief Minister/Ministers.

U.O.No.21/1/2003-4GSIII

Dated, Chandigarh, the 21st March, 2005

HARYANA GOVERNMENT

GENERAL SERVICES

NOTIFICATION

The 21st March, 2005

No. 21/1.2003-4GSIII-The Governor of Haryana is pleased to withdraw the Notification No.
21/1/2003-1GSIII, dated 28.05.2003 with immediate effect.

SUNILAHUJA

Chief Secretary to Government, Haryana

No. 62/ 17/2005-6GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
3. All Deputy Commissioners in Haryana.
4. All the Managing Directors of Boards/Corporations/Public Undertakings.
5. The Registrar, Maharishi Dayanand University, Rohtak, Kurukshetra University, Kurukshetra, Haryana Agriculture University, Hisar, Guru Jambheshwar University, Hisar and Ch. Devi Lal University, Sirsa.

Dated Chandigarh, the 20/10/2005

Subject:- Appointment of Inquiry Officer under the Punjab Civil Services (Punishment and Appeals) Rules, 1987.

Sir/Madam,

I am directed to refer to the subject noted above and to say that it has come to the notice of Government that a large number of enquiry cases are pending with the departments. Probably, due to the busy schedule of the officers, they are not able to conduct the enquiries in a time bound manner. Resultantly, inordinate delay is being caused in completion of departmental enquiries.

2. It has now been decided by the Government to permit to engage retired IAS/HCS and Judicial Officers for conducting the enquiries. The Inquiry Officers so appointed shall be required to complete the inquiry within a period of three months and no extension in time beyond this period shall be permissible. Inquiry Officer will be paid a fixed honorarium of Rs. 3500/- per enquiry on completion of the inquiry. In case the enquiry is not completed in time, the honorarium to be paid to the Inquiry Officer would be reduced by 50%. It may be ensured before the payment is made, that the Inquiry Officer would handover the enquiry report and all record to the disciplinary authority. In case of ongoing inquiries the competent authority shall have the option to continue the Inquiry Officer or transfer the case to an independent Inquiry Officer.

3. It should be noted that the expenses for paying the Inquiry Officer may out of the honorarium sub-head of the department.

4. The above arrangement will be for one year in the first instance and there will be reviewed for its further continuance.

5. This issues with the concurrence of Finance Department conveyed vide to U.O.No.3/8/2005-1FG 1/1749, dated. 20th October, 2005.

Punishment & Appeal

These instructions may be brought to the notice of all concerned for the information and compliance.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Financial Commissioners & Principal Secretaries Commissioners & Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners & Principal Secretaries/
Commissioners & Secretaries to Government, Haryana.

U.O. No. 62/17/2005-6GSI

Dated Chandigarh, the 20-10-2005

No. 62/12/2006-6GSI

From

The Chief Secretary to Government Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak. and Gurgaon Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
3. All Deputy Commissioners in Haryana.
4. All the Managing Directors of Boards/Corporations/Public Undertakings.
5. The Registrar, Maharishi Dayanand University, Rohatak., Kurukshetra University, Kurukshetra, Haryana Agriculture University, Hisar and Guru Jambheshwer University, Hisar and Ch. Devi Lal University, Sirsa.

Dated Chandigarh, the 24-3-2006

Subject:- **Grant of arrears of pay on account of vacation orders of reversion /supersession /reduction in rank and re-fixation of seniority etc.**

Sir/Madam,

I am directed to para 2 of refer to the Government instructions issued vide letter No. 6050-2GSI-73/27803, dated 16.11.1973 on the subject noted above, under which the cases regarding grant of arrears of pay on account of vacation of orders of reversion/supersession /reduction in rank re-fixation of seniority etc., where no specific order of any Court exists are required to be placed before the Officers Committee comprising the Chief Secretary, Finance Secretary and the Administrative Secretary concerned for their consideration and decision.

2. On consideration of the matter it has been observed that the instructions in question have outlived their purpose. Such cases are separately examined by the Finance Department and action is being taken by them on merit of each case. It has, therefore been decided by the Government that the instructions in question may be withdrawn to the extent indicated above and hence-forth cases of grant of arrears should be referred to Finance Department for advice.

This decision may be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana

Punishment & Appeal

A copy is forwarded to the all Financial Commissioners and Principal Secretaries /Commissioners and Secretaries to Govt. Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana

To

All the Financial Commissioners and Principal Secretaries/
Commissioners and Secretaries to Govt. Haryana

U.O.No. 62/12/2006-6GSI

Dated Chandigarh, the 24-3-2006

No. 13/2/2006-2GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Gurgaon and Rohtak Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh, and
3. All the Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.

Dated Chandigarh, the 29th March, 2006.

Subject:- Regarding appointment/ reinstatement of a driver convicted for an offence under section 304-A of the Indian Penal Code.

Sir,

I am directed to refer to the subject noted above and to invite your attention to a judgment of Hon'ble Punjab & Haryana High Court in Civil Writ Petition No.4093 of 2004-Rishi Dev Versus State of Haryana in which the Hon'ble Court has adjudicated upon the question 'whether a Driver having been convicted for causing rash and negligent driving and making accident is entitled to reinstatement after, suffering the entire sentence?' Hon'ble Punjab & Haryana High Court in this writ petition has held that **in future no reinstatement of a driver convicted for an offence under section 304-A of the Indian Penal Code be ordered merely on the ground that the offence, for which he had been convicted did not involve moral turpitude.**

It is observed here that the State Government is duty bound in law to consider the safety of passengers and safety of the other road users as rash and negligent driving endangers the life of people using the road. Keeping in view public interest, the State Government has decided that no such driver who is convicted for an offence under Section 304-A of the Indian Penal Code should be reinstated in the Government service merely on the ground that the offence for which he had been convicted did not involve moral turpitude.

2. These instructions will come force with effect from the date of their issue.

These instructions may be brought to the notice of all concerned for their information and compliance.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

Punishment & Appeal

A copy is forwarded to all the Financial Commissioners & Principal Secretaries/Commissioners & Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners & Principal Secretaries/
Commissioners & Secretaries to Government, Haryana.

U.O. No. 13/2/2006-2GSI

Dated Chandigarh, the 29th March, 2006.

Endst. No. 13/2/2006-2GSI

Dated Chandigarh, the 29th March, 2006.

A copy is forwarded to All the Managing Directors of all the Boards/Corporations and Public Undertakings for their information.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to Principal Secretary/Additional Principal Secretary I & II/OSD-I & II/ Senior Special Private Secretary/Senior Secretary/Private Secretary to Chief Minister/Deputy Chief Minister/Ministers for information.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

Principal Secretary/Additional Principal Secretary I & II/OSD-I & II Senior Special Private Secretary/Senior Secretary/Private Secretary to Chief Minister/Deputy Chief Minister/Ministers.

U.O. No. 13/2/2006-2GSI

Dated Chandigarh, the 29th March, 2006.

Endst. No. 13/2/2006-2GSI

Dated Chandigarh, the 29th March, 2006.

A copy is forwarded to all the Superintendents/Section Officers, Deputy Superintendents and other officers in Haryana Civil Secretariat and Financial Commissioner's office for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

No. 62/ 17 /2005-6GSI

From

The Chief Secretary to Government Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
3. All Deputy Commissioners in Haryana.
4. All the Managing Directors of Boards/Corporations/Public Undertakings.
5. The Registrar, Maharishi Dayanand University, Rohtak, Kurukshetra University, Kurukshetra, Haryana Agriculture University, Hisar, Guru Jambheshwar University, Hisar and Ch.Devi Lal University, Sirsa.

Dated Chandigarh, the 24th May, 2006

Subject:- **Appointment of Inquiry Officer under the Haryana Civil Services (Punishment and Appeal) Rules, 1987.**

Sir/ Madam,

I am directed to invite your attention to Govt. circular letter No. 62/17/05-6GSI, dated 20.10.2005 on the subject noted above *vide* which the departments were permitted to engage retired IAS/HCS and Judicial Officers for conducting the enquiries under Haryana Civil Services (Punishment and Appeal) Rules, 1987.

2. It has been brought to the notice of the State Government that the departments are not making arrangements for the office accommodation of Inquiry Officer(s) on the dates of hearing for conducting the proceedings and also not providing Secretarial help for recording of evidences, proceedings and maintenance the enquiry record etc.

3. On consideration of the matter, it has been decided by the Govt. that the departments should make arrangements for office accommodation on the date(s) of hearing for conducting the proceedings and provide secretarial help for recording of evidence, maintain of the inquiry record until the completion of inquiry etc. to the Inquiry Officer(s).

This decision should be brought to the notice of all concerned for their information and compliance.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana

Punishment & Appeal

A copy is forwarded to all the Financial Commissioners & Principal Secretaries/Commissioners & Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners & Principal Secretaries/
Commissioners & Secretaries to Government Haryana.

U.O.No. 62/17/2005-6GSI

Dated Chandigarh, the 24th May, 2006

(TO BE SUBSTITUTED FOR THE LETTER BEARING SAME NUMBER AND DATE)

No. 62/ 17/2005-6GSI

From

The Chief Secretary to Government Haryana.

To

1. All Heads of Departments Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. The Registrar Punjab and Haryana High Court. Chandigarh.
3. All Deputy Commissioners in Haryana.
4. The Registrar, Maharishi Dayanand University, Rohtak, Kurukshetra University, Kurukshetra, Haryana Agriculture University, Hisar, Guru Jambheshwar University, Hisar, Ch. Devi Lal University, Sirsa and Bhagat Phool Singh Mahila Vishav Vidyalya Khanpur, Sonapat.
5. Special Representative, Haryana Bhawan Copernicus Marg, New Delhi.

Dated Chandigarh, the 5th December, 2006

Subject:- Appointment of Inquiry Officer under the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

Sir/ Madam,

I am directed to invite your attention to Govt. circular letter No. 62/17/05-6GSI, dated 20.10.2005 on the subject noted above vide which the departments were permitted to engage retired IAS/HCS and Judicial Officers for conducting the enquiries under Haryana Civil Services (Punishment and Appeals) Rules, 1987.

2. On further consideration of the matter, it has been decided by the Government to extend the above arrangement for another year beyond, 19.10.2006
3. It should be noted that the expenses for paying the Inquiry Officer may be met out of the honorarium sub-head of the department.
4. This issues with the concurrence of Finance Department conveyed vide their U.O.No.3/8/2005-1FG 1/2879 (06), dated 29th November, 2006.

This decision should be brought to the notice of all concerned for their information and compliance.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

Punishment & Appeal

A copy is forwarded to all the Financial Commissioners & Principal Secretaries/Commissioners & Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners & Principal Secretaries/
Commissioners & Secretaries to Government Haryana.

U.O.No. 62/17/2005-6GSI

Dated Chandigarh, the 5th December, 2006

No. 62/17/2005-6GSI

Dated Chandigarh, the 5th December, 2006

A copy is forwarded to all the Managing Directors of Boards/Corporations and Government Undertakings for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana

No. 62/17 /2005-6GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
3. All Deputy Commissioners in Haryana.
4. The Registrar, Maharishi Dayanand University, Rohtak, Kurukshetra University, Kurukshetra, Haryana Agriculture University, Hisar, Guru Jambheshwar University, Hisar, Ch. Devi Lal University, Sirsa and Bhagat Phool Singh Mahila vishav vidyalaya Khanpur, Sonapat.
5. Special Representative, Haryana Bhawan Copernicus Marg, New Delhi.

Dated Chandigarh, the 5th December, 2006

Subject:- Appointment of Inquiry Officer under the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

Sir/ Madam,

I am directed to invite your attention to Govt. circular letter No. 62/17/05-6GSI, dated 20.10.2005 on the subject noted above vide which the departments were permitted to engage retired IAS/HCS and Judicial Officers for conducting the enquiries under Haryana Civil Services (Punishment and Appeals) Rules, 1987.

2. On further consideration of the matter, it has been decided by the Government of extend the above arrangement for another year beyond 19.10.2007.
3. It should be noted that the expenses for paying the Inquiry Officer may be met out of the honorarium sub-head of the department.
4. This issues with the concurrence of Finance Department conveyed vide their U.O.No.3/8/2005-1FG1/2879 (06), dated 29th November, 2006.

This decision should be brought to the notice of all concerned for the information and compliance.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

Punishment & Appeal

A copy is forwarded to all the Financial Commissioners & Principal Secretary/Commissioners & Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners & Principal Secretaries/
Commissioners & Secretaries to Government, Haryana.

U.O.No. 62/17/2005-6GSI

Dated Chandigarh, the 5th December, 2006

No. 62/17/2005-6GSI

Dated Chandigarh, the 5th December, 2006

A copy is forwarded to all the Managing Directors of Boards/Corporations and Government Undertakings for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana

No. 62/54 /2006-6GSI

From

The Chief Secretary to Government, Haryana.

To

1. All the Heads of Departments in Haryana.
2. The Registrar, Punjab and Haryana High Court.
3. The Commissioners Rohtak, Gurgaon, Hisar and Ambala Divisions and all the Deputy Commissioners in Haryana.
4. The Managing Directors of all Boards and Corporations in Haryana.
5. The Registrars, Maharishi Dayanand University, Rohtak, Kurukshetra University Kurukshetra, Ch. Charan Singh Haryana Agriculture University, Hisar and Guru Jambheshwar University, Hisar.

Dated, Chandigarh, the 26.10.2006

Subject: - **Regarding procedure to be followed for imposition of minor penalty under the Haryana Civil Services (Punishment and Appeal) Rules, 1987.**

Sir/Madam,

I am directed to refer to the subject cited above and to say that it has been observed that delinquent officials are charge-sheeted under rule 7 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987, for minor acts of omission and commission leading to unnecessary delay in the disposal of inquiries after following the detailed procedure laid down in the Rules.

2. The above tendency on the part of the departments has been viewed seriously. It has been decided to emphasize that while deciding the issue of charge-sheeting a delinquent person, the competent authority with due application of mind should refrain from issuing a charge-sheet under rule 7 if he/she arrives at a conclusion that charges against the delinquent are not too serious to warrant a charge-sheet under this rule. In such a case/cases he/she may be issued a show cause notice under rule 8 of *ibid* rules which will not only save time but Government money also.

It is requested that these instructions may be brought to the notice of all concerned being followed strictly.

Yours faithfully,

Sd/-

Joint Secretary General Administration
for Chief Secretary to Government, Haryana

Punishment & Appeal

A copy is forwarded to all the Financial Commissioners and Principal Secretaries/
Commissioners and Secretaries to Government Haryana for information and necessary action.

Sd/-

Joint Secretary General Administration,
for Chief Secretary to Government, Haryana

To

All the Financial Commissioners and Principal Secretaries/
Commissioners and Secretaries to Government, Haryana

U.O.No. 62/54/2006-6GSI

Dated Chandigarh, the 26.10.2006

No. 62/8/2004-6GSI

From

The Chief Secretary to Government, Haryana.

To

1. All the Heads of Departments in Haryana.
2. The Registrar, Punjab and Haryana High Court.
3. The Commissioners Rohtak, Gurgaon, Hisar and Ambala Divisions and all the Deputy Commissioners in Haryana.
4. The Managing Directors/Chief Executives/Member Secretaries of all Boards and Corporations in Haryana.
5. The Registrars, Maharishi Dayanand University, Rohtak, Kurukshetra University Kurukshetra, Ch. Charan Singh Haryana Agriculture University, Hisar, Guru Jambheshwar University, Hisar and Ch. Devi Lal University, Sirsa, Bhagat Phool Singh Mahila Vishavvidyalaya, Khanpur Kalan, Sonapat.
6. The Special Representative, Haryana Bhawan, Copernicus Road, New Delhi.

Dated, Chandigarh, the 20/11/06

Subject:- Grant of personal hearing to the delinquent before imposition of any penalty under Rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

Sir,

I am directed to refer to the Government letter No. 62/8/2004-6GSI, dated 5.7.2004 on the subject noted above wherein the instructions were issued that keeping in view the point of equity and natural justice and in case the delinquent officers /officials want a personal hearing to be given, the appointing authority should grant personal hearing to a delinquent official charge sheeted under rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 before imposing a minor penalty to him.

2. However, it has come to the notice of the State Government that the instructions in question are not being followed strictly with the result that the Courts nullifies the action of Government in such cases merely on the ground that the delinquent was not heard in person by the competent authority before awarding the punishment under rule 8 of the Rules *ibid*.

3. I am directed to reiterate the Government instructions dated 5.7.2004 referred to above. Besides, it is also advised that departmental committees should be framed to review punishment and appeal cases every six months.

These instructions should be brought to the notice of all concerned under your control for being complied with strictly.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

Punishment & Appeal

A copy is forwarded to all the Financial Commissioners and Principal Secretaries/Commissioners and Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners and Principal Secretaries/Commissioners and Secretaries to Government Haryana.

U.O.No. 62/8/2004-6GSI

Dated Chandigarh, the 20.11.2006

Haryana Government

General Administration Department

Notification

The 6th July, 2007

No. G.S.R. 20/Const./Art. 309, 187 and 318/2007.—In exercise of the powers conferred by the proviso to article 309 and clause (b) of article 318 read with clause (3) of article 187 of the Constitution of India, the Governor of Haryana in consultation with the Speaker of the Haryana Legislative Assembly in so far as such consultation is necessary under the aforesaid provisions, hereby makes the following rules further to amend the Haryana Civil Services (Punishment and Appeal) Rules, 1987, namely :-

1. These rules may be called the Haryana Civil Services (Punishment and Appeal) Second Amendment Rules, 2007.

2. In the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (hereinafter called the said rules), in Rule 4A, in sub rule (1), —

(a) after clause (b), before the existing proviso, the following provisos shall be inserted, namely :-

“Provided that where a Government Employee against whom disciplinary proceedings are contemplated is suspended, such suspension shall not be valid, unless before the expiry of a period of ninety days from the date from which the employee was suspended, disciplinary proceedings are initiated against him :

Provided further that the competent authority in the matter may, at any time before the expiry the said period of ninety days and after considering the special circumstances for not initiating disciplinary proceedings, to be recorded in writing and after seeking the approval of next higher authority allow continuance of the suspension beyond the period of ninety days without the disciplinary proceedings being initiated:”;

(b) in the existing proviso, for the words “Provided that”, the words “Provided further that” shall be substituted.

3. In the said rules, in rule 7,-

(A) in sub rule (2), in the proviso—

(i) in clause (a), the word “and” existing at the end shall be omitted;

(ii) in clause (b), for sign “.” existing at the end, the sign “;” shall be substituted;

(iii) after clause (b), the following clauses shall be added at the end, namely :—

“(c) the Inquiry Officer appointed to conduct enquiry shall issue maximum two notices to the charged person to appear before him for presenting his/her case. In case charged persons do not appear after the communication of two notices, the Inquiry Officer shall be competent to proceed ex-parte in the matter. However,

after considering the circumstances to be recorded, the Inquiry Officer may issue third notice also;

- (d) as per the Punjab Departmental Enquiries (powers) Act, 1955 (Punjab Act 8 of 1955), the officer conducting enquiry under these rules shall be competent to exercise the same powers for summoning of witnesses and for compelling the production of documents as are exercisable by a Commission appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 (Act 37 of 1850);
 - (e) in case the competent authority is satisfied with the explanation given by the charged person, it may drop the charge-sheet without resorting to the procedure of conducting enquiry. Similarly if the competent authority after considering the reply of the charged person is of the opinion that awarding of minor punishment shall meet the end of justice, then the authority competent may award minor punishment without following the procedure of conducting the enquiry.”.
- (B) for sub-rule (6), the following sub-rules shall be substituted, namely :-
- “(6) After the enquiry against a Government employee has been completed, the disciplinary authority shall forward or cause to be forwarded a copy of the enquiry report, and where the disciplinary authority does not agree with the enquiry report or any part thereof, the reasons for such disagreement shall be communicated alongwith the enquiry report, to the Government Employee who may submit, if he so desires, a written representation to the disciplinary authority within a period of one month from the date of such communication.
 - (7) The disciplinary authority shall consider the representation, if any, submitted by the Government Employee and record its findings before proceeding further in the matter as specified in rule 4.”.

PREMPRASHANT,

Chief Secretary to Government, Haryana.

हरियाणा सरकार

सामान्य प्रशासन विभाग

अधिसूचना

दिनांक 6 जुलाई, 2007

संख्या सा० का० नि० 20/सवि०/अनु० 309, 187 तथा 318/2007.— भारत के संविधान के अनुच्छेद 309 के परन्तुक तथा अनुच्छेद 187 के खण्ड (3) के साथ पठित अनुच्छेद 318 के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हरियाणा के राज्यपाल, हरियाणा विधान सभा के अध्यक्ष के परामर्श से, जहां तक ऐसा परामर्श पूर्वोक्त उपबन्धों के अधीन आवश्यक है, इसके द्वारा हरियाणा सिविल सेवा (दण्ड तथा अपील) नियम, 1987, को आगे संशोधित करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :-

1. ये नियम हरियाणा सिविल सेवा (दण्ड तथा अपील) द्वितीय संशोधन नियम, 2007, कहे जा सकते हैं ।
2. हरियाणा सिविल सेवा (दण्ड तथा अपील) नियम, 1987 (जिन्हें, इसमें, इसके बाद, उक्त नियम कहा गया है) में, नियम 4क में, उप नियम (1) में, -

(क) खण्ड (ख) के बाद, विद्यमान परन्तुक से पहले, निम्नलिखित परन्तुक रखे जाएंगे, अर्थात् :-

“परन्तु जहां सरकारी कर्मचारी जिसके विरुद्ध अनुशासनिक कार्यवाहियां अपेक्षित हैं, निलम्बित किया गया है, वहां ऐसा निलम्बन तब तक प्रतिसंहत समझा जाएगा जब तक तिथि जिस से कर्मचारी निलम्बित किया गया था, नब्बे दिन की अवधि की समाप्ति से पूर्व उसके विरुद्ध अनुशासनिक कार्यवाहियां प्रारम्भ नहीं की गई हों :

परन्तु यह और कि सक्षम प्राधिकारी मामले में, किसी भी समय नब्बे दिन की उक्त अवधि की समाप्ति से पूर्व तथा अनुशासनिक कार्यवाहियां प्रारम्भ न करने के लिए विशेष परिस्थितियों को विचारने, अभिलिखित किये जाने तथा अगामी उच्चतर प्राधिकारी का अनुमोदन मांगने के बाद प्रारम्भ की जा रही अनुशासनिक कार्यवाहियों के बिना नब्बे दिन की अवधि से आगे निलम्बन आदेश को बनाए रखना अनुज्ञात कर सकता है ;”;

(ख) विद्यमान परन्तुक में, “परन्तु” शब्द के स्थान पर, “परन्तु यह और कि” शब्द प्रतिस्थापित किए जाएंगे ।

3. उक्त नियमों में, नियम 7 में, -

(अ) उप नियम (2) में, परन्तुक में-

- (i) खण्ड (क) में, अन्त में विद्यमान “और” शब्द का लोप कर दिया जाएगा ;
- (ii) खण्ड (ख) में, अन्त में विद्यमान “।” चिह्न के स्थान पर, “;” चिह्न प्रतिस्थापित किया जाएगा ;
- (iii) खण्ड (ख) के बाद, अन्त में निम्नलिखित खण्ड जोड़ दिए जाएंगे, अर्थात् :-

“(ग) जांच करने के लिए नियुक्त जांच अधिकारी आरोपित व्यक्ति को उसका मामला प्रस्तुत करने

के लिए उसके समक्ष पेश करने होने के लिए अधिकतम दो नोटिस जारी करेगा। यदि आरोपित व्यक्ति दो नोटिसों की संसूचना के बाद पेश नहीं होता है, तो जांच अधिकारी मामले में एक तरफा कार्यवाही करने के लिए सक्षम होगा तथापि, अभिलिखित की जाने वाली परिस्थितियों को विचारने के बाद, जांच अधिकारी तीसरा नोटिस भी जारी कर सकता है ;

- (घ) पंजाब विभागीय जांच (शक्तियां) अधिनियम, 1955 (1955 का पंजाब अधिनियम 8) के अनुसार, इन नियमों के अधीन जांच करने वाला अधिकारी गवाहों को सम्मन करने के लिए दस्तावेजों को प्रस्तुत करने हेतु बाध्य करने के लिए वैसी ही शक्तियों का प्रयोग करने हेतु सक्षम होगा जो लोक सेवक (जांच) अधिनियम, 1850 (1850 का अधिनियम 37) के अधीन जांच के लिए नियुक्त किसी आयोग द्वारा प्रयोज्य है;
- (ङ) यदि सक्षम प्राधिकारी आरोपित व्यक्ति द्वारा दिये गये स्पष्टीकरण से सन्तुष्ट है, तो वह जांच करने की प्रक्रिया का सहारा लिए बिना आरोप-पत्र को समाप्त कर सकता है। उसी प्रकार यदि सक्षम प्राधिकारी की आरोपित व्यक्ति के उत्तर को विचारने के बाद राय है कि लघु दण्ड देने से न्याय का लक्ष्य पूरा होगा तब सक्षम प्राधिकारी जांच करने की प्रक्रिया को अपनाये बिना लघु दण्ड दे सकता है।''।
- (आ) उप नियम (6) के स्थान पर, अन्त में, निम्नलिखित उप-नियम प्रतिस्थापित किये जाएंगे, अर्थात्: -
- “(6) सरकारी कर्मचारी के विरुद्ध जांच पूरी हो जाने के बाद, अनुशासनिक प्राधिकारी, जांच रिपोर्ट की प्रति भेजेगा या भिजवायेगा तथा जहां अनुशासनिक प्राधिकारी जांच रिपोर्ट या उसके किसी भाग से सहमत नहीं हो जाता है, तो वह ऐसी असहमति के कारणों को जांच रिपोर्ट सहित सरकारी कर्मचारी को संसूचित करेगा। जो ऐसी संसूचना की तिथि से एक मास की अवधि के भीतर अनुशासनिक प्राधिकारी को लिखित अभ्यावेदन, यदि वह इच्छुक है, प्रस्तुत कर सकता है।
- (7) अनुशासनिक प्राधिकारी, सरकारी कर्मचारी द्वारा प्रस्तुत अभ्यावेदन, यदि कोई हो, पर विचार करेगा तथा नियम 4 में यथा विनिर्दिष्ट मामले में आगे कार्यवाही करने से पूर्व अपने निष्कर्ष अभिलिखित करेगा।''।

प्रेम प्रशान्त,
मुख्य सचिव, हरियाणा सरकार।

No. 62/ 32/2006-6GSI

From

The Chief Secretary to Government Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. The Registrar Punjab and Haryana High Court. Chandigarh.
3. All Deputy Commissioners in Haryana.
4. Special Representative Haryana Bhawan Copernicus Marg, New Delhi.

Dated Chandigarh the 23-7-2007

Subject:- Amendment in Haryana Civil Services (Punishment and Appeal) Rules, 1987.

Sir/ Madam,

I am directed to Invite your attention to the subject noted above and to say that the Government has carried out certain amendments in the Haryana Civil Services (Punishment and Appeal) Rules, 1987 vide notification No. G.S.R.20/Const./Art.309, 187 and 318/2007, dated 6th July, 2007. A copy of this notification is sent herewith for your information and necessary action.

Yours faithfully,

Sd/-

Superintendent General Services-I,
for Chief Secretary to Government, Haryana

A copy is forwarded to all the Financial Commissioners & Principal/Secretaries/ Commissioners & Secretaries to Government Haryana for information.

Sd/-

Superintendent General Services-I,
for Chief Secretary to Government, Haryana

No. 62/77/2002-6GSI

From

The Chief Secretary to Government, Haryana.

To

1. All the Heads of Departments in Haryana.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
3. The Commissioners Rohtak, Gurgaon, Hisar and Ambala Divisions and all the Deputy Commissioners in Haryana.
4. The Managing Directors of all Boards and Corporations in Haryana.
5. The Registrars, Maharishi Dayanand University, Rohtak, Kurukshetra University Kurukshetra, Ch. Charan Singh Haryana Agriculture University, Hisar and Guru Jambheshwar University, Hisar.

Dated, Chandigarh, the 18th October, 2007

Subject:- Regarding procedure to be followed for imposition of minor penalty under the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

Sir,

I am directed to invite your attention to the State Government letter No 62/77/2002-6GSI, dated 28.2.2003 on the subject cited above which inter alia provides that once the charge sheet is issued for imposing a major penalty, then the procedure prescribed for the same in the Rule i.e. holding a regular enquiry, should be adopted and completed, even if it is subsequently decided to impose a minor punishment only and also Disciplinary Authority after issuing a charge-sheet under Rule 7 can not, by merely examining the reply to the charge-sheet, inflict a minor punishment without holding a Regular Departmental Enquiry.

2. On further consideration of the matter and in the light of amendment carried out in sub rule 2(e) of rule-7 of the Haryana Civil Services (P&A) Rules, 1987, vide Haryana Government notification No. G.S.R.20/Const./ Art 309,187 and 318/2007, dated 6.7.2007, it has been decided by the Government that in case the Competent Authority is satisfied with the explanation given by a charged person, it may drop the charge-sheet without resorting to the procedure of conducting regular enquiry. Similarly if the Competent Authority after considering the reply of the charged person is of the opinion that awarding of minor punishment will meet the ends of justice, then the competent authority may award minor punishment without following the procedure of conducting the enquiry.

It is requested that these instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

(SUMITAMISHRA)

Special Secretary General Administration,
for Chief Secretary to Government, Haryana.

Compendium of Instructions on Disciplinary matter—Vol. V

A copy is forwarded to all the Financial Commissioners and Principal Secretaries/
Commissioners and Secretaries to Government Haryana for information and necessary action.

Sd/-

Special Secretary Administration.
for Chief Secretary to Government Haryana

To

All Financial Commissioners and Principal Secretaries/
Commissioners and Secretaries to Government Haryana.

U.O.No. 62/77/2002-6GSI

Dated Chandigarh, the 18th October, 2007

No. 62/39 /2007-6GSI

From

The Chief Secretary to Government Haryana.

To

1. All Heads of Departments, Commissioners Ambala, Hisar, Rohtak, and Gurgaon Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
3. All Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.

Dated, Chandigarh, the 23rd October, 2007

Subject:- Regarding disciplinary action against the Government officials.

Sir/Madam,

I am directed to invite your attention to the subject noted above and to say that it has been noticed by the Government that some officials who are deputed to attend the Courts for evidence in criminal cases, rescile from their statements made by them during preliminary/ fact finding departmental enquires and/ or give vague evidence not based on facts.

2. The above tendency on the part of such officials has been viewed seriously by the Government. It has, therefore, been decided by the Government that in case of employees who rescile from their statement/evidence in Courts, the competent Punishing Authority should take suitable disciplinary action against such officials for misleading the authorities under rule 3(i)(iii) of the Government Employees Conduct Rules, 1966.

These instructions should be brought to the notice of all concerned under your control for being complied with strictly.

Yours faithfully,

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all Financial Commissioners and Principal Secretaries/ Commissioners and Secretaries to Government Haryana for information and necessary action.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

To

All Financial Commissioners and Principal Secretaries/
Commissioners and Secretaries to Government Haryana.

U.O.No. 62/39/2007-6GSI

Dated Chandigarh, the 23rd October, 2007

Compendium of Instructions on Disciplinary matter—Vol. V

Endst. No. 62/39/2007-6GSI

Dated Chandigarh, the 23rd October, 2007

A copy is forwarded to the following for information and necessary action:-

1. The Managing Directors/ Chief Executives/Member Secretaries of all Boards and Corporations in Haryana.
2. The Registrars, Maharishi Dayanand University, Rohtak, Kurukshetra University Kurukshetra, Ch. Charan Singh Haryana Agriculture University, Hisar, Guru Jambheshwar University, Hisar and Ch. Devi Lal University, Sirsa, Bhagat Phool Singh Mahila Vishav Vidyalaya, Khanpur Kalan, Sonapat.

Sd/-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana

URGENT

Government of Haryana
General Administration Department
General Services-I Branch

No. 62/80/2008-6GSI

Chandigarh 28th January, 2009

1. The Financial Commissioners & Administrative Secretaries.
2. All the Heads of Department, Commissioners Ambala, Hisar, Rohtak and Gurgaon Divisions.
3. The Registrar, Punjab and Haryana High Court, Chandigarh.
4. All the Deputy Commissioners and Sub Divisional Officers(c) in Haryana State.

Subject:- Expeditious disposal of disciplinary proceedings pending against Government employees.

Sir/Madam,

I am directed to invite your attention to Haryana Government circular letter No.62/80/2002-6GSI, dated 27.01.2003 on the subject noted above *vide* which it was conveyed by the Government that disciplinary proceedings under rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 should be completed within a period of one year.

2. In the meeting of Administrative Secretaries held on 10.4.2008 and 25.8.2008 under the chairmanship of Chief Secretary, Haryana and Chief Minister, Haryana respectively, it was noted that finalization of disciplinary proceedings takes a considerable time. In the said meetings, the status of the pending disciplinary proceedings under Rule 7&8, in Government departments, Boards and Corporations, was reviewed and it was generally observed that the time taken for disposal of disciplinary cases is undue long. After detailed discussion, the Administrative Secretaries were asked to review all cases every quarter and ensure that delays do not take place and evolve mechanism for obtaining comments in a time bound manner. All Rule-8 cases should be disposed within a period of six months.

3. These instructions should be brought to the notice of all concerned for strict compliance.

Yours faithfully,

(S.K. Jain)

Under Secretary to Government Haryana.

INTERNAL CIRCULATION

1. PS to Chief Secretary, Haryana for the information of Chief Secretary.
2. State Informatics Officer, NIC, Haryana Region for placing it on State Website and sending it by e-mail to all the above mentioned addresses.

II

SUSPENSION

Copy of circular letter No. 2581-ACC-54/664, dated 27th Sept., 1954.

Subject :- Suspension of Government Servants.

In continuation of Punjab Government letter No. 3455-ACC-52/14, dated the 23rd January, 1953, on the subject noted above, I am directed to say that Government have given further consideration to the question of suspension of Government servants with a view to laying down a criteria to guide departmental officers in deciding when an order of suspension should be passed, Government is pleased to direct that each case involving a proposal for suspension should be carefully considered and suspension should be ordered only when the circumstances are found to justify it. Ordinarily suspension should not be ordered unless the allegations made against the official concerned are of a serious nature and, on the basis of the evidence available there is a *prima facie* case for his dismissal or removal or there is a reason to believe that his continuance in service is likely to cause embarrassment or to hamper the investigation of the case. In other cases, it should suffice if steps are taken to transfer the person concerned to another place to ensure that he has no opportunity to interfere with the witness or to temper with the evidence against him. I am to request that these instructions should be brought to the notice of all concerned for strict compliance.

Copy of letter No. 9136-GII-57/11662, dated the 2nd January, 1958, from the Chief Secretary to Government, Punjab, to the Controller of Printing & Stationery, Punjab, Chandigarh, and Copy endorsed to all Heads of Departments etc., etc.

Subject :- Entry of suspended Government servants in their respective offices.

With reference to your communication on the subject noted above, I am directed to say that the matter has been given due consideration in consultation with Legal Remembrancer who has advised that where a Government servant is suspended, the Department is within its rights to serve him with an order that he should not attend office and thereafter if he continues to do so, he may be dealt with as committing an offence of trespass under section 447 or section 448 of the Indian Penal Code. His entry into the premises of duty during his suspension period, is not ordinarily banned.

Copy of Punjab Government Circular letter No. 1611-GII-59/5697, dated 5th May, 1959, from the Chief Secretary to Government, Punjab addressed to all Heads of Departments, etc., etc.

Subject:- Speedy disposal of cases against Government Servants under suspension-Instructions regarding.

I am directed to say that a perusal of the lists of suspended Government servants received in response to Punjab Government circular letter No. 5432-B&C-58/13819, dated the 10th September, 1958 has revealed that the number of Government servants under suspension is very large and that many of them have been under suspension for a long time (as much as four or five years in some cases.) Government feel that this state of affairs requires to be remedied with speed. I have been directed to ask you to see that all pending cases of this nature in your department are disposed of within three months, as far as possible. If there are cases in which departmental enquiries have not yet started these should be started forthwith. Where they have begun enquiry officers should be instructed to complete them expeditiously.

2. In order to ensure that satisfactory progress is made by the departments concerned it has been decided that each department should submit quarterly report showing the progress made in such cases to the Administrative Department concerned. The Anti-Corruption Department will separately be supplied information asked for by them in their letter No. 919-ACC-50/353, dated the 4th April, 1950 (copy enclosed). It will be the responsibility of the Administrative Department concerned to scrutinize the quarterly reports and to bring to the notice of the Minister in charge of the department cases which are not registering sufficient progress.

3. It is noticed that a major cause of undue prolongation of period of suspension is that a suspected official is very often suspended before the charge-sheet is served on him and that the chargesheet is very often not prepared until long after his suspension has been ordered. It should, therefore be made a matter of firm principle, to be deviated from only in cases of rare urgency. That no official is sur-charge-pended until a proper charge is served upon him and his explanation obtained and found unsatisfactory. A departmental enquiry can only begin at this stage and at this stage should be started forthwith. The enquiry officer should ordinarily complete all the proceedings and submit his report within a period of three months and the punishing authority should not take much longer to decide the case (obtaining the advice of the P.C.S., where required, expeditiously). If this procedure is observed it will be possible to curtail to a large extent long and unjustified periods of suspension. In no case should the period between suspension and final orders exceed six months. Long periods of suspension are unfair to the official concerned and can often prove uneconomical to Government.

4. The cases of Government servants involved in criminal cases should be dealt with in accordance with the provision of rules 7.5 and 7.6 of the Punjab Civil Services Rules, Volume 1, Part 1.

5. These instructions may be brought to the notice of all working under you and the receipt of this letter may be acknowledged.

**Copy of Circular Letter No. 3161-GIII-60/12446, dated the 13th April, 1960, from
Shri E. N. Mangat Rai, I.C.S., Chief Secretary to Government, Punjab
addressed to all Heads of Departments etc., etc.**

Subject :- Permission to leave the headquarters during suspension.

I am directed to say that it has been observed that while placing a Government servant under suspension and fixing his headquarters, the authority competent to grant him/station leave is not specified which sometime create confusion. You are advised that in future in all such cases the authority competent to grant station leave to a Government servant during the suspension period should invariably be specified.

**Copy of Punjab Government Circular letter No. 3624-GS-61/14507, dated 21st April, 1961, from
the Chief Secretary to Government, Punjab to all Heads of Departments etc., etc.**

Subject :- Speedy Disposal of cases of Government servants under suspension-Instructions regarding.

I am directed to invite attention to Punjab Government letter No. 1611-GII-59/5697, dated the 5th May, 1959, on the subject noted above and to point out that in spite of the fact that since its issue, further instructions have also been sent to you by the Vigilance Department, it has been noticed that these instructions are not being scrupulously followed by the departments concerned with the result that the number of Government servants under suspension continues to be very large and many of them remain under suspension for a very long time, thereby causing great loss to Government on account of the payment of subsistence allowances. In addition to financial loss, such a state of affairs brings discredit to Government. The whole position has, therefore, been reviewed and with a view to remedy it and to ensure uniformity of procedure and overall co-ordination, Government have considered it necessary to issue a consolidated revised circular, and this letter accordingly embodies all instructions and fresh decisions taken on the subject.

2. *Punjab Government letter No. 2626. ACC-54/722, dated the 23rd October, 1954, Conduct of Departmental proceedings in disciplinary cases—(i)* In all cases, the immediate superior authority, on whom rests the responsibility for initiating formal disciplinary proceedings, should decide at the earliest possible moment, whether investigation is likely to be so complicated as to require a special investigating agency, either of the police or of the department itself, and should throughout the investigation keep a close watch on its progress to ensure that no undue delay occurs at any stage. When formal disciplinary proceedings are undertaken in all big and complicated cases, the following time schedule should be observed as closely as possible :--

- (a) The charge or charges should be handed over to the charged Government servant within 15 days from the date of taking the decision to start formal proceedings.
(At the same time, a decision should be taken whether the Government servant should be placed under suspension, pending enquiry.)
- (b) The charged Government servants written statement of defence should ordinarily be required to be submitted within a period of a fortnight and in no case should a period of more than a month be allowed for the purpose.

- (c) The inquiry including oral examination of the witnesses should be completed within a month of the submission of the written statement.
- (d) The report of the inquiring officer where he is not himself the punishing authority should be submitted as expeditiously as possible and ordinarily within a fortnight of the closing of the enquiry.
- (e) When the punishing authority is different from the inquiring officer, the punishing authority should pass final orders without delay. The following time schedule is suggested for various stages to be gone through before the passing of the final orders :--
 - (I) *Calling upon the Government servant concerned to show cause against the proposed punishment where necessary*- One week from the date of the receipt of the inquiring officer's report.
 - (II) *Time to be allowed to the Government servant to show cause* :- A fortnight to a month according to the nature of the case.
 - (III) *Final Orders* - (i) Where reference to the public Service Commission necessary: Six week from the date of the receipt of the final explanation of the Government servant.
 - (ii) Where no such reference is necessary: A fortnight from the date of the receipt of the final explanation of the Government servant concerned.

(ii) *Punjab Government letter No. 1611-GII-59/5697, dated 5th May, 1959*-- It should be a matter of firm principle, to be deviated from, only in cases or rare urgency, that no official is suspended until a proper charge-sheet is served upon him and his explanation obtained and found unsatisfactory. A departmental enquiry can only begin at this stage and at the stage should he started forthwith. Since it may not be possible to complete the inquiry in all cases in one month, Government has decided that the enquiry officer should complete all the proceedings and submit his report within a period of three months and the punishing authority should not take much longer to decide the case (obtaining the advice of the Punjab Public Service Commission where required, expeditiously). In no case should the period between suspension, if ordered and final order exceed six months.

(iii) *Punjab Government letter No. 12277-V(I)-59-13470, dated 10th December, 1959*- Government feel that officials are often harassed by the length of time it takes to complete the process of preliminary investigation and inquiry. Even in cases, which do not eventually result in a charge-sheet, the official concerned is often subjected to anxiety by the knowledge that an investigation is proceeding against him. Government have, therefore, decided that the whole process of investigation and inquiry should be completed within six months (excluding any period during which proceedings are stopped owing to a reference to a Court of Law). An extension of the period by another three months may be obtained under the orders of the Minister-in-charge. If extension beyond nine months is needed, full facts and justification must be placed before the Cabinet and their approval taken.

(iv) *Punjab Government letter No. 1611-GII-59/5697, dated 5th May, 1959*-- The cases of Government servant involved in criminal cases should be dealt with in accordance with the provisions of rules 7.5 and 7.6 of the Punjab Civil Services Rules, Volume I, Part 1.

3. *Punjab Government letter No. 7042-V-3-60/8740, dated 29th July, 1960, and Punjab Government letter No. 9840-V(3)-60/13541, dated 25th November, 1960. Cases under investigation or pending in Court- Sub-mission of reports to the Vigilance Department.* -- The cases of Government servants under suspension which are under investigation or pending in Courts should not be allowed to drag on for inordinately long periods. A monthly progress report showing the disposal of the pending cases should be forwarded to Government in the Vigilance Department in the two enclosed statements regularly so as to reach in the first week of the following month. The quarterly statements prescribed in Punjab Government letter No. 919-ACC-50/353, dated the 4th April, 1950, have been discounted and should no longer be sent to the Vigilance Department.

4. *Punjab Government letter No. 1880-V-3-61/3091, dated the 16th March, 1961.* It has been decided that the monthly reports as indicated in para 3 should be examined in the Vigilance Department. They would review the position of the outstanding cases and put continued pressure on the Department concerned to get those cases expedited. In other words, the Vigilance Department would play the role of the co-ordinating authority for that purpose. In order to ensure satisfactory progress, cases more than 18 months old would be reviewed and placed by the Vigilance Department before the Council of Ministers once a month.

The Copies of these monthly reports should also be furnished to the Administrative Department concerned. It is their responsibility as well to scrutinize these reports and to bring to the notice of the minister-in-charge cases which are not registering sufficient progress.

5. It is needless to emphasize again that these instructions should be strictly followed. You are requested to pay personal attention to such cases and take every possible step to speed up their disposal within the prescribed time limit. Proper care should be taken to ensure that the monthly progress report is punctually sent to the Vigilance Department as also to the Administrative Department by the 7th of the Month following at the latest so that review by the Minister-in-charge and the Council of Ministers is not held up. Government will take serious notice of any default in this regard.

6. The receipt of this letter may please be acknowledged.

Yours faithfully,

PL.CHHABRA,

Deputy Secretary, General Administration,
for Chief Secretary to Government, Punjab.

Copy is forwarded for information and necessary action to the --

1. Financial Commissioner, Development, Punjab.
2. Financial Commissioner, Punjab.
3. Financial Commissioner, Revenue, Punjab.
4. All Administrative Secretaries to Government Punjab.

2. It is retired that the Administrative Department concerned should scrutinize the monthly reports received by them from their Heads of Departments in this connection very carefully and bring to the notice of Minister- in-charge of the Departments the cases which are not making adequate progress so that he may be in a position to discuss those cases in the Council of Ministers when they come up there for review.

3. For Secretary to Government, Punjab Vigilance Department.
He should please note para 4 of these instructions for strict compliance.

STATEMENT I

List of Government Servants under suspension whose cases are pending in Courts.

Name of Department	Name of the Government servants with designation	Nature of allegations	Date of suspension	Date of challan	Whether suspended by Department itself or at the instance of the Vigilance Department	Present position of the case
1	2	3	4	5	6	7

STATEMENT II

List of Government Servants under suspension whose cases are pending under investigation.

Name of Department	Name of the Government servants with the designation	Nature of allegations	Date of suspension	Date of challan	Whether suspended by Department itself or at the instance of the Vigilance Department	Present position of the case whether pending in the Department or with the Vigilance Department giving the date of entrustment of enquiry to the Vigilance Department
1	2	3	4	5	6	7

**Copy of Punjab Government Circular No. 19142-DSGS-64/1815, dated the 18th January, 1964
from the Chief Secretary to Government, Punjab to all Heads of Departments, etc., etc.**

Subject:- Speedy disposal of cases of Government Servants under suspension--Instructions regarding.

I am directed to invite reference to Punjab Government letter No. 3624-GS-61/14607, dated the 21st April, 1961, on the subject cited above and to say that it has been brought to the notice of the Government that the instructions contained there in are not being strictly complied with by the officers entrusted with the conduct of departmental enquiries in disciplinary cases and as a result heavy delay occurs in the disposal of these cases. I am directed to emphasis once again that the above mentioned instructions should be followed carefully and moreover in cases of delay the person dealing with such inquiries should be held responsible for the delay. It has also been decided by the Government that separate inquiry officers for holding inquiries should be appointed in those departments in which the number of departmental enquiries is large enough to provide whole time work for such officers. In other cases Administrative Departments are requested to consider making one of their officer, both at the Secretariat and the Directorate level, responsible for pursuing the enquiry cases so that they are concluded without avoidable delay.

2. The receipt of this letter may please be acknowledged.

**Copy of Punjab Government Circular letter No. 298-3GSI-66/2190, dated 16-2-1966 from the
Chief Secretary to Government Punjab to all Heads of Departments etc., etc.**

Subject:- Speedy disposal of cases of Government servants under suspension.

In continuation of Punjab Government letter No, 3624-GS-61/14607, dated 21-4-1961, on the subject noted above I am directed to state that according to para 2(e) (III) of these instructions, the whole process of investigation and inquiry against a Government employee is required to be completed within six months (excluding any period during which proceedings are stopped owing to a reference to a court of law). An extension of the period by another three months can be allowed by the Minister-in-charge. If extension beyond nine months is needed, full facts and justification is required to be placed before the Council of Ministers for approval.

2. It has been brought to the notice of Government that the Departments generally do not mention in the memorandum for the Council of Ministers the circumstances in which they were not able to complete the enquiry within the prescribed period and also do not specify the period for which extension beyond nine months was required, Unless this months information is embodied in the Memorandum for the Council of Ministers, the intention of Government to ensure that no avoidable delay occurs, in such cases is defeated. I am accordingly to request that the reasons for which it has not been possible for the Department to complete the inquiry should invariably be given in the memorandum for the Council of Ministers and the period for which extension is required should also be specified therein.

विषय :- सरकारी कर्मचारियों का निलम्बन ।

क्या सभी वित्तायुक्त तथा सभी प्रशासकीय सचिव, हरियाणा संयुक्त पंजाब के पत्र क्रमांक 1215-बी (12)-63/3915, दिनांक 28 मार्च/1 अप्रैल, 1963 में दी गई सरकारी कर्मचारियों को निलम्बन सम्बन्धी अनुसरण की जाने वाली नीति की ओर ध्यान देने की कृपा करेंगे ?

2. यह देखने में आया है कि विभिन्न विभागों द्वारा इन अनुदेशों को समान रूप में लागू नहीं किया जाता है और ऐसे दृष्टान्त नोटिस में आए हैं कि इस प्रकार के समान परिस्थिति के केसों में बिल्कुल भिन्न निर्णय लिए गए थे । इस महत्वपूर्ण मामले में सरकार की और अनुदेशों के अनुपालन को सुनिश्चित करने के लिए यह भी निर्णय किया गया है कि भविष्य में श्रेणी-1 के अधिकारियों को मुख्य सचिव, हरियाणा (सामान्य सेवायें शाखा) के माध्यम द्वारा मुख्य मंत्री से पूर्व अनुमति के बिना निलम्बित न किया जाए ।

3. जहाँ तक श्रेणी-2 के अधिकारियों के निलम्बन का सम्बन्ध है उन केसों में मुख्य मंत्री को केवल सूचनार्थ भेजी जाये और इस कार्य के लिए उनकी मूल फाईल निलम्बन आदेश जारी करने के बाद सीधी मुख्य मंत्री को मुख्य सचिव, हरियाणा (सामान्य सेवायें शाखा) के माध्यम द्वारा भेजी जाये ।

कृपया अब आगे से ऐसे सभी केसों में इस कार्य विधि का अनुसरण किया जाये ।

इस पत्र की पावती भेजने की कृपया करें ।

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते : मुख्य सचिव, हरियाणा सरकार ।

सेवा में,

1. सभी वित्तायुक्त, तथा
2. सभी प्रशासकीय सचिव, हरियाणा ।

अशा : क्रमांक 7084 - 6 जी.एस. - 70

दिनांक 17 - 9 - 1970

क्रमांक 1161-5 जी.एस.-71/6914

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागीय अध्यक्ष, आयुक्त अम्बाला मण्डल और सभी उपायुक्त और सभी उप मण्डल अधिकारी, हरियाणा ।
 2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय और सभी जिला और सत्र न्यायाधीश, हरियाणा ।
- दिनांक, चण्डीगढ़, मार्च, 1971

विषय :- निलम्बित सरकारी कर्मचारियों की मुख्यालय पर उपस्थिति ।

महोदय,

मुझे उपर्युक्त विषय पर आपका ध्यान दिलाने और यह कहने का निदेश हुआ है कि खाद्य तथा पूर्ति निदेशालय ने सरकार से यह पूछा था कि निलम्बित सरकारी कर्मचारियों को निलम्बित के समय क्या मुख्यालय पर हाजरी लगाने के लिए कहा जा सकता है अथवा नहीं । इस मामले पर सर्वोच्च न्यायालय ने A.I.R. 1963 Sc. 687 तथा कलकता उच्च न्यायालय ने A.I.R. 1958 Cal. 234 में यह निर्णय लिया कि कर्मचारी निलम्बित होते हुए भी सेवा में रहता है और निलम्बित के समय सरकार कर्मचारी आचरण नियमों के अधीन ही रहता है । इस स्थिति में सरकार ने यह निर्णय लिया है कि निलम्बित अधिकारी को जिस स्थान पर उसका मुख्यालय नियत किया गया हो वहां के सम्बन्धित कार्यालय में प्रतिदिन हाजरी लगाने के लिये कहा जा सकता है और मुख्यालय छोड़ने के लिये निलम्बित कर्मचारी को सक्षम अधिकारी की अनुमति लेना आवश्यक है ।

2. इस पत्र की पावती भेजने का अनुरोध किया जाता है ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक सेवाएं,
कृते : मुख्य सचिव, हरियाणा सरकार ।

इसकी एक-एक प्रति निम्नलिखित की सेवा में भेजी जाती है :-

1. वित्तायुक्त राजस्व, हरियाणा ।
2. सभी प्रशासकीय सचिव, हरियाणा सरकार ।

क्रमांक 1161-5 जी.एस-71/6914

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागीय अध्यक्ष, आयुक्त अम्बाला मण्डल और सभी उपायुक्त और सभी उप मण्डल अधिकारी, हरियाणा ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय और सभी जिला और सत्र न्यायाधीश हरियाणा ।
दिनांक, चण्डीगढ़ 1 अप्रैल, 1971 ।

विषय: - **निलम्बित सरकारी कर्मचारियों की मुख्यालय पर उपस्थिति ।**

महोदय,

मुझे उपर्युक्त विषय पर आपका ध्यान दिलाने और यह कहने का निदेश हुआ है कि खाद्य तथा पूर्ति निदेशालय ने सरकार से यह पूछा था कि निलम्बित सरकारी कर्मचारियों को निलम्बित के समय क्या मुख्यालय पर हाजरी लगाने के लिए कहा जा सकता है अथवा नहीं । इस मामले पर सर्वोच्च न्यायालय ने A.I.R. 1963 Sec. 687 तथा कलकत्ता उच्च न्यायालय ने A.I.R. 1958 Cal. 234 में यह निर्णय लिया कि कर्मचारी निलम्बित होते हुए भी सेवा में रहता है । इस स्थिति में सरकार ने यह निर्णय लिया है कि निलम्बित अधिकारी को जिस स्थान पर उसका मुख्यालय नियत किया गया हो वहां के सम्बन्धित कार्यालय में प्रतिदिन हाजरी लगाने के लिए कहा जा सकता है और मुख्यालय छोड़ने के लिए निलम्बित कर्मचारी को सक्षम अधिकारी की अनुमति लेना आवश्यक है ।

2. इस पत्र की प्रावती भेजने का अनुरोध किया जाता है ।

भवदीय,

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित की सेवा में भेजी जाती है: -

1. वित्तायुक्त राजस्व, हरियाणा ।
2. सभी प्रशासकीय सचिव, हरियाणा सरकार ।

हस्ता / -

उप सचिव, राजनैतिक एवं सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. वित्तायुक्त राजस्व, हरियाणा ।
2. सभी प्रशासकीय सचिव, हरियाणा सरकार ।

अशा: क्रमांक 1161-5 जी.एस.-71

दिनांक, चण्डीगढ़ 1-4-1971

क्रमांक 1771-5 जी.एस.-1-73/9016

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा के सभी विभागाध्यक्ष, अम्बाला और हिसार के आयुक्त, हरियाणा के सभी उपायुक्त और उप मण्डल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय तथा हरियाणा के सभी जिला एवं सत्र न्यायाधीश ।

दिनांक, चण्डीगढ़, 5-4-1973 ।

विषय:- निलम्बन के दौरान सरकारी अधिकारी/कर्मचारी को निर्वाह भत्ता के बारे में सर्वोच्च न्यायालय का निर्णय ।

महोदय,

मुझे निदेश हुआ है कि मैं उपर्युक्त विषय पर आपका ध्यान दिलाऊँ और आपको सूचित करूँ कि 23-2-73 को सुप्रीम कोर्ट में घनश्याम दास श्रीवास्तवा वरसिज़ मध्य प्रदेश सरकार के केस में यह निर्णय किया है (प्रति संलग्न है) कि जब किसी अधिकारी/कर्मचारी को निलम्बित किया जाता है और उसके विरुद्ध विभागीय जांच की जाती है तो जितने समय के लिए उसे निर्वाह भत्ता न दिया जाये और वह विभागीय जांच के अनुपस्थित रहे, उतने समय के लिए विभागीय जांच अवैध होगी तथा इस विभागीय जांच के फलस्वरूप यदि किसी अधिकारी/कर्मचारी को डिसमिस कर दिया गया हो तो वह संविधान की धारा 311 के विरुद्ध होगा, क्योंकि अधिकारी/कर्मचारी को निर्वाह भत्ता न दिये जाने के कारण वह अपने आपको डिफैण्ड करने को अवसर प्राप्त नहीं कर सकता है ।

2. सरकार ने सुप्रीम कोर्ट के इस फैसले पर विचार किया है और यह निर्णय किया है इसे सभी विभाग ध्यानपूर्वक नोट कर लें और यह सुनिश्चित करें कि विभागीय जांच के दौरान निलम्बित कर्मचारी का निर्वाह भत्ता किसी भी अवस्था में न रोका जाये यदि निर्वाह भत्ता न दिये जाने के कारण कोई विभागीय जांच बाद में अवैध हो गई तो सम्बन्धित अधिकारी कर्मचारी, जिसने लापरवाही दिखाई है उसके विरुद्ध कड़ी अनुशासनिक कार्यवाही की जाये और उससे सरकार को हुए नुकसान की वसूली की जाये ।

3. आपसे अनुरोध किया जाता है कि आप इन हिदायतों को ध्यानपूर्वक नोट कर लें और अपने विभाग के सम्बन्धित अधिकारियों/कर्मचारियों के नोटिस में ला दें और उनसे कहें कि वह इन हिदायतों का दृढ़तापूर्वक पालन करें । कृपया इस पत्र की पावती भी भेजी जाये ।

हस्ता/-

उप सचिव, राजनैतिक एवं सेवाएं,
कृते : मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को सूचनार्थ और आवश्यक कार्यवाही के लिए भेजी जाती है :-

1. वित्तायुक्त राजस्व, हरियाणा ।
2. सभी प्रशासकीय सचिव, हरियाणा ।

SUPREME COURT OF INDIA

Before:- S.M. Sikhri, C.J., A.N. Ray., D.G. Palekar, S.M. Dwivedi and A.K. Mukherjee, JJ.

Civil Appeal No. 588 of 1972.

Decided on 23-2-1973

Ghanshyam Das Shrivastava

Appellant

Versus

State of Madhya Pradesh

Respondent

Suspension Enquiry, Constitution of India, Article 311 (2)-Suspension pending departmental enquiry Suspension

Pay and allowances allowance not paid-Official not attending the enquiry for non payment of suspension allowance-Order of dismissal hit by Article 311 (2)-employee was not afforded opportunity to defend.

(Para 5)

JUDGEMENT

Dwivedi J.- The appellant, Ghanshyam Das Shrivastava, was employed as a Forest Ranger by the State of Madhya Pradesh. By a Government order, dated 31st, 1964 he was put under suspension with effect from October 30, 1964. The Divisional Forest Officer, South Baster Division, directed him to remain to Jagdalpur during the period of suspension. Certain charges were framed against him, and an enquiry was initiated. He did not participate in the enquiry. The enquiry proceeded ex-parte. On May 3, 1965 the enquiry officer submitted his report to the Government. He found the charges proved. He recommended that the appellants should be dismissed from service. On June 8, 1966, the Government passed an order dismissing him from service. Then he filed a writ-petition in the High Court at Jabalpur. The writ petition was dismissed. He filed an appeal in this Court on the Strength of a certificate granted by the High Court.

2. In this court the appellant's main arguments was that in the special circumstances of the case he got no opportunity to defend himself before the enquiry officer. The place of enquiry was Jagdalpur which is 500 kilo metres away from Rewa where he was residing during his suspension. No subsistence allowance was paid to him, and he had no money to go to Jagdalpur to face the enquiry. This Court took the view that if no subsistence allowance was paid to him and if he could not go to Jagdalpur and face the enquiry on account of non-payment of subsistence allowance the enquiry would be vitiated and the order of dismissal could not be sustained. As the High Court had not investigated the point raised by the appellant before this Court, the case was remanded to the High Court with the direction that the High Court should hear the parties on the question : "whether the appellant was paid the subsistence allowance at any time before the disposal of the hearing before the Enquiry Officer, and whether on account of non-payment of the subsistence allowance he was unable to appear before the Enquiry Officer". The High Court was directed to dispose of the writ petition in the light of its findings on the question.

3. In the High Court the appellant and the respondent filed affidavits in support of their case on the question. On a perusal of the entire evidence on record the High Court answered the question

against the appellant. This appeal by special leave is directed against the order of the High Court dismissing the writ petition.

4. The Court has found the following facts. The hearing of the case started before the Enquiry Officer at Jagdalpur in February, 1965. The case was heard on February 10, 11 and March 13, 1965. It appears that a part of the evidence for the Government was recorded on these dates. On March 20, 1965, the appellant received Rs. 312/- as subsistence allowance for the months of November and December, 1964 and January, 1965. Further evidence for the Government was recorded on April 3, 6 and 15, 1965. A second payment of Rs. 213/- as subsistence allowance was made to the appellant on May 13, 1965. As already stated the Enquiry Officer submitted his report to the Government on May 28, 1965. These facts plainly show that a part of the evidence had already been recorded before the first payment of subsistence allowance was made to the appellant. Nevertheless, the High Court has held that he was not unable to appear before the Enquiry Officer on account of the non-payment of his subsistence allowance. The principal reasons given by the High Court in support of its view are these.

- (1) The appellant did not complain specifically in the writ petition that he could not attend the enquiry as he had not been paid subsistence allowed and has no means of his own to meet the expenses of going to Jagdalpur from Rewa for facing the enquiry.
- (2) His affidavit gives no particulars about the sources of his income and the estimates of expenses to be incurred by him in the enquiry and does not explain how he was unable to meet those expenses.
- (3) The third class railway fare from Rewa to Jagdalpur is about Rs. 20/-. He would need a few more rupees for expenses during his stay at Jagdalpur. He had been drawing a pay of Rs. 300/- per month.
- (4) After he was dismissed from service, he filed a writ petition in the High Court. After his writ petition was dismissed by the High Court he came in appeal to this Court. This shows that he had enough money to attend the enquiry at Jagdalpur. The High Court summed up : "In all these circumstances we find that it was not financial stringency which prevented the petitioner from co-operating in the departmental enquiry but that he was otherwise unwilling to do so".

5. With respect, we find it difficult to share the view taken by the High Court. Paragraph 5 of the writ petition expressly alleges that on December 5, 1964, the appellant sent a letter to the Enquiry Officer informing that unless he was paid subsistence allowance he would not be able to face the enquiry proceedings. The letter was filed along with the petition. It is annexure H. The letter stated that "Until and unless I am paid subsistence allowances- I categorically refuse to face any proceedings as *I have no capacity to do so because of acute shortage of funds*". (emphasis added). This is obviously specific pleading on the point that for non-payment of subsistence allowance he was short of funds and could not attend the enquiry. It is true that his affidavit does not give any particulars about his sources of income and the estimate of expenses to be incurred in the enquiry. But it would prima facie suggest that he had not other sources of income except his pay. If he had no other sources of income, he could not invent them for the purpose of mentioning them in the affidavit. More significantly, the Government affidavit does not allege that he had any other sources of income except pay. The fact that

he had been drawing a monthly pay of Rs. 300/- till October, 1964 would not necessarily show that he had sufficient money to enable him to go to Jagdalpur to attend the enquiry in February, 1965. He was suspended on October 30, 1964 and thereafter he did not get subsistence allowance until March 20, 1965. Having regard to the prevailing high prices, it is not possible to draw any adverse inference against him from the mere circumstances that he had been receiving a monthly pay of Rs. 300/- till October, 1964. The fact that he filed a writ petition immediately on passing of the order of dismissal and thereafter came in appeal to this Court, would not establish that he had enough resources to enable him to attend the enquiry. It seems to us that on the whole the High Court has gone by conjectures and surmises. There is nothing on the record to show that he has any sources of income except pay. As he did not receive subsistence allowance which was made to him March 20, 1965 after a part of the evidence had already been recorded on February 9, 10 and 11, 1965. The enquiry proceedings during those days are vitiated accordingly. The report of the Enquiry Officer based on that evidence is infected with the same defect. Accordingly the order of the Government dismissing him from service cannot stand. It was passed in violation of the provision of art. 311 (2) of the Constitution for the appellant did not receive a reasonable opportunity of defending himself in the enquiry proceedings.

6. Accordingly, we allow the appeal with costs. Setting aside the order of the High Court, we allow the writ petition and quash the order of the Government dated June 8, 1966 whereby the appellant was dismissed from service. It will open to the Government to start a fresh enquiry in accordance with law against the appellant.

क्रमांक 5559-1 जी.एस.-1-73/26739

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. सभी विभागाध्यक्ष, अम्बाला तथा हिसार मण्डल के आयुक्त,
सभी उपायुक्त तथा उप मण्डल अधिकारी, हरियाणा ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा उच्च न्यायालय, चण्डीगढ़ तथा
सभी जिला एवं सत्र न्यायाधीश, हरियाणा ।
दिनांक, चण्डीगढ़ 31 अक्टूबर, 1973.

विषय:- निलम्बित कर्मचारियों के मामलों के शीघ्र निपटारे जाने के बारे में हिदायतें ।

महोदय,

मुझे आदेश हुआ है कि मैं उपरोक्त विषय पर संयुक्त पंजाब सरकार के परिपत्र क्रमांक 3624-4 जी.एस.-61/14507, दिनांक 21-4-61 में जारी की गई हिदायतों की ओर आपका ध्यान दिलाऊँ जिनमें अन्य बातों के अतिरिक्त यह कहा गया था कि दोषी कर्मचारियों के विरुद्ध की जा रही जांचों की प्रगति पर विशेष ध्यान रखा जाये ताकि ऐसे मामलों में अन्तिम निर्णय करने में किसी प्रकार की अनावश्यक देरी न हो । इस पत्र में यह भी कहा गया था कि जांच की कार्यवाही 6 महीने के अन्दर पूरी की जानी चाहिये ।

2. पब्लिक एकाउन्ट्स कमेटी की दूसरी रिपोर्ट के पैरा-10 में इस संबंध में एक केस ध्यान में लाया गया है जिसमें जांच को पूरी करने तथा दोषी कर्मचारी को दण्ड देने में 5 वर्ष का समय लगा और देरी मुख्यतः इस कारण हुई कि बार-बार जांच अधिकारी बदले गये और जांच बार-बार नये सिरे से शुरू की गई । जिस केस का उक्त रिपोर्ट में वर्णन किया गया है वह सम्भवतः इस प्रकार का अकेला केस नहीं है । पब्लिक एकाउन्ट्स कमेटी द्वारा प्रकट किये गये विचारों को ध्यान में रखते हुए यह उचित समझा गया है कि यह बात सभी सक्षम अधिकारियों के ध्यान में लायी जाये कि विभागीय जांचों के दौरान जांच अधिकारी यथासम्भव बदले नहीं जाने चाहियें जांच अधिकारी को बदलने का प्रश्न तभी उठना चाहिये जब उसके लिये ठोस कारण उपलब्ध हों जैसे कि सम्बन्धित अधिकारी किसी खास official capacity में जांच कर रहा हो या जब यह प्रतिनियुक्ति/ट्रेनिंग पर राज्य से बाहर चला जाये या रिटायर हो जाये आदि । केवल इसी आधार पर कि उसकी नियुक्ति किसी अन्य पद/विभाग में की गई है, उसे जांच अधिकारी के पद से नहीं बदलना चाहिए। उदाहरण के तौर पर यदि कोई एच.सी.एस./आई.एस. का अधिकारी कृषि विभाग में कार्य करते हुए कोई जांच कर रहा था और बाद में उसका तबादला उद्योग विभाग में हो जाता है तो वह उद्योग विभाग में कार्य करते हुए सम्बन्धित जांच पूरी कर सकता है । निकट भविष्य में रिटायर होने वाले अधिकारियों को भी जांचअधिकारी यथासम्भव न लगाया जाये ।

हस्ता/-

उप सचिव, राजनैतिक एवं सेवाएं,
कृते : मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को सूचनार्थ और आवश्यक कार्यवाही के लिए भेजी जाती है :- वित्तायुक्त राजस्व, हरियाणा तथा हरियाणा सरकार के सभी प्रशासकीय सचिव ।

**English version of the Haryana Government letter No. 5337-GSI-74/24093,
dated the 21st October, 1974**

Subject :- Speedy disposal of case of Government servants under suspension Instructions regarding.

I am directed to invite your attention to the instructions contained in the composite Punjab Government letter No. 3624-4GS-61/14507, dated the 21 st April, 1961 (copy enclosed), on the subject noted above and to say that according to para 2(iii) of these instructions cases in which Government servants have remained suspended for a period exceeding nine months are to be submitted to the Council of Ministers for their consideration and approval. Further, according to para 4 of the aforesaid instructions and the Vigilance Department, who have been entrusted with the work of overall supervision in cases of departmental proceedings against suspended Government servants have also to submit a report to the Council of Ministers regarding the progress of the case where Govt. servants have been suspended for a period of more than 18 months. The Haryana Government have reconsidered this matter and are of the view that submission of cases to the Council of Ministers by the Administrative Department and also the Vigilance Department leads to duplication of work. It has therefore been decided that henceforth the Vigilance Department shall submit the above referred report regarding outstanding cases more than 18 months old to the Chief Minister instead of to the Council of Ministers, for orders.

2. It seems that despite the standing Government instructions, the Heads of Departments/ Administrative Departments are not paying sufficient attention to the expedition completion of the departmental enquiries, particularly in cases in which Government servants have been placed under suspension. It is, therefore, again emphasised that the Government instructions in this regard should be followed strictly. It has also been decided that the Administrative Department, while submitting such cases to the Council of Ministers should variably furnish information in the following proforma along with the Memorandum :-

Name of the Government servant, his designation and the date of his suspension	Charge in brief. Date on which regular charge-sheet was served	Present position of the case	Date up to which the extension required along with reasons	Remarks
1	2	3	4	5

It may kindly be ensured that the above instructions are complied with by all concerned.

क्रमांक 5618-5 जी.एस.-1-74/29282

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा के सभी विभागाध्यक्ष, आयुक्त अम्बाला व हिसार मण्डल, सभी उपायुक्त तथा उप मण्डल अधिकारी (सिविल) ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाई कोर्ट और सभी जिला एवं सत्र न्यायाधीश, हरियाणा ।
दिनांक, चण्डीगढ़, 18 दिसम्बर 1974 ।

विषय:- निलम्बित सरकारी कर्मचारियों के मामलों के शीघ्र निपटारे बारे ।

महोदय,

मुझे आपका ध्यान उपरोक्त विषय पर संयुक्त पंजाब सरकार के परिपत्र क्रमांक 3624-जी.एस.-61/14507, दिनांक 21-4-1961 में जारी की गई हिदायतों की ओर दिलाने तथा यह कहने का आदेश हुआ है कि इन हिदायतों अनुसार निलम्बित सरकारी कर्मचारियों के विरुद्ध जांच आदि का कार्य 6 महीने के भीतर पूर्ण किया जाना होता है और यदि इस निर्धारित अवधि में यह कार्य न किया जा सके और इस समय में वृद्धि कराना अपेक्षित हो तो 3 मास तक कार्यकारी मंत्री तथा उसके पश्चात् 9 मास की अवधि व्यतीत होने पर केस मंत्री परिषद् को अनुमोदन हेतु प्रस्तुत करना होता है । यह निहित है कि इन हिदायतों का आपके विभाग द्वारा दृढ़तापूर्वक पालन किया जा रहा है । कुछ ऐसे भी मामले होते हैं जिनमें कर्मचारी/अधिकारी को चौकसी विभाग के सुझाव पर सम्बन्धित विभाग निलम्बित करने के आदेश जारी करते हैं । ऐसे मामलों में यह अनुभव किया गया है कि 6 या 9 मास की अवधि के समाप्त होने पर विभाग इन केसिज को कार्यभारी मंत्री/मंत्री परिषद् के सम्मुख प्रस्तुत नहीं करते हैं जिससे उपरोक्त हिदायतों की उल्लंघना होती है । इस बारे में हरियाणा सरकार ने विस्तारपूर्वक विचार करके यह निर्णय किया है कि ऐसे मामलों को जिनमें चौकसी विभाग के सुझाव पर कर्मचारी/अधिकारी को निलम्बित किया गया हो और उन्हें निलम्बित किये हुए 6 मास की अवधि समाप्त हो गई हो या होने वाली हो तो इस अवधि को बढ़ाने के लिये मामलों को सम्बन्धित प्रशासकीय विभाग द्वारा ही कार्यभारी मंत्री/मंत्री परिषद् को प्रस्तुत करके मंजूरी लेनी होगी । इस सम्बन्ध में जिस आधार पर बढ़ोतरी की जानी हो उसके बारे में अपेक्षित सूचना चौकसी विभाग से प्राप्त कर ली जाए ।

2. कृपया यह हिदायतें अपने अधीन सभी कर्मचारियों/अधिकारियों के ध्यान में अनुपालना हेतु ला दें और इस पत्र की पावती भेजें ।

भवदीय,

उप सचिव, सामान्य प्रशासन,
कृते : मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को सूचनार्थ भेजी जाती है । वित्तायुक्त राजस्व, हरियाणा सरकार तथा हरियाणा सरकार के सभी प्रशासकीय सचिवों ।

No. 7725-6 GSI-76/32983

From

The Chief Secretary to Government, Haryana.

To

- (i) All Heads of Departments in Haryana, Commissioners Ambala and Hisar Divisions, all Deputy Commissioners, and Sub Divisional Officer (Civil).
- (ii) The Registrar, Punjab and Haryana High Court, Chandigarh and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 3rd December, 1976.

Subject :- Suspension of Government Employees.

Sir,

I am directed to address you on the subject noted above and to say that cases have come to the notice of the Government where employees have remained under suspension for long periods of time. It has been observed that this has happened even in cases where the nature of default may not *prima facie* justify the penalty of dismissal from service. It is, therefore, requested that competent authorities should apply their minds to the facts of all such cases and, if so warranted, get the employees re-instated by obtaining orders at appropriate levels without prejudice to such action as may be taken as a result of the enquiry.

Yours faithfully,

Sd/-

Deputy Secretary, General Administrative,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and guidance to the: The Financial Commissioner and all Administrative Secretaries to Government, Haryana.

No. 3764- IGS-I-77/17221

From

Chief Secretary to Government, Haryana.

To

- (i) All Heads of Departments, Commissioners Ambala and Hisar Divisions, all Deputy Commissioners, and Sub Divisional Officers (Civil) in Haryana.
- (ii) The Registrar, Punjab and Haryana High Court and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 23rd June, 1977.

Subject :- Speedy disposal of cases of Government Servants under suspension-Instructions regarding.

Sir,

- | |
|--|
| 1. No. 3874-6GSI-76/
circular
dated 29-6-76.17089, |
| 2. No. 7725-6GSI-76/32983
dated 3-12-76. |
| 3. No. 78-6GSI-77/11118,
dated 25-1-77. |

I am directed to invite attention to composite Punjab Government circular letter No. 3624-GS-61/14507 dated 21-4-1961 and subsequent Haryana Government circular letters noted in the margin on the subject cited above, and to say that cases have again come to the notice of the Government where employees have remained under suspension for abnormally long periods of time and that, too, without being served with any charge sheet. It is very unfair to such employees to be made to remain in suspense for such a long time only because of delay in the proceeding of cases on the part of the departments. It is, therefore, requested that a

list of all cases in which Government servants have remained under suspension for more than six months without being served with a charge-sheet, may be forwarded to this department. Simultaneously, orders of the competent authority may be sought and reinstatement ordered, wherever justified.

Yours faithfully,

Sd/-

Deputy Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and guidance to: The Financial Commissioners, Haryana and All Administrative Secretaries to Government, Haryana

क्रमांक 5598 - जी.एस./77/32569

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष, आयुक्त अम्बाला व हिसार मण्डल, सभी उपायुक्त एवं उप मण्डल अधिकारी (सिविल) ।
 2. रजिस्ट्रार, पंजाब तथा हरियाणा हाईकोर्ट चण्डीगढ़ तथा हरियाणा राज्य के सभी जिला एवं सत्र न्यायाधीश ।
- दिनांक, चण्डीगढ़, 10 अक्टूबर 1977 ।

विषय: - निलम्बित सरकारी कर्मचारियों के मामलों के शीघ्र निपटान बारे ।

महोदय,

मुझे निदेश हुआ है कि मैं आपका ध्यान उपरोक्त विषय पर संयुक्त पंजाब सरकार के परिपत्र क्रमांक 3624-जी.एस. 61/14507, दिनांक 21-4-61 द्वारा जारी की गई हिदायतों की ओर दिलाऊं और सूचित करूं कि इन हिदायतों के अनुसार निलम्बित सरकारी कर्मचारियों के विरुद्ध जांच आदि का कार्य 6 मास के भीतर पूर्व किया जाना होता है और यदि इस निर्धारित अवधि में वह कार्य पूरा न किया जा सके और इस समय में वृद्धि कराना आवश्यक हो तो 3 मास तक कार्यभारी मंत्री और इसके पश्चात् 9 मास की अवधि व्यतीत होने पर केस मंत्री परिषद् को प्रस्तुत करना होता है । सरकार ने इस मामले पर पुनः विचार करके यह निर्णय लिया है कि भविष्य में निलम्बित कर्मचारियों को 6 मास की अवधि के पश्चात् कार्यभारी मंत्री 3 मास की बजाये 6 मास तक वृद्धि देने के लिये सक्षम होंगे यदि किसी कर्मचारी को एक वर्ष की अवधि के पश्चात् निलम्बित रखना आवश्यक हो तो मामला मंत्री-परिषद् को अनुमोदन हेतु प्रस्तुत किया जाए । मंत्री परिषद् को ज्ञापन प्रस्तुत करते समय सरकार के परिपत्र क्रमांक 5337-5 जी.एस./74/24093, दिनांक 21-10-74 द्वारा आपेक्षित सूचना निर्धारित प्रोफार्मा में दी जाये ।

2. कृपया उपरोक्त आदेशों की दृढ़ता से पालन करें ।

हस्ता / -

उप सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को सूचनार्थ तथा आवश्यक कार्यवाही हेतु भेजी जाती है ।

वित्तायुक्त हरियाणा सभी प्रशासकीय सचिव, हरियाणा सरकार ।

No. 25/8/78-GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala and Hisar Divisions, All Deputy Commissioners and Sub Divisional Officers (Civil) in the State.
2. The Registrar, Punjab and Haryana High Court, and District and Sessions Judges in the State.

Dated, Chandigarh, the 12-4-78

Subject:- Speedy disposal of cases of Government Employees under suspension.

Sir,

I am directed to invite a reference to the composite Punjab Government letter No. 3624-GS-61/14504, dated the 21st April, 1961, which provides *inter alia* that to avoid unnecessary harassment of Government Employees, the whole process of investigation and enquiry against such employees, should be completed within six months excluding any period during which proceedings are stopped owing to reference to a Court of law. These instructions further lay down that charge sheets should be handed over to the concerned Government Employees within 15 days from the date of taking a decision to start formal proceedings. It has come to the notice of the Government that in a large number of cases chargesheets are served upon the suspended employees after considerable delay due to various reasons such as protracted correspondence between subordinate offices and Heads of Departments incomplete reference to the Government and getting the drafts vetted in Punishment and Appeal by the Law Department as provided in Government letter No. 2770-IGSI-72/14511, dated 10-5-1972. Delay also occurs at the time of inspection of record by the Government Employee concerned and also during subsequent stages of departmental enquiry. The Government views such delays with great concern and emphasizes that cases of suspending employees should receive special attention of the concerned authorities. Steps should be taken to cut down delay at every stage of the proceeding by taking up the matter even on personal level. In any case, for obvious reasons, such cases should not be allowed to fall in routine. Only then will it be possible to complete the whole process of investigation and enquiry within the stipulated period. The State Government will take serious view where it is found that these industries have not been followed and in consequence delay has occurred. It is, therefore, requested that these instructions may be brought to the notice of all concerned for meticulous compliance.

Yours faithfully,

Sd/-

Deputy Secretary, General Administrative,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and compliance to the Financial Commissioner, Haryana.
All Administrative Secretaries to Government, Haryana.

तुरन्त

विषय :- निलम्बित सरकारी कर्मचारियों के विरुद्ध केसों का शीघ्र निपटान ।

- (1) 3874-6 जी.एस.-0-176/17089,
दिनांक 29 जून, 76
- (2) 7725-6 जी.एस.-1-76/32983,
दिनांक 3 दिसम्बर, 1976
- (3) 78-6 जी.एस.-1-77/1118,
दिनांक 25 जनवरी, 1977
- (4) 3764-I जी.एस.-1-77/17221,
दिनांक 23 जून, 1977 तथा
- (5) 25/8/78-जी.एस.
दिनांक 12-4-1978

कृपया वित्तायुक्त (राजस्व) तथा हरियाणा सरकार के सभी प्रशासकीय सचिव कृपया उपरोक्त विषय पर संयुक्त पंजाब सरकार के परिपत्र क्रमांक 3624 जी.एस.-61/14507, दिनांक 21 अप्रैल, 1961 तथा हाशिये में दिये गये हरियाणा सरकार के परिपत्रों की ओर ध्यान देने की कृपा करेंगे?

2. यह देखने में आया है कि समय-समय पर जारी की गई हिदायतों के बावजूद प्रायः विभागीय जांचों को पूर्ण करने में बहुत विलम्ब हो रहा है और निलम्बित अधिकारियों/कर्मचारियों की संख्या दिन-प्रतिदिन बढ़ रही है। इसका कारण यह प्रतीत होता है कि केसों में विलम्ब रोकने के लिए कोई प्रणाली अपनाई नहीं गई है। अतः सरकार ने यह निर्णय लिया है कि जिन मामलों में निलम्बन अवधि का समय 6 मास से बढ़ गया हो उनको monitor करने का उत्तरदायित्व स्वयं सम्बन्धित प्रशासकीय सचिवों पर होगा। वे अपने विभाग के किसी अधिकारी को इस कार्य के लिए नामांकित कर सकते हैं ताकि वह उसको समय-समय पर प्रत्येक केस की प्रगति से अवगत करवाता रहे और जहां कहीं कोई रुकावट पैदा हो तो उसे दूर करवाने के लिए उचित कार्यवाही करे। इन मामलों में पर उचित नियंत्रण रखने के लिये प्रत्येक विभाग के लिए रजिस्टर खोले जाएं।

3. अनुरोध किया जाता है कि मामले में उचित कार्यवाही करने के लिए तुरन्त पग उठाये जाएं।

हस्ता/-

उप सचिव, सामान्य प्रशासन,

कृते : मुख्य सचिव, हरियाणा सरकार ।

सेवा में

वित्तायुक्त राजस्व, हरियाणा तथा
हरियाणा सरकार के सभी प्रशासकीय सचिव।

अशा : क्रमांक 33/16/78 जी.एस.-78

दिनांक, चण्डीगढ़, 20/12/78

विषय :- निलम्बित सरकारी कर्मचारियों के विरुद्ध केशों का शीघ्र निपटान ।

क्या वित्तायुक्त (राजस्व) तथा हरियाणा सरकार के सभी प्रशासकीय सचिव कृपया उपरोक्त विषय पर सरकारी अनुदेश अशा: क्रमांक 33/16/1 जी.एस. 1-78 दिनांक 21-12-78 की ओर ध्यान देने की कृपा करेंगे ?

2. उनसे अनुरोध है कि वे :-

- (1) उन अधिकारियों के नामों की सूचना जो उन्होंने संदर्भित अनुदेशों के तहत नामांकित किए हैं इस विभाग को शीघ्र भेजें ।
- (2) निलम्बित अधिकारियों/कर्मचारियों के सम्बन्ध में सूचना हर मास की 7 तारीख को संलग्न प्रोफार्मा में मुख्य मन्त्री के प्रधान सचिव तथा मुख्य सचिव को भेजें ।
- (3) नामांकित अधिकारियों को यह निर्देश देवें कि वे सभी निलम्बित अधिकारियों/कर्मचारियों के केश मुख्य मन्त्री के प्रधान सचिव से हर मास डिसकस करें और उन्हें मिलने से पूर्व उनकी सुविधा अनुसार समय पहले लें ।

हस्ता / -

उप सचिव, सामान्य प्रशासन,
कृते : मुख्य सचिव, हरियाणा सरकार ।

(नाम से)
सेवा में

वित्तायुक्त राजस्व हरियाणा तथा सभी प्रासकीय सचिव ।

अशा : क्रमांक 33/16/78-1 जी.एस.-1-78,

दिनांक, चण्डीगढ़, 8 जनवरी, 1979

क्रमांक 33/13/79-1 जी.एस.

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष, आयुक्त अम्बाला व हिसार मण्डल, सभी उपायुक्त तथा सभी उप मण्डल अधिकारी (सिविल)
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाईकोर्ट, चण्डीगढ़ ।
दिनांक, चण्डीगढ़, 16 अप्रैल, 1979 ।

विषय: - निलम्बित कर्मचारियों/अधिकारियों के संबंध में ।

महोदय,

निदेश हुआ है कि मैं आपका ध्यान उपर्युक्त विषय पर सरकार के परिपत्र क्रमांक 3624-जी.एस. 61/4507, दिनांक 21-4-1961 तथा क्रमांक 5598-1 जी.एस.-77/32579, दिनांक 10-10-1977 की ओर दिलाऊँ और यह लिखूँ कि सरकार के कुछ विभागों ने यह प्रश्न उठाया है कि क्या उस सरकारी कर्मचारी/अधिकारी जो कोर्ट में उसके विरुद्ध चल रहे केस के आधार पर एक वर्ष से ज्यादा समय से निरन्तर निलम्बित चला आ रहा है, के सम्बन्ध में मामला मन्त्रीपरिषद् की अनुमति हेतु प्रस्तुत किये जाने की आवश्यकता है या नहीं ?

2. सरकार ने विचार उपरांत निर्णय लिया है कि सामान्य केसों की भाँति, जो केस न्यायलयों में पेश किये जा चुके हैं/चल रहे हैं, में भी कर्मचारियों/अधिकारियों की निलम्बित अवधि को 6 मास से एक वर्ष तक बढ़ाने के लिए कार्यभारी मन्त्री की अनुमति तथा एक वर्ष से अधिक समय के लिए निलम्बन अवधि को बढ़ाने के लिये मन्त्रीपरिषद् की अनुमति प्राप्त की जाये ।

दूसरे शब्दों में सरकार ने निर्णय लिया है कि जिन केसों में विभागीय कार्यवाही हो रही है, और जो न्यायलयों में भी चल रहे हैं, कार्यभारी मन्त्री/मन्त्रीपरिषद् की अनुमति केस की स्थिति अनुसार ही ली जाये ।

भवदीय

हस्ता / -

अवर सचिव सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

उपर्युक्त की एक-एक प्रति वित्तायुक्त, राजस्व, हरियाणा तथा सभी प्रशासकीय सचिव, हरियाणा ।

हस्ता / -

अवर सचिव सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

दिनांक 16-4-79

उपर्युक्त की एक प्रति प्रधान सचिव/मुख्य मन्त्री महोदय को सूचनार्थ भेजी जाती है ।

तुरन्त

विषय: - निलम्बित सरकारी कर्मचारियों के मामलों के शीघ्र निपटान बारे ।

क्या वित्तायुक्त (राजस्व) तथा हरियाणा सरकार के सभी प्रशासकीय सचिव कृपया उपरोक्त विषय पर सरकार परिपत्र क्रमांक 25-8-78 जी.एस., दिनांक 12-4-1978 की ओर ध्यान देने की कृपा करेंगे ?

2. सरकार ने निलम्बित कर्मचारियों/अधिकारियों के मामलों को शीघ्र अति शीघ्र निपटान करने हेतु निर्णय लिया है कि प्रत्येक प्रशासकीय विभाग भविष्य में निलम्बित कर्मचारियों/अधिकारियों के मामलों को जुटकर अनुसरण किया करें ताकि उनके निपटान में देरी को ठीक ढंग से चैक किया जा सके ।

3. उनसे अनुरोध है कि ये अनुदेश सभी कर्मचारियों/अधिकारियों के नोटिस में दृढ़तापूर्वक पालना हेतु ला दिए जाएं ।

हस्ता / -

उप सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

वित्तायुक्त राजस्व, हरियाणा सरकार तथा सभी प्रशासकीय सचिव तथा उपर्युक्त की एक प्रति प्रधान सचिव/मुख्य मन्त्री महोदय को सूचनार्थ भेजी जाती है ।

तुरन्त

विषय: - **निलम्बित कर्मचारियों/अधिकारियों के संबंध में ।**

राजस्व

क्या वित्तायुक्त राजस्व एवं सचिव, हरियाणा सरकार उपर्युक्त विषय पर इस विभाग के अशासकीय क्रमांक 5598-1 जी.एस. 1-77/32569, दिनांक 10-10-1977 तथा क्रमांक 33/13/79-1 जी.एस. 1, दिनांक 16-4-1979 की ओर ध्यान देने की कृपा करेंगे ?

2. सरकार ने मामले को आगे विचार करके यह निर्णय लिया है कि ऐसे निलम्बित कर्मचारियों/अधिकारियों के मामले (जिनके विरुद्ध कोर्ट में चल रहे केस के कारण निलम्बित अवधि को एक वर्ष से ज्यादा समय के लिए बढ़ाने हेतु) जब प्रशासकीय विभाग द्वारा सम्बन्धित केस मन्त्रीपरिषद् को भेजा जाए तो ऐसे केसों में निम्नलिखित सूचना ज्ञापन में नीचे दिए गए प्रोफार्मा में दी जाया करे :-

कर्मचारी का नाम, पदसंज्ञा तथा निलम्बन की तिथि	एफ.आई.आर. की रजिस्ट्रेशन की तिथि तथा जुर्म की प्रकृति	कोर्ट में चलान प्रस्तुत करने की तिथि	केस की वर्तमान स्थिति
1	2	3	4

3. सरकार के इस निर्णय की दृढ़ता से पालना की जाए ।

अवर सचिव सामान्य पशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. वित्तायुक्त राजस्व, हरियाणा, सभी प्रशासकीय सचिव, हरियाणा ।

अशा : क्रमांक 33/6/79-1 जी.एस. 1,

दिनांक 27 अप्रैल, 1979

उपर्युक्त की एक प्रति प्रधान सचिव/मुख्य मन्त्री को सूचनार्थ भेजी जाती है ।

स. दे. भाम्बरी

अस.प.क्र. 33/17/79-1 जी.एस. 1
मुख्य सचिव, हरियाणा सरकार,
चण्डीगढ़ ।
जुलाई, 12/13, 1979

विषय: - निलम्बित कर्मचारियों/अधिकारियों के मामलों को शीघ्र निपटान करने हेतु
निर्धारित प्रोफार्मा में पहली त्रैमासिक रिपोर्ट 31-7-79 तक भेजने हेतु ।

प्रिय,

कृपया उपर्युक्त विषय के संदर्भ में प्रशासकीय सचिवों की बैठक दिनांक 3-7-79 को कार्यवाही की ओर ध्यान दें (प्रति संलग्न है)

2. निर्धारित प्रोफार्मा की प्रति जिसमें अपेक्षित सूचना भेजी जाती है, संलग्न है । आपसे अनुरोध है कि आप इस प्रोफार्मा में अपने अधीन विभागों के निलम्बित कर्मचारियों के बारे पहली त्रैमासिक रिपोर्ट 31-7-79 तक संयुक्त सचिव, हरियाणा सरकार, सामान्य प्रशासन को भेजें । इसके पश्चात यह रिपोर्ट हर त्रिमाही की समाप्ति के दस दिन के भीतर भेजी जाये ।

सभी प्रशासकीय सचिव,
(नाम से)

आपका
हस्ता/-
स. दे. भाम्बरी

**Minutes of the meeting of Administrative Secretaries held in the room of
Chief Secretary at 12 noon on 3-7-79**

The following Administrative Secretaries were present :--

- (i) Shri S.D. Bhambri, Chief Secretary.
- (ii) Shri S.K. Misra, F.C.-cum-Addl. Chief Secretary.
- (iii) Shri Kulwant Singh, Secretary, Deptt. of Coop. etc.
- (iv) Shri B.S. Ohja, PSCM.
- (v) Shri H. V. Goswami, Secretary, Department of Irrigation and PWD B&R.
- (vi) Shri V.K. Sibal, Secy., Department of Industries.
- (vii) Shri A. Banerjee, Secretary, Finance.
- (viii) Shri Y. Sahni, Secretary, Town and Country Planning Deptt. etc.
- (ix) Shri J.D. Gupta, Secretary, Education.

Shri O.P. Gupta, J.L.R. and Shri S.P. Bhatia, DSGA were in attendance.

2. Cases of suspension

It was intimated that for the purpose of monitoring these cases by the Chief Secretary, a cell has been created in his office. The Administrative Secretaries will send quarterly information in a proforma to this cell, indicating the status of all cases of suspension of employees. This proforma be sent to them by tomorrow and the first report in the prescribed proforma will be communicated to DSPPS by 31-7-1979. The Administrative Secretaries were required to scrutinise each case to be included in the proforma and initiate remedial steps.

S. D. BHAMBRI,

Chief Secretary to Government, Haryana.

Proforma showing the particulars of the officials/officers who are under suspension

Name of the Department _____

Sr. No.	Name of the officials/officers under suspension	Designation	Date when suspended	Charges against him (in brief)	Present stage of the case	Reasons for delay if any	Approximate date by which the case is likely to be finalised
1	2	3	4	5	6	7	8

Compendium of Instructions on Disciplinary matter—Vol. V

No. 32/20/79-1GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, the Commissioner, Ambala and Hissar Division,
All Deputy Commissioners and all Sub Divisional Officer (Civil) in the State.
2. The Registrar, Punjab and Haryana High Court.

Dated Chandigarh, the 13th August, 1979.

Subject:- Speedy disposal of cases of Government employees under suspension-Completion of departmental action within six months.

Sir,

I am directed to refer to Haryana Government circular letter No.25/8/78-GSI, dated the 12th April, 1978, wherein suggestions were made for the speedy disposal of cases of Government servants under suspension. It has come to the notice of the Government that the instructions issued in the behalf are not being strictly followed. The Government would, therefore, like to reiterate that in order to avoid unnecessary harassment to the employees under suspension, all efforts should be made to complete department action against them within six months.

2. It has also been decided by the Government that a list of cases against employees under suspension, which have investigation with the police for more than one year as on 30-6-79 should be got prepared and sent to this department.

3. The above instructions may please be brought to the notice of all concerned for meticulous compliance.

Yours faithfully,

RAM PARKASH

Under Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and necessary action to the Financial Commissioner (Revenue) Haryana; and All Administrative Secretaries to Government, Haryana.

No. 25 (5)-2GSI-79

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioner, Ambala and Hissar Division.
All Deputy Commissioners and all Sub Divisional Officers (Civil) in the State.
2. The Registrar, Punjab and Haryana High Court, Chandigarh.
Dated, Chandigarh, the 24th October, 1979.

Subject:- Speedy disposal of cases of Government employees under suspension.

Sir,

I am directed to invite reference to the composite Punjab Government letter No. 3624-GS-61/14507 dated the 21st April, 1961, which provides inter alia that to avoid unnecessary harassment of Government employees under suspension, the whole process of investigation and enquiry against such employees should be completed within six months excluding any period during which proceedings are stopped owing to reference to a court of Law. These instructions also lay down that the chargesheets should be handed over to the concerned. Government employees within 15 days from the date of taking a decision to start formal proceedings. Further as per these instructions, the written statement of defence should ordinarily be required to be submitted within a period of a fortnight and in no case should a period of more than a month be allowed for the purpose.

2. In Haryana Government letter No. 25/8178-GSI, dated the 12th April, 1978, it was noted that in large number of cases, charge sheets are served upon the employees after considerable delay due to various reasons mentioned therein. It was observed that delay also occurred at the time of inspection of record by the Government employee concerned and also during subsequent stages of departmental enquiry. It was, therefore, emphasised that steps be taken to cut down delay to every stage of the proceedings by taking up the matter even at personal level.

3. It has come to the notice of the Government that in certain cases the records which are to be shown to the employees under charge-sheet to enable them to submit written of defence are made available after considerable delay. The State Government desires that such delay must be cut down because the charge-sheet and the statement of allegation are based on the records already available with the concerned authorities. However, if the record asked for is such as cannot be allowed to be inspected under the instructions and rules, the concerned employee should be informed promptly requiring him to submit his reply within the stipulated period of time.

4. These instructions should be brought to the notice of all concerned for compliance.

Yours faithfully,

Under Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and compliance to :—

1. The Financial Commissioner, Revenue, Haryana.
and All Administrative Secretaries to Government, Haryana.

क्रमांक 2(12)-2 जी.एस.- III-79

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष,
आयुक्त अम्बाला तथा हिसार मंडल,
सभी उपायुक्त तथा उप-मंडल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाईकोर्ट तथा हरियाणा राज्य
के सभी जिला एवं सत्र न्यायाधीश ।
दिनांक, चण्डीगढ़, 11 जनवरी, 1980 ।

विषय: - निलम्बित कर्मचारियों के केंसों का शीघ्रता से निपटान करने बारे हिदायतें-18 मास से अधिक अवधि से निलम्बित कर्मचारियों की सूची मुख्य मंत्री महोदय को प्रस्तुत करने बारे ।

मुझे निदेश हुआ है कि मैं आपका ध्यान हरियाणा सरकार के परिपत्र क्रमांक 53375-जी.एस. 1-74/24093, दिनांक 21 अक्टूबर, 1974 की ओर आकर्षित करूँ और कहूँ कि इस पत्र में दी गई हिदायतों के अनुसार जो सरकारी कर्मचारी 18 मास से अधिक समय से निलम्बित हों उनके बारे में मासिक विवरण मुख्य मंत्री जी को प्रस्तुत करने हेतु चौकसी विभाग को भेजा जाता है । सरकार ने इस मामले पर पुनः विचार किया है और निर्णय लिया गया है कि भविष्य में 18 मास से अधिक समय से निलम्बित कर्मचारियों के मामलों का विवरण चौकसी विभाग की बजाए सामान्य प्रशासन विभाग द्वारा मुख्य मंत्री जी को प्रस्तुत किया जाये । अतः आपसे अनुरोध है कि अपेक्षित विवरण संलग्न प्रोफार्मा में चौकसी विभाग की बजाए सामान्य प्रशासन विभाग को भेजें।

2. इस पत्र की पावती भेजने की कृपा करें ।

राम प्रकाश

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

इसकी एक-एक प्रति वित्तायुक्त, राजस्व, हरियाणा तथा हरियाणा सरकार के सभी प्रशासकीय सचिव:-

क्रमांक 2-12-2 जी.एस.- III

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल, सभी उपायुक्त तथा उप-मंडल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाईकोर्ट तथा हरियाणा राज्य के सभी जिला एवं सत्र न्यायाधीश ।
दिनांक, चण्डीगढ़, 2 अप्रैल, 1980

विषय:- निलम्बित कर्मचारियों के केशों का शीघ्रता से निपटान करने बारे हिदायतें-18 मास से अधिक अवधि से निलम्बित कर्मचारियों की सूची मुख्य मंत्री महोदय को प्रस्तुत करने बारे ।

महोदय,

मुझे निदेश हुआ है कि मैं आपका ध्यान हरियाणा सरकार के परिपत्र क्रमांक 2(12)-2जी.एस. III-79, दिनांक 11-1-80 की ओर दिलाऊँ जिस द्वारा 18 मास से अधिक निलम्बित सरकारी कर्मचारी के बारे मासिक विवरणी भेजी जानी अपेक्षित है । उससे पूर्व ऐसी सूचना चौकसी विभाग के परिपत्र क्रमांक 663/बी (6)-68/4661, दिनांक 1-3-68 के साथ संलग्न विवरणी 1, 2 व 3 में उन्हें भेजी जाती थी । कृपया यह सूचना उन्हीं 3 विवरणीयों में जिनकी प्रतियां संलग्न की जाती है इस विभाग को प्रत्येक मास की समाप्ति के 10 दिन के भीतर अवश्य भेजी जाया करें ।

2. इस विभाग के पत्र क्रमांक 1(12)-2जी.एस. II-79, दिनांक 11-1-80 के साथ भेजी गई विवरणी को रद्द समझा जाए ।

भवदीय,

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

इसकी एक-एक प्रति वित्तायुक्त, राजस्व तथा हरियाणा सरकार के सभी प्रशासकीय सचिव से आवश्यक कार्यवाही हेतु भेजी जाती है ।

हस्ता/-

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

STATEMENT-I

List of Government Servants under Suspension whose cases are pending in Court.

Name of Deptt.	Name and Designation of the Govt. servant	FIR No. and date and Police Station	Date of suspension	Date of Challan	Whether suspended by the Department itself or at the instance of Vig.	Present position of the Case	Whether or not the permission of council of Minister has been obtained for continue suspension of Govt. servant in accordance with the Govt. Insts., if not the reason thereof.
1	2	3	4	5	6	7	8

STATEMENT-II

List of Government Servants under for over 18 months whose cases are pending with Department.

Name of Deptt.	Name and the Govt. Servant with Designation	Nature of allegation	Date of suspension	Whether suspension by the deptt. itself or at the instance of Vigilance Department	Rank of officer holding the Enq.	Date of starting the Enq.	Present position of the case/ details reason for delay	Whether or not the permission of the council of Minister has been obtained for continue suspension of Govt. servant in accordance with the Govt. Insts., if not the reason thereof.
1	2	3	4	5	6	7	8	9

पत्र क्रमांक 2(12)79-2 जी.एस.- III

प्रेषक

मुख्य सचिव, हरियाणा सरकार, चण्डीगढ़ ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष ।
2. आयुक्त अम्बाला तथा हिसार मंडल ।
3. सभी उपायुक्त हरियाणा ।

दिनांक, चण्डीगढ़, 5-9-1980

विषय:- निलम्बित कर्मचारियों के केसों का शीघ्र निपटान करने बारे हिदायतें-18 मास से अधिक अवधि से निलम्बित कर्मचारियों की सूची ।

महोदय,

मुझे निदेश हुआ है कि मैं आपका ध्यान हरियाणा सरकार के परिपत्र क्रमांक 2(12)79-2जी.एस.- III, दिनांक 2-4-80 की ओर दिलाऊँ जिस द्वारा 18 मास से अधिक निलम्बित सरकारी कर्मचारी की मासिक सूचियाँ इस विभाग को भेजी जानी होती हैं । प्राप्त सूचियाँ से जो त्रुटियाँ सरकार के नोटिस में आई हैं वे निम्नलिखित हैं :-

1. प्रायः विभाग निर्धारित तिथि अपेक्षित सूचियाँ नहीं भेजते । ऐसी स्थिति में रिपोर्ट भेजने का उद्देश्य ही समाप्त हो जात है । आपसे अनुरोध है कि यह मासिक रिपोर्ट निर्धारित तिथि तक अवश्य भेजी जाए।
2. Statement-I (Cases pending in Courts) इस सूची के सभी कालम ठीक ढंग से नहीं भरे जाते । कालम नं. 3 में एफ.आई.आर. की तिथि और पुलिस स्टेशन के बारे कालम 5 में चालान की तिथि तथा कालम 7 में केस की वर्तमान स्थिति (अर्थात् कि मामला गवाही की स्टेज पर हैं, निर्णय की स्टेज पर है आदि) प्रायः नहीं बताई जाती । अनुदेश क्रमांक 33/13/79-I जी.एस.- I, दिनांक 16-4-79 द्वारा यह भी अपेक्षित है कि न्यायालयों में लम्बित मामलों, के सम्बंध में एक वर्ष से अधिक निलम्बित कर्मचारियों के बारे मंत्री परिषद् की अनुमति प्राप्त की जाए । अतः निवेदन है कि स्टेटमेंट-I के कालम 8 में इस बारे भी पूर्ण स्थिति दर्शायी जाए । संशोधित स्टेटमेंट-I की प्रति संलग्न है ।
3. Statement-II (Cases pending with departments) के कालम 7 में बहुधा विभागों द्वारा date of starting of enquiry के बारे सूचना नहीं दी जाती ।
4. Statement-III (Cases pending with Police) के कालम 9 में केस की नवीनतम स्थिति तथा देरी के कारण नहीं बताए जाते और न ही nature of allegation बारे कालम 4 में सूचना दी जाती है ।

2. आप से अनुरोध है कि अपेक्षित सूचियां भेजते समय यह सुनिश्चित किया जाए कि उपर्युक्त त्रुटियां न रहने पाएं ।

संयुक्त सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को आवश्यक कार्यवाही हेतु भेजी जाती है: -

1. वित्तायुक्त राजस्व तथा;
2. हरियाणा सरकार के सभी प्रशासकीय सचिव ।

संयुक्त सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. वित्तायुक्त राजस्व तथा;
2. हरियाणा सरकार के सभी प्रशासकीय सचिव ।

आशा: क्रमांक 1(12) 79-2 जी.एस. III

दिनांक 5-9-1980

Copy of the letter No. 129/16/81-AVD. I, dated 23rd March, 1981, from the Under-Secretary to Govt. of India, Ministry of Home Affairs, Deptt. of Personnel & Administrative Reforms, New Delhi, addressed to All the Ministers and Departments of the Government of India etc. etc.

OFFICE MEMORANDUM

***Subject :-* Circumstances in which a Government servant may be placed under suspension-observations of the Supreme Court regarding.**

1. The undersigned is directed to state that the Supreme Court in the case Niranjana Singh and others Vs. Prabhakar Rajaram Kharote and others (SLP, No. 393 of 1980) have made some observations about the need/desirability of placing a Government servant under suspension against whom serious charges have been framed by a criminal court, unless exceptional circumstances suggesting a contrary course exist. The Supreme Court has further directed the Government to take suitable sensitized measures to pre-empt recurrence of the error highlighted in judgement. A copy of the Supreme Court's judgement in the case is enclosed.

2. Rule 10(1) (b) of the CCS (CCA) Rules, 1965, already provides that the competent disciplinary authority may place a Government servant under suspension where a case against him in respect of any criminal offence is under investigation, inquiry or trial. Similar provision exist under the All India Services (Discipline & Appeal) Rules, 1969 and other corresponding rules. In this Department's O.M. No. 43/56/64-AVD dated the 22nd October, 1964 certain guidelines relating to the circumstances in which a disciplinary authority may consider it appropriate to place a Government servant under suspension have been broadly indicated. It will be seen therefrom that the "public interest" should be the guiding factor in deciding the question of placing a Government servant under suspension. Thus, the existing rules/instructions on the subject already cover the cases which the Supreme Court have in view. Nevertheless the Supreme Court's judgement, the existing rules/instructions on the subject and the contents of this O.M. may kindly be brought to the notice of all concerned.

3. As and when criminal charges are framed by a competent court against a Government servant, the disciplinary authority should consider and decide due desirability of placing such a Government Servant under suspension in accordance with the rules, if he is already not under suspension, or otherwise. If the Government servant is already under suspension or is placed under suspension, the competent authority should also review the case from time to time, in accordance with the instructions on the subject and take a decision about the desirability of keeping him under suspension till the disposal of the case by the court.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SPECIAL-LEAVE-PETITION (CRIMINAL) NO. 393 OF 1980

Niranjan Singh & Anr.

Petitioners

Vs.

Prabhakar Rajaram Kharote & Ors.

Respondents

ORDER

KRISHNA-IYER J.

“No one shall be subjected to torture or to cruels, in human or degrading treatment or punishment is a part of the Universal Declaration of Human Rights. The content of Art 21 of our Constitution, read in the light of Art. 19 is similarly elevating. But romance about human rights and rhetoric about constitutional mandates lose credibility if, in practice, the protectors of law and unions of the state become engineers of terror and panic people into fear. We are constrained to make these observations as our conscience is in consternation when we read the facts of the case which have given rise to the order challenged before us in this petition for special leave.

The petitioner, who has appeared in person, is the complainant in a criminal case where the accused are 2 Sub-Inspectors and 8 Constables attached to the City Police Station, Ahmadnagar. The charges against them as disclosed in the private complaint, are of murder and allied offences under as 302, 341, 395, 404 read with as 34 and 180(3) of the Penal Code. The blood-curdling plot disclosed in the complaint is that pursuant to a conspiracy the brother of the complainant was waylaid by the police party on August 27, 1978, as he was proceeding to Shirdi. He had with him some gold ornaments and cash. He was caught and removed from the truck in which he was travelling, tied with a rope to a neem tree nearby, thus rendering him a motionless target to a macabra shooting. One of the Sub-Inspectors fired two shots from his revolver on the chest of the deceased at close range and killed him instantaneously. The policemen, having perpetrated this vallany, vanished from the scene. No action was taken by the State against the criminals. How could they when the preservers of the peace and investigators of crime themselves become plained executor of murders? The victim's brother was an advocate and he filed a private complaint. The learned magistrate ordered an inquiry under section 202 Cr. P.C., took oral evidence of witness at some length and held: “Thus taking an overall survey of evidence produced before me, I am of the opinion that there is sufficient grounds to proceed against all the accused for the offences under as 302, 323, 342 read with section 341.P.C.” Non-bailable warrants were issued for production of the accused and the magistrate who refused bail, stayed the issuance of the warrants although we are unable to find any provision to end him to do so. The police accused moved the Sessions Court for bail and a elaborate order the sessions court granted bail subject to certain directions and conditions. The High Court, which was moved by the complainant for reversal of the order enlarging accused on bail, declined to interfere in revision but added additional conditions to ensure that the bail was not abused and the course of justice was not thwarted.

It is fair to state that the case complaint verified under S. 202 Cr. P.C. to have some veracity, does not make us leap to a conclusion of guilt or refusal of bail. On the contrary, the accused policemen have a version that the victim was himself a criminal and was sought to be arrested. An encounter ensued, both sides sustained injuries and the deceased succumbed to a firearm shot even as some of

the police party sustained revolver wounds but survived. May be, the defence case, if reasonable true, may absolve them of the crime, although the story of encounters during arrest and unwitting injuries resulting in casualties sometimes become a mask to hide easy liquidation of human life by heartless policemen when some one allergeice to Authoriresists their vices. The Police have the advantage that they prep the preliminary record which may 'kill' the case against them. The disquieting syndrome of policemen committing crimes of killing and making up perfect paperwork cases of innocent discharge of duty should not be ruled out when courts examine rival versions. Indeed we must emphasis that the trial judge shall not be influenced by what we have said and shall confine himself to the evidence in the case when adjudging the guilt of the accused. We were constrained to make the observations above because the Sessions Judge, quite unwarrantedly, discussed at prolix length the probabilities of the police party's exculpatory case and held:

“So it is reasonable in hand that there was a scuffle and resistance suffered by the victim AmaIjeet Singh before shots were fired at his person by the accused No.1.”

Detailed examination of the evidence and elaborate documentation of the merits should be avoided while passing orders on bail applications. No party should have the impression that his case has been prejudiced. To be satisfied about a *prima facie* case is needed but it is not the same as an exhaustive exploration of the merits in order itself.

Grant of bail is within the jurisdiction of the Sessions Judge but the court must not in grave cases, gulliply dismiss the possibility of police-accused intimidating the witnesses with cavalier case. In our country, intimidation by policemen, when they are themselves accused of offences, is not an unknown phenomenon and the judicial process will carry credibility with the community only if it views impartially and with commonsense the pros and cons, undeterred by the psychic pressure of police presence as indicates.

Let us now get to grips with the two legal submissions made by the petitioner. The first jurisdictional hurdle in the grant of bail, argues the petitioner, is that the accused must fulfil the two conditions specified in S. 439 Cr. P.C. before they can seek bail justice. That provision reads.

439. (1) A High Court for Court of Sessions may direct :-

- (a) that any persons accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 437, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;
- (b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified.

Here the respondents were accused of offences but were not in custody, argues the petitioner, so no bail, since this basic condition of being in jail is not fulfilled. This submission has been rightly rejected by the Courts below. We agree that, in one view, an outlaw cannot ask for the benefit of law and he who flees justice cannot claim justice. But here the position is different. The accused were not absconding but had appeared and surrendered before the Sessions Judge. Judicial jurisdiction arises only when persons are already in custody and seek the process of the Court to be enlarged. We agree that no person accused of an offence can move the Court for bail under S. 439 Cr. P.C. unless he is in custody.

When is a person in custody, within the meaning of S. 439 Cr. P.C.? When he is in duress either because he is held by the investigating agency or other police or allied authority or is under the control of the court having been remanded by judicial order, or having offered himself to the court's jurisdiction and submitted to its orders by physical presence. No lexical dexterity nor precedential profusion is needed to case to the realistic conclusion that he who is under the control of the court or is in the physical hold of an officer with coercive power is in custody for the purpose of S. 439. This word is of elastic semantics but its core meaning is that the law has taken control of the person. The equivocatory quibblings and hide-and-seek-niceties sometimes heard in court that the police have taken a man into formal custody but not arrested him, have detained and other like interrogation but not taken him into formal custody and other like cerminological dubieties are unfair evasions of the straight forwardness of the law. We need not dilate on this shady facet here because we are satisfied that the accused did physically submit before the Sessions Judge and the jurisdiction to grant bail thus arose.

Custody, in the context of S. 439, (we are not, be it noted, dealing with anticipatory bail under S. 438) is physical control or at least physical presence of the accused in court coupled with submission to the jurisdiction and orders of the court. He can be in custody not merely when the police arrests him, produces him before a Magistrate and gets a remand to judicial or other custody. He can be stated to be in judicial custody when he surrenders before the court and submits to its directions. In the present case, the police officers applied for bail before a Magistrate who refused bail and still the accused, without surrendering before the Magistrate, obtained an order for stay to move the Sessions Court. This direction of the Magistrate was wholly irregular and may be, enabled the accused persons to circumvent the principle of S. 439 Cr. P.C. We might have taken a serious view of such a course, indifferent to mandatory provisions, by the subordinate magistracy but for the fact that in the present case the accused made up for it by surrender before the Sessions Court. Thus, the Sessions Court acquired jurisdiction to consider the bail application. It could have refused bail and remanded the accused to custody, but in the circumstances and for the reasons mentioned to custody, but in the jurisdiction in favour of grant of bail. The High Court added to the conditions subject to which bail was to be granted and mentioned that the accused had submitted to the custody of the court. We, therefore, do not proceed to upset the order on this ground. Had the circumstances been different we could have demolished the order for bail. We may frankly state that had we been left to ourselves we might not have granted bail but, sitting under Art. 136, do not feel that we should interfere with a discretion exercised by the two below.

We are apprehensive that the accused being police officers should not abuse their freedom and emphasis that the Inspector General of Police of the State of Maharashtra will take particular care of to take two steps. He should have a close watch on the functioning of the concerned police officers lest the rule of law be brought into discredit by officers of the law being allowed a larger liberty than other people, especially because the allegations in the present case are grave and, even if a fragment of it be true, does little credit to the police force. It must be remembered that the allegations are that the deceased was dragged out of a truck to a secluded place, later tied to a tree and shot and killed by the police officer concerned.

We hasten to make it clear that these are one sided allegations and the accused have a counter version of their own and we do not wish to make any implications for or against either version. The accused policemen are. entitled to an unprejudiced trial without any bias against the 'unformed' force which has difficult tasks to perform.

We conclude this order on a note of anguish. The complainant has been protesting against the state's bias and police threats. We must remember that a democratic state is the custodian of peoples interests and not only police interests. Then how come this that the team of ten policemen against whom a magistrate, after the enquiry, found a case to be proceeded with and grave charges, including for murder, were framed continue on duty without so much as being suspended from service until disposal of the pending sessions trial ? On whose side is the state? The rule of law is not a one-way traffic and the authority of the State is not for the police and against the people. A responsible Government, responsive to appearances of justice would have placed police officers against whom serious charges had been framed by a criminal court, under suspension unless exceptional circumstances suggesting a contrary course exists. After all, a gesture of justice to courts of justice is the least that a government does to the governed.

We are confident that this inadvertence will be made good and the State of Maharashtra will disprove by deeds Henry Clay's famous censure:

“The art of powers and its minions are the same in all countries and in all ages. It marks its victim denounces it, and exults the public odium and the public hatred, to conceal its own abuses and encroachments.”

The observations that we have made in the concluding portion of the order are of our oment, not merely to the State of Maharashtra but also to the Other States in the country and to the Union of India, that we deem it necessary to direct that a copy of this judgement be sent to the Home Ministry in the Government of India for suitable sensitized measures to preempt recurrence of the error we have highlighted."

New Delhi
March 19, 1980

Sd/- VR. Krishna Iyer, J,
Sd/- A.P. Sen.

Suspension

Copy of the letter No. 129/16/21-AVD. I, dated the 26th March, 81, from the Under-Secretary to Govt. of India, Ministry of Home Affairs, Deptt. of Personnel & Administrative Reforms, New Delhi, addressed to the Chief Secretary, Madhya Pradesh Government, General Administration Department, Bhopal, etc. etc.

***Subject :-* Circumstances in which a Government servant may be placed under suspension-observations of the Supreme Court regarding.**

I am directed to refer to your letter No. 287/767/1/3/80 dated the 7th July, 1980 on the subject noted above and to forward herewith for information a copy of this Departments Office Memorandum of even number dated 29-3-81 addressed to all the Ministries and Departments of the Central Government issued in this matter.

No.11/10/81-2GS-III

Dated Chandigarh, the 11-5-81.

A copy with, enclosures, is forwarded for information and guidance to :-

- (1) All Heads of Departments, Commissioners of Ambala and Hisar Divisions, all Deputy Commissioners and all Sub-Divisional Officers (Civil) in Haryana; and
- (2) the Registrar, Punjab and Haryana High Court.

Sd/-

Joint Secretary General Administration,
for Chief Secretary to Government, Haryana.

No. 11-3/82-2GS III

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments,
Commissioners Ambala & Hissar Divisions
and Sub-Divisional Officers (Civil) in the State.
2. The Registrar,
Punjab & Haryana High Court, Chandigarh.
Dated Chandigarh, the 7th February, 1982.

Subject:- Speedy disposal of cases of Government employees under suspension.

Sir,

I am directed to refer to composite Punjab Government letter No. 3624-GS-61/14507, dated the 21st April, 1961, on the subject noted above and to state that it has been noticed that the instructions contained therein are not being meticulously followed by the departments concerned with the result that the number of government employees under suspension continuous to be very large and many of them remain under suspension for a very long time, thereby causing great loss to Government on account of payment of subsistence allowance and also bringing discredit to Government. The whole position has, therefore, been reviewed and it has been decided to reiterate the decisions contained in the aforesaid letter, for strict compliance by the Government Departments.

2. Conduct of Departmental proceedings in disciplinary cases

(1) In all cases, the immediate superior authority, on whom rest the responsibility for initiating formal disciplinary proceedings, should decide at the earliest possible moment, whether investigation is likely to be so complicated as to require a special investigating agency either of the police or of the department itself, and should throughout the investigation keep a close watch on its progress to ensure that no undue delay occurs at any stage. When formal disciplinary proceedings are undertaken in all big and complicated cases, the following time schedule should be observed as closely as possible:-

- (a) The charge or charges should be handed over to the charged Govt. servant within 15 days from the date of taking the decision to start formal proceedings. (At the same time, a decision should be taken whether the Government servant should be placed under suspension pending enquiry).
- (b) The Charged Government Servant's written statement of defence should ordinarily be required to be submitted within a period of a fortnight and in no case should a period of more than a month be allowed for the purpose.
- (c) The enquiry, including oral examination of the witness, should be completed within a month of the submission of the written statement.

- (d) The report of the enquiry officer where he is not himself the punishing authority, should be submitted as expeditiously as possible and ordinarily within a fortnight of the closing of the enquiry.
- (e) When the punishing authority is different from the enquiry officer, the punishing authority should pass final orders without delay. The following time schedule is suggested for various stages to be gone through before the passing of the final orders:-
 - (I) *Calling upon the Government servant concerned to show cause against the proposed punishment where necessary :-* One week from the date of receipt of the enquiring officer's report.
 - (II) *Time to be allowed to the Government servant to show cause :-* A fortnight to a month according to the nature of a case.
 - (III) *Final orders :-*
 - (i) *Where reference to the Public Service Commission, S.S.S. Board is necessary:-* Six weeks from the date of receipt of the final explanation of the Government servant.
 - (ii) *Where no such reference is necessary :-* a fortnight from the date of the receipt of the final explanation of the Government Servant concerned.
 - (iii) It should be matter of firm principle, to be deviated from only in cases of rare urgency that no official is suspended until a proper charge-sheet is served upon him and his explanation obtained and found unsatisfactory. A departmental enquiry can only begin at this stage should be started forthwith. Since it may not be possible to complete the inquiry in all cases in one month, Government has decided that the enquiry officer should complete all the proceedings and submit his report within a period of three months and the punishing authority should not take much longer to decide the case (obtaining the advice of the Haryana Public Service Commission S.S.S. Board where required, expeditiously). In no case should the period between suspension, if order and final order exceed six months.
 - (iv) Government feel that officers are often harassed by the length of time it takes to complete the processes of Preliminary investigation and inquiry. Even in cases, which do not eventually result in a charge-sheet, the official concerned is often subjected to anxiety by the knowledge that an investigation is proceeding against him. Government have therefore decided that the whole process of investigation and inquiry should be completed within six months (ordering any period during which proceedings are stopped owing to a reference to a Court of law). An extension of the period by another six months may be obtained under the orders of the Minister-in-charge. If extension beyond one year is needed full facts and justification must be placed before the Cabinet and their approval taken.

Compendium of Instructions on Disciplinary matter—Vol. V

- (v) The cases of Government servant involved in criminal cases should be dealt with in accordance with the provisions of rules 7.5 and 7.6 of the Haryana Civil Services Rules Volume I, Part I.

3. It has also come to the notice of the Government that in a number of cases, the employees are kept under prolonged suspension merely because of delay in investigation of such cases by the police. The matter has been further considered and it has been decided that while all out efforts should be made by various Administrative Departments to ensure expeditious finalization of such cases, the police department should invariably complete investigation of such cases within three months of reporting. The Department concerned should, on their part also exercise great care to ensure that the cases reported to the police are constantly followed up so that the police report is obtained within the stipulated period.

4. It has also been decided that except in cases involving moral turpitude, there shall be no bar to the reinstatement of concerned employees within six months of institution of police cases on merits each case.

5. It has further been noticed that most of the departments do not produce the relevant records of the employees under suspension in the Courts concerned in time and sometimes the departmental witnesses do not appear in the Courts even after service of the summons, with the result that the disposal of the cases of the concerned suspended employees gets unduly delayed. It is accordingly emphasized that the departments should ensure that the records of the concerned employees are invariably produced in the courts on the fixed dates and the departmental officers/officials, after having received the summons as witnesses, appear in the courts on the due dates.

6. The above instructions may please be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Joint Secretary, General Administration.,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and necessary action to the (I) Financial Commissioner (Revenue), Haryana, (2) All Administrative Secretaries to Govt. Haryana.

No. 11/3/82-2GSII

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments,
Commissioners Ambala & Hissar Divisions
and Sub-Divisional Officers (Civil) in the State.
- (2) The Registrar,
Punjab & Haryana High Court, Chandigarh.
Dated Chandigarh, the 19th February, 1982.

Subject:- Speedy disposal of cases of Government employees under suspension.

Sir,

I am directed to refer to composite Punjab Government letter No. 3624-GS-61/14507, dated the 21st April, 1961, on the subject noted above and to state that it has been noticed that the instructions contained therein are not being meticulously followed by the departments concerned with the result that the number of government employees under suspension continue to be very large and many of them remain under suspension for a very long time, thereby causing great loss to Government on account of payment of subsistence allowance and also bringing discredit to Government. The whole position, has, therefore been reviewed and it has been decided to reiterate the decisions contained in the aforesaid letter, for strict compliance by the Government Departments.

2. Conduct of Departmental proceedings in disciplinary cases:-

(1) In all cases, the immediate superior authority, on whom rests the responsibility for initiating formal disciplinary proceedings, should decide at the earliest possible moment, whether investigations is likely to be so complicated as to require a special investigating agency either of the police or of the department itself, and should throughout the investigation keep a close watch on its progress to ensure that no undue delay occurs at any stage. When formal disciplinary proceedings are undertaken in all big and complicated cases, the following time schedule should be observed as closely as possible :-

- (a) The charge or charges should be handed over to the charged Govt. servant within 15 days from the date of taking the decision to start formal proceedings. (At the same time, a decision should be taken whether the Government servant should be placed under suspension pending enquiry.)
- (b) The Charged Government servant's written statement of defence should ordinarily be required to be submitted within a period of a fortnight and in no case, should a period of more than a month be allowed for the purpose.
- (c) The enquiry, including oral examination of the witnesses, should be completed within a month of the submission of the written statement.
- (d) The report of the enquiry officer where he is not himself the Punishing authority,

should be submitted as expeditiously as possible and ordinarily within fortnight of the closing of the enquiry.

- (e) When the punishing authority is different from the inquiring officer, the punishing authority should pass final orders without delay. The following time schedule is suggested for various stages to be gone through before the passing of the final orders :-
- (I) Calling upon the Government servant concerned to show cause against the proposed punishment where necessary :- One week from the date of the receipt of the inquiring officer's report.
 - (II) Time to be allowed to the Government servant to show cause :- A fortnight to a month according to the nature of a case.
 - (III) Final Orders :-
 - (i) Where reference to the Public Service Commission, S.S.S. Board is necessary :- Six weeks from the date of the receipt of the final explanation of the Government servant.
 - (ii) Where no such reference is necessary :- A fortnight from the date of the receipt of the final explanation of the Government Servant concerned.
 - (iii) It should be a matter of firm principles to be deviated from only in cases of rare urgency that no official is suspended until a proper charge-sheet is served upon him and his explanation obtained and found unsatisfactory. A departmental enquiry can only begin at this stage and at this stage should be started forthwith. Since it may not be possible to complete the enquiry in all cases in one month, Government has decided that the enquiry officer should complete all the proceedings and submit his report within a period of three months and the punishing authority should not take much longer to decide the case (obtaining the advice of the Haryana Public Service Commission/S.S.S. Board where required, expeditiously. In no case should the period between suspension, if ordered and final order exceed six months.
 - (iv) Government feel that officials are often harassed by the length of time it takes to complete the processes of preliminary investigation and inquiry. Even in cases, which do not eventually result in a charge-sheet, the official concerned is often subjected to anxiety by the knowledge that an investigation is proceeding against him. Government have therefore decided that the whole process of investigation and inquiry should be completed within six months (excluding any period during which proceedings are stopped owing to a reference to a Court of Law). An extension of a period by another six months may be obtained under the orders of the Minister-in-charge. If extension beyond one year is needed full facts and justification must be placed before the Cabinet and their approved taken.

- (v) The cases of government servants involved in criminal cases should be dealt within accordance with the provisions of rules 7.5 and 7.6 of the Haryana Civil Services Rules Volume-I, Part-I.

3. It has also come to the notice of the Government that in a number of cases, the employees are kept under prolonged suspension merely because of delay in investigation of such cases by the police. The matter has been further considered and it has been decided that while all out efforts should be made by various Administrative Departments to ensure expeditious finalization of such cases, the police departments should invariably complete investigation of such cases within three months of reporting. The Departments concerned should, on their part, also exercise great care to ensure that the cases reported to the police are constantly followed up so that the police report is obtained within the stipulated period.

4. It has also been decided that except in cases involving moral turpitude, there shall be no bar to the re-instatement of concerned employees within six months of institution of police cases on merits of each case.

5. It has further been noticed that most of the departments do not produce the relevant records of the employees under suspension in the Courts concerned in time and sometime the departmental witnesses do not appear in the courts even after service of the summons, with the result that the disposal of the cases of the concerned suspended employees gets unduly delayed. It is accordingly emphasized that departments should ensure that the records of the concerned employees are invariably produced in the courts on the fixed dates and the departmental officers/officials, after having received the summons as witnesses, appear in the courts on the due dates.

6. The above instructions may please be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and necessary action to the:-

- (i) Financial Commissioner (Revenue), Haryana.
- (ii) All Administrative Secretaries to Govt. Haryana.

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Govt., Haryana.

To

- (i) Financial Commissioner (Revenue), Haryana.
- (ii) All Administrative Secretaries to Govt., Haryana.

U.O. No. 11/3/82-2 GSIII,

Dated Chandigarh, the 19th February, 1982.

क्रमांक 2/12/82-2 जी.एस.- III

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल, सभी उपायुक्त तथा उपमण्डल अधिकारी ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाई कोर्ट तथा हरियाणा राज्य के जिला एवं सत्र न्यायाधीश ।
दिनांक, चण्डीगढ़, 6 मई, 1982

विषय:- निलम्बित सरकारी कर्मचारियों के कसों का शीघ्रता से निपटान करने बारे हिदायतें-18 मास से अधिक समय तक निलम्बित कर्मचारियों की सूची मुख्य मंत्री को प्रस्तुत करने बारे ।

महोदय,

मुझे निर्देश हुआ है कि मैं आपका ध्यान उपरोक्त विषय पर सरकार के परिपत्र क्रमांक 2/12/79-2 जी. एस. III, दिनांक 2-4-1980 की ओर आकर्षित करूँ और सूचित करूँ कि संदर्भित परिपत्र की व्यवस्थानुसार 18 मास से अधिक समय से निलम्बित सरकारी कर्मचारियों की मासिक रिपोर्ट, प्रत्येक मास की 10 तारीख तक सामान्य प्रशासन विभाग को प्राप्त होनी अपेक्षित होती है, परन्तु यह देखने में आया है कि अधिकतर विभाग उक्त तिथि तक कथित रिपोर्ट नहीं भेजते, जिसके फलस्वरूप सभी विभागों की रिपोर्ट को संगठित रूप देने तथा मुख्य मंत्री महोदय को प्रस्तुत करने में अत्यन्त कठिनाई होती है । अतः पुनर्विचारोपरान्त सरकार द्वारा यह निर्णय लिया गया है कि प्रशासकीय विभाग ही अपने-अपने विभागों से सम्बन्धित रिपोर्ट प्राप्त करके निश्चित तिथि तक इस विभाग को भेजें । अतः आपसे अनुरोध है कि कृपया भविष्य में 18 मास से अधिक अवधि के निलम्बित सरकारी कर्मचारियों की मासिक रिपोर्ट प्रत्येक मास की अन्तिम तिथि तक अपने प्रशासकीय विभाग को भेज दें और प्रशासकीय विभाग अपने अधीन सभी विभागों की संकलित रिपोर्ट अगले मास की 10 तारीख तक इस विभाग को भेजा करें । उदाहरण के रूप में, सभी विभागों द्वारा जनवरी मास की रिपोर्ट 31 जनवरी, तक अपने प्रशासकीय विभाग को भेज देनी चाहिये और प्रशासकीय विभागों द्वारा अपने अधीन सभी विभागों की संकलित रिपोर्ट सामान्य प्रशासन विभाग को 10 फरवरी, तक भेजी जानी चाहिये ।

2. कृपया इन हिदायतों का दृढ़ता से पालन किया जाये ।

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को आवश्यक कार्यवाही हेतु भेजी जाती है: -

1. वित्तायुक्त राजस्व एवं सचिव, हरियाणा सरकार राजस्व विभाग ।
2. हरियाणा सरकार के सभी प्रशासकीय सचिव ।

क्रमांक 11/14/82-2 जी.एस.- III

प्रेषक

मुख्य सचिव, हरियाणा सरकार ।

सेवा में

1. हरियाणा राज्य के सभी विभागाध्यक्ष, आयुक्त अम्बाला तथा हिसार मंडल, सभी उपायुक्त तथा उपमण्डल अधिकारी(सिविल) ।
2. रजिस्ट्रार, पंजाब तथा हरियाणा हाई कोर्ट, चण्डीगढ़, हरियाणा राज्य के सभी जिला एवं सत्र न्यायाधीश ।

दिनांक, चण्डीगढ़, 15 जून, 1982

विषय:- निलम्बित सरकारी कर्मचारियों के मामलों का शीघ्रता से निपटान करने बारे ।

महोदय,

मुझे निदेश हुआ है कि मैं आपका ध्यान सरकार के पत्र क्रमांक 5598-1 जी.एस. 77/32569 दिनांक 10-10-1977 तथा 11/3/82-2 जी.एस. III, दिनांक 19-2-82 की ओर आकर्षित करूँ और सूचित करूँ कि इनमें दी गई व्यवस्थाओं के अनुसार निलम्बित सरकारी कर्मचारियों के विरुद्ध जांच आदि का कार्य 6 मास के भीतर पूर्ण किया जाना होता है और यदि उक्त अवधि में कथित कार्य पूर्ण न किया जा सके तथा निलम्बित अवधि में वृद्धि की आवश्यकता हो तो 6 मास तक कार्यभारी मंत्री और इसके पश्चात् एक साल की अवधि व्यतीत होने पर मंत्री परिषद् का अनुमोदन प्राप्त करना होता है ।

2. सरकार ने इस मामले में पुनर्विचार करके निर्णय लिया है कि भविष्य में कार्यभारी मंत्री निलम्बन अवधि को दो साल तक बढ़ाने के सक्षम होंगे । यदि दो साल के पश्चात् भी निलम्बन रखना आवश्यक हो तो मुख्य मंत्री महोदय की स्वीकृति प्राप्त करनी होगी । ऐसे मामलों में मंत्री परिषद् की अनुमति की कोई आवश्यकता नहीं होगी ।

3. मुझे यह भी कहने का निर्देश हुआ है कि सभी विभागाध्यक्ष निलम्बित सरकारी कर्मचारियों के केसों को विशेष प्रयत्नों द्वारा परमअग्रता से निपटाने के लिये पैरा-1 में संदर्भित पत्र दिनांक 19-12-82 में दी गई अन्य व्यवस्थाओं का अनुसरण दृढ़ता से करें ।

न्याय तथा प्रशासन विभाग के लिये

उन्से अनुरोध है कि वह न्यायालयों में लम्बित सरकारी कर्मचारियों के केसों का निपटान परम अग्रता से करने के लिये विशेष प्रयत्न करें ।

एक-एक प्रति हरियाणा सरकार के सभी प्रशासकीय सचिवों एवं वित्तायुक्त राजस्व विभाग हरियाणा को सूचनार्थ तथा आवश्यक कार्यवाही हेतु भेजी जाती है ।

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

No. 11/8/82-2GSIII

From

The Chief Secretary to Govt. Haryana.

To

- (1) All Heads of Departments and Commissioners, Ambala and Hisar Divisions in Haryana State.
- (2) Registrar, Punjab & Haryana High Court, Chandigarh.
- (3) All Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana State.

Dated Chandigarh, the 23rd August, 1982.

Subject :- Speedy disposal of suspension cases of Govt. employees-Supply of information.

Sir,

I am directed to refer to this department letter No. 2/12/79-2GSIII, dated 2-4-1980, on the subject noted above and to state that on re-consideration the Govt. have decided that in future the information regarding suspended Govt. employees shall be directly collected by all the Administrative Secretaries from their Heads of Departments quarterly in the enclosed proforma so as to reach them by the end of the month following the quarter to which it pertains; i.e. the report for the quarter ending 30th September should reach them by the 31 st October. After necessary scrutiny at their end, these will be forwarded, with their necessary comments, to Govt. so as to reach them by the middle .of next month positively.

2. The monthly reports referred to in the letter under reference are hereby dispensed with.
3. You are requested to ensure that the aforesaid instructions are strictly followed by all the concerned working under you.

Yours faithfully,

Sd/-

Joint Secretary General Administration,
for Chief Secretary to Govt. Haryana.

A copy is forwarded to the Financial Commissioner, Revenue and all Administrative Secretaries to Govt. Haryana, for information. They are requested to ensure that the requisite information is supplied by the departments under them, regularly by the due dates. It may also be clarified that the quarterly statement required to be sent *vide* D.O. letter No. 33/17/79-IGSI, dated 12/13-7-79 from the Chief Secretary, Haryana, need not now be sent separately.

Sd/-

Joint Secretary General Administration,
for Chief Secretary to Govt. Haryana.

Suspension

To

The Financial Commissioner, Revenue and All Administrative Secretaries to Govt. Haryana.

U.O. No. 11/8/82-2GSIII

Dated Chandigarh, the 23rd August, 1982.

Proforma showing the particulars of the Officials/Officers who are under suspension for the period over six months.

Statement for the quarter ending.....

Name of the Admn. Deptt.....

(1)	(2)	(3)	(4)	(5)	(6)
Sr. No.	Name & Designation of the official/officer	Date of suspension	Charge against him (in brief)	Present position of of the case Departmental enquiry Police case Court case	Remarks

Subject:- Speedy disposal of suspension cases of Government employees-Supply of information.

Will all the Financial Commissioner and Administrative Secretaries to Government, Haryana, kindly refer to this Department U.O. No. 11/8/82-2GSIII, dated 20th/23rd August, 1982, on the subject noted above?

2. According to the U.O. under reference, information regarding suspended Government employees is to be collected directly by all the Administrative Secretaries from their Heads of Departments quarterly, in the prescribed proforma, by the end of the month following the quarter to which it pertains and after scrutiny, it is to be forwarded by them with their comments to the Chief Secretary (General Services III Branch) by the middle of next month. Further, the monthly reports regarding information about suspended Government employees were dispensed with.

3. It has, however, been observed that the aforementioned information, as received from Heads of Departments is sometimes passed on by the Administrative Secretaries to the Chief Secretary without proper scrutiny or without their comments. Some Heads of Departments have been sending this information directly to Chief Secretary instead of routing it through their Administrative Secretaries. Further, in some cases the monthly reports regarding suspended Government employees still continue to be received whereas these were dispensed with *vide* communication referred to above.

4. It is, therefore, requested that the Administrative Secretaries may ensure that instructions regarding sending information relating to suspended Government employees as contained in the U.O. referred to above are followed meticulously.

5. It has also been observed that in some of the Departments a number of employees have been under suspension for more than 2-3 years whereas according to Government instructions contained in letter No. 11/3/82-2GSIII, dated 7-2-1982, the period of suspension is not expected to exceed 6 months. The Administrative Secretaries are, therefore, requested to review such cases and to take appropriate action to get the same finalised at the earliest.

6. The receipt of this communication may please be acknowledged.

Sd/-

Under Secretary General Administration,
for Chief Secretary to Govt. Haryana.

To

Copy is forwarded to the following for information and necessary action :-

All the Financial Commissioners,

Administrative Secretaries to Government Haryana. All Heads of Departments and Commissioners, Ambala and Hisar Divisions in the State, Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana State.

Registrar, Punjab & Haryana High Court, Chandigarh in continuation of this Department letter No. 11/8/82-2GSIII, dated 20th/23rd August, 1982.

Sd/-

Joint Secretary General Administration,
for Chief Secretary to Govt. Haryana.

No. 11/4/86-2 GSIII

From

The Chief Secretary to Government Haryana.

To

- (1) All Heads of Departments,
Commissioners Ambala & Hissar Divisions
and Sub Divisional Officers (Civil) in the State.
 - (2) The Registrar,
Punjab & Haryana High Court, Chandigarh
- Dated : Chandigarh the 16th October, 1986.

Subject: Speedy disposal of cases of Government employees under suspension.

Sir,

I am directed to refer to Haryana Government letter No. 11/3/82-2 GSIII dated the 19th February, 1982, on the subject noted above (copy enclosed),

It has been observed that the time schedule prescribed for the completion of disciplinary proceedings in the above mentioned letter is not being adhered to by various departments and consequently lot delay takes place in the completion of disciplinary proceedings, causing great hardship to the affected employees. Government views such delay with great concern. It is therefore, reiterated that the time schedule prescribed in Govt. instructions dated 19.2.1982 should be adhered to meticulously.

The above instructions may please be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Govt. Haryana.

A copy is forwarded for information and necessary action to the :-

- (i) Financial Commissioner (Revenue), Haryana.
- (ii) All Administrative Secretaries to Govt., Haryana.

Yours faithfully,

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

- (i) Financial Commissioner (Revenue), Haryana.
- (ii) All Administrative Secretaries to Govt., Haryana.

U.O. No. 11/4/86-2 GSIII

Dated Chandigarh, the 16th Oct, 1986.

पत्र क्रमांक 11/25/80-2 जी.एस.- III

प्रेषक

मुख्य सचिव, हरियाणा सरकार, चण्डीगढ़ ।

सेवा में

1. हरियाणा सरकार के सभी विभागाध्यक्ष ।
2. आयुक्त अम्बाला तथा हिसार मंडल ।
3. सभी उपायुक्त हरियाणा ।

दिनांक, चण्डीगढ़, 5 दिसम्बर, 1986

विषय: - निलम्बित कर्मचारियों के केशों का शीघ्रता से निपटान करने बारे हिदायतें-18 मास से अधिक अवधि से निलम्बित कर्मचारियों की सूची मुख्य मंत्री महोदय को प्रस्तुत करने बारे ।

महोदय,

मुझे निर्देश हुआ है कि मैं आपका ध्यान हरियाणा सरकार के परिपत्र क्रमांक 2/12/2जी.एस. III, दिनांक 2-4-80 तथा 2/12/79-2 जी.एस. III, दिनांक 5-9-80 की ओर दिलाऊँ जिस द्वारा मास 18 से अधिक निलम्बित सरकारी कर्मचारियों के बारे मासिक सूचना इस विभाग को भेजी जानी होती है । यह बात ध्यान में आई है कि सरकार की ओर से समय-समय पर दी गई हिदायतों के अनुसार बहुधा विभाग अपेक्षित रिपोर्ट नहीं भेजते ।

2. सरकार निलम्बित कर्मचारियों का ज्यादा समय तक निलम्बित रखना एक गंभीर मामला समझती है और चाहती है कि उनके विरुद्ध हो रही अनुशासनिक कार्यवाही का निपटान शीघ्र हो । इस स्थिति में आप से अनुरोध है कि सरकार द्वारा जारी की गई हिदायतों की दृढ़तापूर्वक परिपालना की जाए तथा अपेक्षित रिपोर्ट इस विभाग को निर्धारित तिथि तक भेजा जाना सुनिश्चित किया जाए ।

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

एक-एक प्रति निम्नलिखित को आवश्यक कार्यवाही हेतु भेजी जाती हैं: -

- 1 वित्तायुक्त राजस्व एवं
- 2 हरियाणा सरकार के सभी प्रशासकीय सचिव ।

कृपया यह सुनिश्चित किया जाये कि उनके अधीन सभी विभाग इस विषय से संबन्धित रिपोर्ट सामान्य प्रशासन विभाग को निर्धारित तिथि तक अवश्य भेज दें ।

हस्ता / -

अवर सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

सेवा में,

- 1 वित्तायुक्त राजस्व तथा
- 2 हरियाणा सरकार के सभी प्रशासकीय सचिव ।

अशा: क्रमांक 11/25/80-2 जी.एस. III

दिनांक 5-12-1986

तत्काल

विषय:- निलम्बित कर्मचारियों/अधिकारियों के मामलों का शीघ्र निपटान करने बारे हिदायतें-सरकार को रिपोर्ट का भेजा जाना ।

क्या हरियाणा सरकार के सभी प्रशासकीय सचिव उपर्युक्त विषय पर इस विभाग के परिपत्र क्रमांक 2/12 जी.एस. III दिनांक 2 अप्रैल, 1980 के साथ स्थित पत्र व्यवहार की ओर ध्यान देने की कृपा करेंगे ।

2. मास फरवरी की रिपोर्ट जो कुछ विभागों से प्राप्त हुई है, के अवलोकन से विदित हुआ है कि निलम्बित कर्मचारियों के केसों के निपटान की गति बहुत धीमी है । अतः मुख्य मंत्री महोदय ने चाहा है कि विभागों के पैडिंग केसों का निपटान शीघ्रताशीघ्र किया जाए और प्रशासकीय सचिव इन मामलों का स्वयं Review करें और इनके शीघ्र निपटान हेतु समय बद्ध लक्ष्य निर्धारित करें । अतः निवेदन है कि इस सम्बंध में अपेक्षित कार्यवाही तुरन्त की जाए और की गई कार्यवाही से इस विभाग को अवगत कराया जाए ।

3. सरकार द्वारा जारी की गई हिदायतों के अनुसार निलम्बित सरकारी कर्मचारियों के बारे में मासिक विवरण प्रत्येक मास की समाप्ति के 10 दिन के भीतर भेजनी अपेक्षित है । लेकिन पिछले कई मासों से यह अनुभव में आया है कि बहुधा विभागों द्वारा अपेक्षित रिपोर्ट न तो समय पर भेजी जाती है और न ही विवरणियों के सभी कालम्ज को पूर्ण किया जाता है । अतः अपने अधीन सभी विभागीय अध्यक्षों को यह भी हिदायतें जारी करें कि निलम्बित कर्मचारियों से सम्बन्धित अपेक्षित विवरण पूरी तरह पूर्ण करके, इस विभाग को निर्धारित अवधि के अन्दर-2 अवश्य भेज दिया करें ।

हस्ता / -

संयुक्त सचिव, सामान्य प्रशासन,
कृते: मुख्य सचिव, हरियाणा सरकार ।

No. 11/1/87-2 GSIII

From

The Chief Secretary to Govt., Haryana.

To

1. All Heads of Departments,
Commissioners Hissar and Ambala Divisions
All Deputy Commissioners and Divisional Officers (Civil) in Haryana.
2. Registrar, Punjab and Haryana High Court,
and All District & Sessions Judges in Haryana.

Dated Chandigarh, the 15th July, 1987.

Subject:- Marking of daily presence at Headquarters by suspended Govt. Employee.

Sir,

I am directed to refer to this department letter No. 1161-5GS-1/6914 dated 1-4-1971 (copy enclosed) for ready reference on the subject noted above wherein it was pointed out that a Government employee under suspension can be directed to report his presence daily in the office where his Headquarters had been fixed. The matter has been reconsidered by Government in the light of the judgement of the Supreme Court (arising out of the appeal in Civil Writ Petition No. 4618 of 1985 Ramesh Chander Chugh, Assistant Engineer V/s Haryana State Electricity Board) and it has been decided that no specific directions should be given to an employee (under suspension) to report his presence daily at his Headquarters. However, the employee under suspension should not leave the Headquarters without obtaining the prior approval of the competent authority.

2. These instructions may be brought to the notice of all officials dealing with the disciplinary cases.

Yours faithfully,

Sd/-

Joint Secretary to Government, Haryana,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information & necessary action to the:-

- (1) Financial Commissioner, Revenue, Haryana.
- (2) All Administrative Secretaries to Govt. Haryana.

Sd/-

Joint Secretary to Govt. Haryana,
for Chief Secretary to Government, Haryana.

To

1. Financial Commissioner Revenue, Haryana.
2. All Administrative Secretaries to Govt. Haryana.

U.O.No. 11/1/87-2GSIII

Dated Chandigarh the 15th July 1987

No. 59/1/84-6 GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala and Hissar Divisions, All Deputy Commissioners and all Sub-Divisional Officers in Haryana.
2. The Registrar, Punjab & Haryana High Court and all Districts and Sessions Judges in Haryana.

Dated Chandigarh the 4-2-1988

Subject.— Suspension of Government servants involved in cases of dowry deaths.

Sir,

I am directed to refer to the subject cited above and to say that Rule 4 A(1) of the Haryana Civil Service (Punishment and Appeal) Rules, 1987, provides *inter alia* that a Government Servant may be placed under suspension where a disciplinary proceedings against him is contemplated or is pending or where a case against him in respect of any criminal offence is under investigation, inquiry or trial, Sub-rule (2) of the same rule lays down that a Government Servant shall be deemed to have been placed under suspension by an order of the appointing authority *w.e.f.* the date of his detention if he is detained in custody, whether a criminal charge or otherwise for a period exceeding forty eight hours.

2. As Government takes a very serious view of offences against women, Government has received the provisions in the rules in regard to placing a Government servant under suspension if he is accused of involvement in case of “dowry death” as defined in Section 304-B of the Indian Penal Code. The section reads as follows. :-

“304-B (1) Where the death of a women is caused by any burns or bodily injury or occurs otherwise than normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected or cruelty of harassment by husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death” and such husband or relative shall be deemed to have caused her death.”

Explanation. - For the purposes of this sub-section “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961.

3. If a case has been registered by the Police against a Government servant under Section 304-B of the I.P.C. he shall be placed immediately under suspension in the following circumstances by the competent authority by invoking the provisions of rule 4-A of the Haryana Civil Services (Punishment & Appeal) Rules, 1987 :-

- (i) If the Government servant is arrested in connection with the registration of the police case, irrespective of the period of his detention ;
- (ii) If he is not arrested, on submission of a police report under sub-section (2) of section 173 of the Code of Criminal Procedure, 1973 to the Magistrate.

Compendium of Instructions on Disciplinary matter—Vol. V

4. I am to request you to observe these instructions strictly.
5. The receipt of these instructions may kindly be acknowledged.

Yours faithfully,

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Administrative Secretaries to Government, Haryana for information and necessary action.

Yours faithfully,

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

All the Administrative Secretaries to Government, Haryana.

U.O. No. 62/28/87-6 GSI,

dated Chandigarh, the 4th February, 1988.

A copy is forwarded to the :-

1. Principal Secretary/Deputy Principal Secretary/O.S.D. to Chief Minister and
2. All Secretaries/Private Secretaries to all the Ministers/State/Ministers/Chief Parliamentary Secretary for information and necessary action.

Yours faithfully,

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

1. Principal Secretary/Deputy Principal Secretary/O.S.D. to Chief Minister, and
2. All Secretaries/Private Secretaries to all the Ministers/State/Ministers/Chief Parliamentary Secretary Haryana.

U.O. No. 59/1/84-6 GSI,

dated Chandigarh, the 4th February, 1988.

No. 11/6/87-2GS-III

From

The Chief Secretary to Govt., Haryana.

To

1. All Heads of Departments, Commissioner Ambala & Hissar Divisions in Haryana State.
2. Registrar, Punjab & Haryana High Court, Chandigarh.
3. All Deputy Commissioner & S.D.O. (Civil) in Haryana State.

Dated Chandigarh. The 29th July, 1988.

Subject:- Speedy disposal of suspension cases of Govt. employees-Supply of information.

Sir,

I am directed to refer to this department letter No. 11/8/82-2GSIII, dated 23-8-82, on the above noted subject and to say that it has been observed that some of the Departments are not submitting the report according to the instructions referred to above. The quarterly progress report of only those employees is required to be sent whose suspension period exceeds six months where as report sent by the departments also include the cases of those suspended employees whose period of suspension is less than six months. It has further been observed that in the report it has not clearly been mentioned at which level the enquiry is being conducted. The practise of submitting monthly progress report has already been dispensed with but still some of the departments are sending the monthly progress report.

2. You are requested to send the requisite quarterly progress report strictly in accordance with instructions referred to above. It may also be ensured that the names of those suspended employees who have been reinstated should not appear in the report.

3. This may please be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to the Financial Commissioners/Commissioners and all Administrative Secretaries to Govt. Haryana for information. It is requested to ensure that the requisite information is supplied in accordance with the instructions.

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

The Financial Commissioners & Commissioners/All Administrative Secretaries to
Government, Haryana.

U.O. No. 11/6/87-2GS-III

Dated Chandigarh, the 29th July, 1988.

No. 11/1/95-2GS-III

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hissar, Rohtak and Gurgaon Divisions.
2. All the Deputy Commissioners and Sub-Divisional Officers (C) in Haryana.
3. The Registrar, Punjab and Haryana High Court, Chandigarh.
Dated Chandigarh, the 5th May, 1995.

Subject:- Speedy disposal of suspension cases of Government employees-extension of suspension period thereof.

Sir,

I am directed to invite your attention to the Haryana Government letter No. 11/3/82-2GS-III, dated 19-2-82, letter No. 11/14/82-2GS-III, dated 15-6-82 and letter No. 11/4/86-2GS-III, dated 16-10-86 on the subject noted above and to say that it has been observed by the Government that while submitting cases for approval of extension of suspension period, where FIRs have been lodged against the Government officials under certain sections of IPC, the information as to whether the challans have been put up in the court or not and specific reasons of delay in finalising such cases, are not clearly brought out on the files by the Department. The Government have desired that while submitting suspension cases of Government employees, for approval of extension of suspension period, to the Government, specific reasons of delay in suspension cases and their status in the court may invariably be mentioned.

2. These instructions may kindly be brought to the notice of all concerned working under your control for strict compliance.

Yours faithfully,

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Financial Commissioners/ Commissioners and Administrative Secretaries to Government, Haryana for information and necessary action.

2. They are requested to ensure that the aforesaid instructions are strictly followed by all the concerned officials working under them.

Sd/-

Under Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners/Commissioners and Administrative Secretaries to Government, Haryana.

U.O. No. 11/1/95-2GS-III,

Dated Chandigarh, the 5th May, 1995.

No. 11/2/97-2GS-III

From

The Chief Secretary to Government, Haryana.

To

- (i) All Heads of Departments.
- (ii) Commissioners/Ambala, Hisar, Rohtak and Gurgaon Divisions.
- (iii) All Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.
- (iv) The Registrar, Punjab & Haryana High Court, Chandigarh.

Dated Chandigarh, the 3-10-1997.

Subject:- Instructions regarding grant of benefits to a Government employee under suspension after acquittal in a Court Case.

Sir,

I am directed to invite your attention to Note 9 below Rule 7.3 of CSR Volume-I, Part-I which deals with the benefits to be granted to an employee under suspension after his acquittal by the Court, and to say that the Hon'ble Supreme Court in the case of Krishna Kant Raghunath Bibhavnekar V/s State of Maharashtra and others AIR 1997 SC 1434 has given the following ruling :-

“When a Government servant is prosecuted for commission of defalcation of public funds and fabrication of records and said prosecution had culminated into acquittal he cannot be made entitled to reinstatement with grant of all consequential benefits along with back-wages etc. as a matter of course if the conduct alleged is the foundation for prosecution, though it may end in acquittal on appreciation or lack of sufficient evidence. Two courses are open to the disciplinary authority viz. it may enquire misconduct unless the self-same conduct was subject of charge and on trial the acquittal was recorded on a positive finding that the accused did not commit the offence at all, but acquittal is not on benefit of doubt given. Appropriate action may be taken thereon. Even otherwise, the authority may, on reinstatement after following the principle natural justice, pass appropriate order including treating suspension period as period of not on duty, (and on payment of subsistence allowance etc.) Therefore, when the suspension period of the employee, charged for committing criminal breach of trust was treated to be a suspension pending the trial and even after acquittal, he was reinstated into service, he would not be entitled to the consequential benefits. As a consequence, he would not be entitled to the benefits of nine increments and also not entitled to be treated as on duty from the date of suspension till the date of the acquittal for purpose of computation of pensionary benefits etc. Till now ordinarily the view taken was that a Government servant was entitled to all benefits after his acquittal by the Court in such cases and the suspension period was to be treated as duty, but the judgment mentioned above has now clearly held that this would not be correct approach.

I have been directed to inform you that in future necessary action in cases of similar nature should be taken in accordance with the directions/guidelines given by Hon'ble Supreme Court in the judgment quoted above.

Compendium of Instructions on Disciplinary matter—Vol. V

These instructions may kindly be brought to the notice of all concerned working under you for strict compliance in future.

Yours faithfully,

Sd/-

Joint Secretary, General, Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded to all the Financial Commissioners/Commissioners and all the Administrative Secretaries to Govt. of Haryana, for information and necessary action.

Sd/-

Joint Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners/Commissioners &
All Administrative Secretaries to Govt. of Haryana.

U.O.NO. 11/2/97-2GSIII

Dated Chandigarh, the 3-10-1997.

No. 11/3/82-2GSIII

From

The Chief Secretary to Government, Haryana.

To

1. The Commissioners, Rohtak, Gurgaon, Hisar and Ambala Divisions.
2. All the Heads of Departments in Haryana State.
3. All the Deputy Commissioners and Sub-Divisional Officers (Civil) in the State.

Dated Chandigarh, the 23rd December, 1999.

Subject:- Speedy disposal of cases of Government employees under suspension.

Sir,

I am directed to invite your attention to Haryana Govt. letter No. 11/3/82-2GS-III, dated 7th February, 1982 on the subject noted above and to state that it has been noticed that the instructions contained therein of not being meticulously followed by the department concerned. The State Govt. has decided to reiterate the decisions contained in the aforesaid letter for strict compliance by the Govt. Departments, Govt. has further decided that Departments must take measures to ensure timely prosecution evidence.

2. The above instructions may please be brought to the notice of all concerned for strict compliance.

Your faithfully,

Sd/-

Under Secy., Gen. Administration,
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and necessary action to :-

1. All the Financial Commissioner & Secretaries to Govt., Haryana.
2. All the Administrative Secretaries to Govt., Haryana.

Sd/-

Under Secy., Gen. Administration,
for Chief Secretary to Government, Haryana.

To

1. All the Financial Commissioners & Secretary to Govt., Haryana.
2. All the Administrative Secretaries to Govt., Haryana.

U.O. No. 11/4/99-2GS-III,

dated Chandigarh, the 23-12-1999.