

THE AJ&K CIVIL SERVANTS (APPEAL) RULES, 1991

“Muzaffarabad”

Dated: 1st December, 1991

NOTIFICATION:

No. S&GAD/H-6(36)/ R/VI/91. In exercise of the powers conferred by Section 23 of the Azad Jammu and Kashmir Civil Servants Act, 1976, the Azad Government of the State of Jammu and Kashmir is pleased to make the following rules namely:-

1. (1) These rules may be called the Azad Jammu and Kashmir Civil Servants (Appeal) Rules, 1991.
- (2) These Rules shall come into force at once.
2. In these rules, unless there is anything repugnant in the subject or context:-
 - (a) **“Appellate Authority”** means:
 - (i) in case of an officer designated as authority, the Officer or the authority next above the authority;
 - (ii) in case of “Authorized Officer” the Authority;
 - (iii) in case of “Secretary to the Government” the Government;
 - (b) **“Authority”** means the authority competent to appoint a Civil Servant under the rules applicable to him or an authority designated as such under the Azad Jammu and Kashmir (Efficiency & Discipline) Rules 1977;
 - (c) **“Authorised Officer”** means an officer designated as such under the Azad Jammu and Kashmir (Efficiency and Discipline) Rules 1977;
 - (d) **“Penalty”** means a penalty provided for in the Civil Servants (Efficiency and Discipline) Rules; and
 - (e) **“Secretary to the Government”** means and includes any Officer appointed to perform the functions as such.

Appeal:-

3. A Civil Servant shall be entitled to appeal, to the appellate authority from an original order passed by an authority or an authorised officer imposing upon him any penalty:

Provided that, where the penalty is imposed by an order of the Government, the Civil Servant shall have no right to appeal but he may apply for review of the order.

4. (1) A Civil Servant shall be entitled to appeal to the appellate authority from an original order passed by an authority which:-
- a) alters to his disadvantage, his conditions of service, pay, allowances or pension; or
 - b) interprets to his disadvantage the provisions of any rules whereby his conditions of service, pay, allowances or pension are regulated; or
 - c) reduces or withholds the maximum pension, including an additional pension, admissible to him under the rules governing pension; or
 - d) terminates his employment or gives notice of such termination otherwise than:
 - i) on his reaching the age of superannuation; or
 - ii) in accordance with the provisions of the Civil Servants Act, 1976:

Provided that a person appointed by the Government shall have no right to appeal from an order passed by the Government but he may apply for review of the order;

Provided further that no appeal or review shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

5. (1) The person preferring an appeal shall do so separately and in his own name.
- (2) The appeal preferred under these rules shall contain all material statements and concise arguments relied upon by the appellant. It shall contain no disrespectful or improper language, and shall be complete in itself.
 - (3) The appeal shall be submitted direct to the Appellate Authority.
 - (4) The appeal shall be submitted within period of sixty days, of the communication of the order appealed against.

- ¹[(5) A copy of appeal preferred under these rules, shall be forwarded to the Department concerned or the person against whom it is filed, to submit parawise comments on such appeal within thirty days.
- (6) In case the Department or the person, against whom appeal is filed, fails to submit parawise comments under sub-rule (5), the appellate authority may pass ex-parte order against them.]
6. (1) In the case of an appeal under rule 3, appellate authority shall consider:
- (a) Whether the facts on which the order appealed against 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 confirm, set aside or modify the order under appeal.
- (2) In the case of an appeal under rule 4, the appellate authority shall pass such order as, having regard to all circumstances of the case, appears, to it, just and equitable.
- (3) The authority from whose order an appeal is preferred under these rules shall give effect to any order made by the appellate authority.
7. (1) An appeal may be rejected by the appellate authority without hearing the appellant if:
- (a) it is an appeal in a case in which no appeal lies under these rules; or
- (b) it does not comply with the provisions of sub-rule (1), (2), (3) or (4) of rule 5; or
- (c) It is addressed to authority to which no appeal lies under these rules:
- Provided that in every case in which an appeal is rejected under this rule, the appellant shall be informed of the fact and the reasons for it and he shall have no other remedy except review submitted to the appellate authority which passed the order under this rule, within one month of the date on which the appellant is informed of the rejection of the appeal.
- (2) No appeal shall lie against the order passed on review under this rule.

¹ Sub-rule (5) and (6) are added vide Notification No. S&GAD/A-4(36) P-II, dated 09.06.2004.

- (3) Any order passed on appeal shall be final except otherwise specifically provided under these rules.
8. The provisions relating to appeal in these rules shall apply *mutatis-mutandis* to the review petitions to be preferred under these rules.

Representation:-

9. (1) The right of representations shall be governed under the provisions of section 21 of the Azad Jammu and Kashmir Civil Servants Act, 1976.
- (2) The Provisions applicable to the appeals shall apply *mutatis-mutandis* to the representations.
- (3) The authority to whom the representation is made shall exercise the same powers as are vested in the appellate authority under these rules.

Revision:-

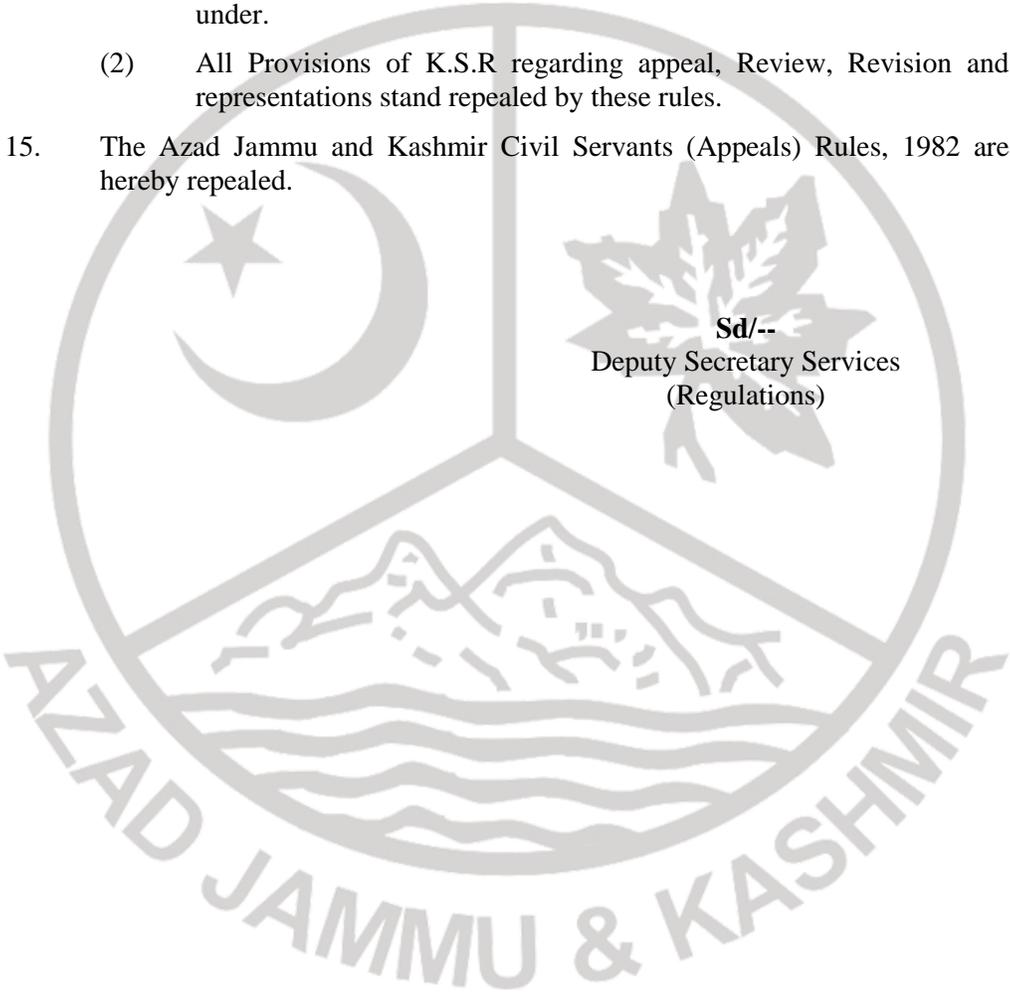
10. (1) The Government may call for and examine the record of any proceedings before any authority for the purpose of satisfying as to the correctness, legality or propriety of any finding, penalty or order recorded or passed and as to the regularity of any proceeding of such authority;

Provided that a revision petition preferred after the laps of a period of three months from the date of the communication of the order to the concerned Civil Servants shall not be entertained.
- (2) On examining any record under this rule, the Government may pass such orders as it may deem fit;

Provided that any order under this rule made prejudicial to the accused shall not be passed unless he has been given an opportunity to show cause against the proposed action:

Provided further that an order imposing penalty shall not be revised suo motu or otherwise after the lapse of a period of three months from the date of its communication to the accused if no appeal is preferred.
11. The Government in case of review petition or the appellate authority in case of appeal, review or representation itself may give personal hearing to the concerned Civil Servants or direct any other officer sub-ordinate to him to grant a hearing to the concerned Civil Servant and submit the case with his comments for orders.
12. An order passed under these rules on an appeal, review petition or representation shall be final.

13. All appeals, review, revision petitions, and representations pending immediately before the coming into force of these rules shall be processed and finalized under the rules existing before the promulgation of these rule.
14. (1) The Rules 14, 15, 16, 17 and 18 of Azad Jammu and Kashmir (Efficiency & Discipline) Rules, 1977 are hereby repealed, but the repeal thereof shall not affect any action or anything done there-under.
- (2) All Provisions of K.S.R regarding appeal, Review, Revision and representations stand repealed by these rules.
15. The Azad Jammu and Kashmir Civil Servants (Appeals) Rules, 1982 are hereby repealed.



Sd/--
Deputy Secretary Services
(Regulations)