

**THE AZAD JAMMU AND KASHMIR CIVIL SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES, 1977**

“Muzaffarabad”
Dated: 30th November, 1977

NOTIFICATION:

No. S&GAD/R-80/77. In exercise of the powers conferred by Section 23 of 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:-

CHAPTER-I: PRELIMINARY

1. **Short Title, Commencement and Application-**(1) These rules may be called the Azad Jammu and Kashmir Civil Servants (Efficiency and Discipline) Rules, 1977.
 - (2) They shall come into force at once ¹[and shall apply to all civil servants except members of such services and holders of such posts, as may be specified by Government.]
2. **Definition:-** (1) In these rules, unless the context otherwise requires:-
 - (a) **“Accused”** means a civil servant against whom action is taken under these rules;
 - (b) **“Authority”** means the Government or an officer or authority designated by it to exercise the powers of the authority under these rules;
 - ²(c) **“Authorized Officer”** means an officer authorized or designated by Government to perform the functions of an authorized officer under these Rules:

Provided that where in the case of a civil servant no authorized officer has been so authorized or designated, the authority

¹ (i) The said Rules shall not apply to the members of subordinate Police Service upto the rank of Inspector; Provided that an enquiry started under the said Rules shall be completed under these Rules; and
(ii) The members of the subordinate Police Service upto the rank of Inspector shall be governed by the Azad Jammu and Kashmir Police Rules, (Refer Notification No. S&GAD/R-80/SO-1/80 dated 28.09.1980).

² Substituted vide Notification No. S&GAD/H-6(34) Sec.1/83, dated 17.08.1983

shall have power to appoint an officer to act as authorized officer in that case:

Provided further that in relation to a civil servant, the authority may be authorized to act as authorized officer.]

(d) **“Misconduct”** means conduct prejudicial to good order or service discipline or contrary to the Government Servants (Conduct) Rules as applicable to the Azad Jammu and Kashmir or conduct unbecoming of an officer and gentleman and includes any act on the part of a civil servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of services of a Civil Servant; and

(e) **“Penalty”** means a penalty which may be imposed under these rules.

(2) In case two or more civil servants are to be proceeded against jointly, the authority or as the case may be, the authorised officer for the civil servant senior most in rank, shall be the authority or, as the case may be, the authorised officer in respect of all such accused.

(3) Save in case where Government is to act as ‘the authority’ or ‘the authorised officer’, notwithstanding, anything to the contrary contained in rule 2, where ‘the authority’ or the ‘authorised officer’ would personally be interested in the result of proceedings under these rules, the authority or the ‘authorised officer’ shall not proceed with the case and shall:-

(i) in the case of ‘authorised officer’ report the matter to ‘the authority’ which shall appoint and authorise another officer of the corresponding rank or status to act as ‘authorised officer’; and

(ii) in the case of ‘authority’, report the matter to the appellate authority to which the orders passed by ‘the authority’ are ordinarily appealable and such appellate authority shall appoint and authorise another officer of the corresponding rank and status to act as ‘the authority’.

(4) The various authorities empowered to award major punishments under the various delegation of powers Rules, shall, in respect of Civil Servants to whom they are competent to award major punishment, exercise the powers of ‘the authority’ under these Rules, and the authorities empowered to award minor punishment under the said delegation of Powers Rules are, in respect of the Civil servants to whom they are competent to

award minor punishment, authorised to exercise the powers of 'Authorised Officer' under these rules.

(5) Words and expressions used but not defined shall bear the same meanings as they bear in the Azad Jammu and Kashmir Civil Servants Act, 1976.

CHAPTER-II: PENALTIES

- 3. Grounds for Penalty:-** A civil servant, who in the opinion of the authority:-
- (a) is inefficient or has ceased to be efficient whether by reason of:
 - i) infirmity of mind or body; or
 - ii) having, on two or more occasions, failed to pass in a departmental or other examination prescribed for the purpose of maintaining or raising general efficiency; or
 - (iii) having failed once in departmental or other examination prescribed for the purpose of maintaining or raising general efficiency if the civil servant is recruited not in regular manner or recruitment is a result of pressures of all kinds;
 - (iv) having, without reasonable cause, failed to appear at any such examination aforesaid, or otherwise and is not likely to recover his efficiency; or
 - (v) by any reason affecting adversely the proper discharge of his duties;
 - (b) is guilty of misconduct; or
 - (c) is corrupt, or may reasonably be considered corrupt because:-
 - i) he is, or any of his dependents or any other person through him on his behalf, is in possession of pecuniary resources or of income, which he cannot reasonably account for; or
 - ii) he has assumed a style of living beyond his ostensible means; or
 - (d) is engaged, or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorised persons, and his retention in service is, prejudicial to national security;
- shall be liable to be proceeded against under these rules and one or more of the penalties hereinafter mentioned may be imposed on him.

4. **Penalties:-** (1) The following are the minor and major penalties, namely:-
- (a) **Minor Penalties:**
- (i) Censure;
 - (ii) With-holding for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement in accordance with the rules or orders pertaining to the service or post;
 - (iii) Stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;
 - (iv) ³[-----]
- (b) **Major Penalties:**
- (i) Reduction to a lower grade or post or time-scale or to a lower stage in a time-scale;
 - ⁴(i-a) Recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of orders;
 - (ii) Compulsory retirement;
 - (iii) Removal from services; and
 - (iv) Dismissal from service.
- (2) Removal from services does not, but dismissal from service does, disqualify for future employment.
- (3) In this rule, removal or dismissal from service does not include the discharge of a civil servant:
- (a) appointed on probation, during the period of probation or in accordance with the probation or training rules are applicable to him; or
 - (b) appointed, otherwise than under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or
 - (c) engaged under a contract, in accordance with the terms of the contract.

³ Omitted vide No. S&GAD/H-6(34)/Sec-I/83 dated 17.08.1983.

⁴ Added by *ibid*.

CHAPTER III: INQUIRY AND IMPOSITION OF PENALTIES

⁵[5. **Initiation of Proceedings:-** (1) If, on the basis of its own knowledge or information placed before it, the authority is of the opinion that there are sufficient grounds for proceeding against a civil servant, or where in a case in which Anti-Corruption Committee/Committees set up by the Government, from time to time has decided to take departmental action, it shall direct the authorized officer to proceed against such civil servant.

(2) Where no authorized officer stands designated in respect of the accused civil servant, the authority shall simultaneously appoint an officer senior in rank to the accused, to perform the functions of an authorized officer.]

⁶[6. **Procedure to be Observed by the Authorized Officer:-** (1) In a case where a civil servant is accused of subversion, corruption or misconduct, he may be placed under suspension by the authority, or with the prior approval of the authority, by the authorized officer, or he may be required by the authorized officer to proceed on leave;

Provided that the continuation of suspension, if ordered by the authorized officer, or grant of any extension in leave shall require the prior approval of the authority after every three months.

(2) Within three days of the receipt of the direction from the authority under rule 5, or within such further period as may be allowed by the authority at the written request of the authorised officer, the authorised officer shall decide whether in the light of the facts of the case or in the interest of justice, an inquiry is necessary.

(3) If the authorised officer decides that is not necessary to have an inquiry conducted against the accused, he shall.

- (a) inform the accused forthwith, by an order in writing, of the action proposed to be taken in regard to him and the grounds of the action; and
- (b) give him a reasonable opportunity of showing cause against that action within a period of fourteen days from the date of receipt of the order under clause (a):

Provided that no such opportunity shall be given where, in the interest of security of Pakistan/Azad Jammu and Kashmir or any part thereof, it is not expedient to do so but before denying this opportunity, the authorised officer shall obtain the prior approval of the authority.

⁵ Substituted vide Notification No. S&GAD/H-6/(34)/Sec-1/83 dated 17.08.1983.

⁶ Substituted vide *ibid*.

(4) Within seven days of the receipt of the explanation, if any, of the accused, or within such further period as may be allowed by the authority at the written request of the authorised officer, the authorised officer shall determine whether the charge has been proved. If it is proposed to impose a minor penalty he shall pass orders accordingly. If, however, the authorised officer considers it to be a case for a major penalty, he shall forthwith forward the case to the authority alongwith the explanation of the accused and his own recommendations regarding the penalty to be imposed.

(5) If under sub-rule (2) the authorised officer considers that an inquiry is necessary, he shall appoint an Inquiry Officer or an Inquiry Committee consisting of two or more persons who or one of whom shall be of a rank senior to that of the accused or if there are more than one accused, senior to all the accused.

(6) Where an Inquiry Officer or an Inquiry Committee is appointed under sub-rule (5), the authorised officer shall simultaneously frame a charge and communicate it to the accused together with a statement of allegations explaining the charge and other relevant circumstances which are proposed to be taken into consideration and require the accused, within a reasonable time which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in a written defense directly before the Inquiry Officer or the Inquiry Committee, as the case may be.

(7) The authorised officer, immediately after communicating the charge to the accused under sub-rule (6), shall forward such record or copies thereof and such other material as is necessary for the conduct of the inquiry to the Inquiry Officer or the Inquiry Committee, as the case may be.]

⁷[7. **Procedure to be Observed by the Inquiry Officer or Inquiry**

Committee:- (1) On receipt of the record and the explanation of the accused referred to in the preceding rule, the Inquiry Officer or Inquiry Committee, as the case may be, shall enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused, as may be considered necessary, and where any witness is produced by one party, the other party shall be entitled to cross-examine that witness.

(2) If the accused fails to furnish his explanation within the period specified, the Inquiry Officer or the Inquiry Committee, as the case may be, shall proceed with the inquiry.

(3) The Inquiry Officer or the Inquiry Committee, as the case may be, shall hear the case from day to day and no adjournment shall be given, except

⁷ Substituted vide No. S&GAD/H-6(34)/Sec-I/83 dated 17.08.1983.

for reason to be recorded in writing. However, every adjournment, with reasons therefore, shall be reported forthwith to the authorised officer. Normally, no adjournment shall be for more than a week.

(4) Where the Inquiry Officer or the Committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard of the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he or it thinks best suited to do substantial justice.

(5) If the accused absents himself from the inquiry on medical grounds he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendation of a Medical Board. Where, in view of the serious condition of the accused, it may not be possible for him to appear before the Medical Board, the Board shall examine him at his residence of which complete address must always be given in the leave application and at which he must be available.

Provided that the authorised officer may, in his discretion sanction medical leave upto seven days without the recommendation of the Medical Board.

(6) The Inquiry Officer or the Inquiry Committee, as the case may be, shall complete the inquiry proceedings within a period of sixty days commencing from the last date of submission of the written defense by the accused and shall, within ten days of the expiry of the said period of sixty days or within such further period as may be allowed by the authorised officer, submit his or its findings and the grounds thereof to the authorised officer.]

*⁸[7-A The Authorised officer, on receipt of the report of the Inquiry Officer or Inquiry Committee, shall determine whether the charge has been proved. If it is proposed to impose a minor penalty, he shall after affording the accused an opportunity of showing cause against the action proposed and pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority along with the charge sheet, a statement of allegations served on the accused, explanation of the accused, the finding of the Inquiry Officer or the Inquiry Committee, as the case may be, and his own recommendations regarding the penalty to be imposed. In case it is proposed

⁸ Notification No. S&GAD/R-80/SO-I/14527-14606/80 dated 07.09.1980 is omitted and substituted vide Notification No. S&GAD/H-6/(34)/Sec-I/83 dated 17.08.1983.

to drop the proceedings, the authorised officer shall submit the case with all relevant material/documents to the Authority for appropriate orders.]

⁹[7-B **Appearance of Counsel:-** No party to any proceeding under these rules before the authority, the authorised Officer, an inquiry officer, an inquiry committee or appellate authority shall be represented by a lawyer.]

¹⁰[7-C **Expeditious Disposal of Proceedings:-** (1) In a case where the authorised officer decides not to have an inquiry conducted against the accused, the proceedings must be finalized by him within a period of forty five days from the date of receipt of the direction under rule 5 and a report to that effect submitted to the authority.

(2) In a case where the authorised officer has appointed an Inquiry officer or Inquiry Committee, he should ensure that the entire proceedings are completed within a period of ninety days from the date of receipt of direction under rule 5 and shall submit a report thereof to the authority.

(3) Where inquiry proceedings are not completed by the Inquiry Officer or the Inquiry Committee, as the case may be, within a period of forty five days of the date on which the accused puts in his written defense if any, the Inquiry Officer or the Inquiry Committee, as the case may be, shall report the position of the inquiry to the authorised officer intimating the reasons why the inquiry could not be completed within that period and the approximate further time that is likely to be taken in the completion of the inquiry and the authorised officer shall immediately cause the same to be produced before the authority.

(4) The Authority on receipt of report under sub-rules (2) and (3) shall pass such orders for expeditious finalization of the proceedings as it may deem fit.

¹¹[8. **Action by the Authority:-** In the case of any proceedings the record of which has been reported for orders under sub-rule (4) of Rule 6 of Rule 7-A the authority may pass such orders as it deems fit but before imposing a major penalty, the authority shall afford the accused an opportunity of being heard in person, either before himself or before an officer senior in rank to the accused designated for the purpose after taking into consideration the record of such personal hearing prepared by the officer so designated.]

¹²[9. **Certain Rules not to Apply in Certain Cases:-** (1) Where a civil servant is convicted of an offence involving moral turpitude which has led to a sentence

⁹ Substituted vide Notification No. S&GAD/H-6/(34)/Sec-1/83 dated 17.08.1983.

¹⁰ Substituted vide *ibid*.

¹¹ Substituted vide *ibid*.

¹² Substituted vide No. S&GAD/H-6/(34)/Sec-1/83 dated 17.08.1983.

of fine or imprisonment, he may, after being given a show cause notice, be dismissed, removed from service or reduced in rank without following the procedure laid down in rule 5, 6, 7 and 8.

(2) Where the authority is satisfied, that for reasons to be recorded in writing, it is not reasonably practicable to give the accused civil servant an opportunity of showing cause it may impose any of the penalties under these rules without following the procedure laid down in Rules 5, 6, 7, and 8.]

10. **Procedure of Inquiry Against Officers Lent to Other Government etc:-**

(1) Where the services of a civil servants to whom these rules apply are lent to the Azad Jammu and Kashmir Council or any other Government or to a local or other authority, the borrowing authority shall have powers of authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules;

Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in these rules referred as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings as the case may be.

Provided further that the borrowing authority shall obtain prior approval of the Azad Government of the State of Jammu and Kashmir before taking any action under these rules against a civil servant holding a post in grade-17 or above.

(2) If, in the light of the findings in the proceedings taken against a civil servant in terms of sub-rule (1) above the borrowing authority is of the opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules.

¹³[(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2) Government may, in respect of certain civil servants or categories of civil servants, authorise the borrowing authority to exercise all the powers of authority and authorised officer under these rules.]

11. **Power to Order Medical Examination as to Mental or Bodily Infirmary:-**

(1) Where it is proposed to proceed against a civil servant on the ground of inefficiency by reasons of infirmity of mind or body, the authority, may at any stage, whether or not an authorised officer has been directed to proceed against him, require the civil servant to undergo a medical examination by a Medical Board or a Medical Officer as the authority may direct and the report of the Board or the Medical Officer shall form part of the proceedings.

¹³ Added vide ibid.

(2) If a civil servant refuses to undergo such an examination his refusal may, subject to the consideration of such grounds as he may give in support of it, be taken into consideration against him as showing that he had reason to believe that the result of the examination would prove unfavorable to him.

12. **Powers of Inquiry Officer and Inquiry Committee:-** (1) For the purpose of an inquiry under these Rules, the Inquiry Officer and the Inquiry Committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908, (Act V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Azad Kashmir Penal Code (Act XLV of 1860).

CHAPTER-IV: APPEALS, REVISIONS, ETC.

¹⁴[13. The Civil Servants on whom a penalty is imposed shall have such right of appeal as provided in the Azad Jammu and Kashmir Civil Servants (Appeal) Rules, 1982;

Provided that where the penalty is imposed by the Government, there shall be no appeal, but the person aggrieved by an order, may apply for review of order.]

¹⁵[Rules 14, 15, 16, 17 and 18 repealed]

¹⁴ Substituted vide No. S&GAD/R-80/Sec-1/82 dated 12.10.1982.

¹⁵ Repealed vide *ibid*.

CHAPTER-V: REPEAL

19. **Repeal:-**

- (1) The Azad Jammu and Kashmir Government Servants (Efficiency and Discipline) Rules, 1974, in their application to the civil servants to whom these rules apply, are hereby repealed.
- (2) Notwithstanding the repeal of AJ&K Government Servants (Efficiency and Discipline) Rules, 1974 hereinafter referred to in this sub-rule as the said rules:
 - (a) subject to the provisions of Chapter IV of these rules any department inquiry or proceedings pending immediately before coming into force of these rules shall be completed and orders passed thereon as if the said rules had not been repealed; and
 - (b) any notification or instructions issued thereunder so far as they are not inconsistent with these rules, shall be deemed to have been issued under these rules.
- (3) Any person or authority, or the successor of the same authorised to exercise powers by virtue of a delegation made by the Government from time to time subsisting immediately before the commencement of these rules, shall to the extent of the powers delegated and so far as is not inconsistent with these rules, be deemed to be an authority designated under these rules.

Sd/--

(Khalil Ahmed Qureshi)

Secretary S&GAD