



**GOVERNMENT OF ASSAM**

**THE ASSAM SERVICES  
(DISCIPLINE AND APPEAL)  
RULES**

**1964**

**[AS AMENDED UPTO 31<sup>ST</sup> DECEMBER 1998]**

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## **The 5<sup>th</sup> November, 1964**

**No. ABP. 12/61. –**

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Assam is pleased to make the following rules, namely: - THE ASSAM SERVICES (DISCIPLINE AND APPEAL) RULES, 1964.

### **PART – I- GENERAL**

#### **1. Short title and commencement.**

- (a) These rules may be called the Assam Services (Discipline and Appeal) Rules, 1964.
- (b) They shall come into force from the date of publication of this notification.

#### **2. Interpretation.**

In these rules, unless there is anything repugnant in the subject or context:

- (a) **“Appellate Authority”** means the authority to whom appeal lies;

- (b) **“Appointing Authority”**, in relation to a Government Servant at any particular time, means the authority empowered to appoint him to the post, which he is holding at that time;
- (c) **“Commission”** means the Assam Public Service Commission;
- (d) **“Disciplinary Authority”**, in relation to the imposition of a penalty on a Government Servant, means the authority competent under these rules to impose on him that penalty;
- (e) **“Government Servant”**, means a person who is a member of a service or who holds a civil post in connection with the affairs of the State of Assam and includes any person whose services are temporarily placed at the disposal of the Central Government or any State Government or a local or other authority and also any person in the service of a State Government or the Central Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Assam;
- (f) **“Schedule”** means the schedule to these rules;
- (g) **“Service”** means a civil service of the State of Assam.

### **3. Application.**

- (1) These rules shall apply to all Government servants except
  - (a) Person in casual employment;
  - (b) Person for whose appointment and other matters covered by these rules, special provisions are made by or under any law for the time being in force or in any agreement in regard to the matters covered by such law or such agreement;
  - (c) Members of the All India Services.
- (2) Notwithstanding anything contained in sub-rule (1) these rules, shall apply to every Government servant temporarily transferred to a service or post coming within exception (b) in sub-rule (1) to whom, but for such transfer, these rules should apply.
- (3) Notwithstanding anything contained in sub-rule (1) the Governor may, by notification published in the official Gazette, exclude from the operation of all or any of these rules any Government servants or class of Government servants to whom the Governor shall declare that the rules cannot suitably be applied and

these rules shall thereupon to the extent of such exclusion cease to apply accordingly:

Provided that no such declaration shall be made in respect of any Government servants who holds a pension able post or hold a permanent whole-time post.

- (4) If any doubt arises as to whether these rules or any of them apply to any person, the matter shall be referred to the Governor, whose decision thereon shall be final.

**4. Protection of rights and privileges conferred by any law or agreement.**

Nothing in these rules shall operate to deprive any Government servants of any right or privilege to which he is entitled.

- (a) by or under any law for the time being in force, or
- (b) by the terms of any agreement subsisting between such person any the Governor at the commencement of these rules.



## **PART - II – APPOINTING AUTHORITIES**

### **5. Appointments to State Services.**

All appointment to state Services shall be made by the authorities specified in the Schedule.

Provided that the Governor may, by notification in the official Gazette, amend the Schedule from time to time.

**PART – III – SUSPENSION****6. \* Suspension.**

(1) The Appointing Authority or any authority to which it is subordinate or any other authority empowered by the Governor in that behalf may place a Government servant under suspension -

- (a) Where a disciplinary proceeding against him is contemplated or is pending; or
- (b) Where is the opinion of the authority aforesaid he has engaged himself in activities prejudicial to the interest or the security of the State; or
- (c) Where a case against him in respect any criminal offence is under investigation inquiry or trial;

Provided that where the order of suspension is made by an authority lower than the Appointing Authority such authority shall forthwith report to the Appointing Authority the Circumstances in which the order was made.

\* Substituted vide Notification No. ABP. 87/86/Pt/1. dated 21/08/1987.

- (2) A Government servant who is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of such detention, by an order of the Appointing Authority and shall remain under suspension until further orders.

Provided that where the detention is made on account of any charge not connected with his position as a Government servant or continuance in office is not likely to embarrass the Government or the Government servant in the discharge of his duties or the charge does not involve moral turpitude, the Appointing Authority may vacate the suspension order made or deemed to have been made when he is released on bail or is not otherwise in custody or imprisonment.

- (3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review under these rule and the case is remitted for further inquiry or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

- (4) Where penalty of dismissal removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of the dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.
- (5) An order of suspension made or deemed to have been made under these rule may at any time be revoked by the Authority, which made or is deemed to have made the order or by any Authority to which that Authority is subordinate.

## **PART – IV – DISCIPLINE**

### **7. Nature of penalties.**

The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed on a Government servant, namely: -

- (i) censure;
- (ii) withholding of increments of promotion;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused by negligence or breach of orders to the Government of Assam or the Central Government or any other State Government, or any local or other authority to whom services of a Government servant had been lent;
- (iv) reduction to a lower service, grade or post, or to a lower time-scale, or to lower stage in a time-scale;
- (v) compulsory retirement;
- (vi) removal from service which shall not be a disqualification for future employment;

- (vii) dismissal from service, which shall ordinarily be a disqualification for future employment.

***Explanation. –***

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

- (a) withholding of increments of a Government servant for failure to pass a departmental examination or successfully undergo training prescribed in accordance with the rule or orders governing the service of post or the terms of his appointment;
- (b) stoppages of a Government Servant at an efficiency bar in the time scale on the ground of his unfitness to cross the bar;
- (c) non-promotion whether an a substantive or officiating capacity of a Government servant, after due consideration of his case to a Service, grade or post for promotion to which he is eligible;
- (d) reversion to lower Service, grade or post of a Government servant officiating in higher Service, grade or post on the ground that he is considered, after trial, to be unsuitable for such higher Service, grade or post or on administrative grounds unconnected with his conduct;

- (e) reversion to his permanent Service, grade or post of a Government servant appointed on probation to another Service grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation;
- (f) Compulsory retirement of a Government servant after completion of 25 years qualifying service or 30 years qualifying service as the case may be, under the provisions of Articles 103, 104 of the Assam Pension Manual and Rule 1 (2) of Section I of the Assam Liberalised Pension Rules;
- (g) **Termination of the Service –**
  - (i) of a Government servant appointed on probation, during or at the end of the period on probation, during or at the end of the period on probation, in accordance with the terms of his appointment or the rules and orders governing probation; or
  - (ii) of a Government servant employed under an agreement in accordance with the terms of such agreement;
  - (iii) of a Government servant whose term of appointment provides for the termination of

service by either party giving notice for a specified period ;

- (iv) of a Government servant in whose case the appointment is expressly stated to be on temporary basis and to have been sanctioned until further orders and it is also provided that his services may be terminated at any time without notice;

## **8. Disciplinary Authority.**

1. The Governor may impose any one or more of the penalties specified in rule 7 on any Government servant
2. Without prejudice to the provisions of sub-rule (1), but subject to the provisions of sub-rule (3) any one or more of the penalties specified in rule 7 may be imposed on member of a State Service by the Appointing Authority or by any other authority empowered in this behalf by a general or special order of the Governor.
3. Notwithstanding anything contained in this rule no penalty specified in clauses (iv) to (vii) of the rule 7 shall be imposed by an authority lower than the Appointing Authority.



**9. Procedure for imposing penalties.**

- (1) Without prejudice to the provisions of the Public Servant; (Inquiry) Act, 1850, no order imposing on a Government servant any of the penalties specified in rule 7 shall be passed except after an inquiry, held as far as may be in the manner hereinafter provided.
- (2) The Disciplinary Authority shall frame definite charges on the basis of the allegations on which the inquiry is proposed to be held. Such charges together with a statement of the allegations on which they are based shall be communicated in writing to the Government servant, and he shall be required to submit, within such time as may be specified by the Disciplinary Authority, a written statement of his defence and also to state whether he desires to be heard in person.
- \*(2.1) At the time of delivering the charges, the Disciplinary Authority shall invariably furnish to the Government servant a list of documents and witnesses by which each article of charges is proposed to be sustained.

\*[Inserted vide notification No. ABP. 295/75/70, dated 17.2.1978]

***Explanation –***

In this sub-rule (3) the expression “the Disciplinary Authority” shall include the authority competent under these rules to impose upon the Government servant any of the penalties specified in rule 7.

- (3) The Government servant shall, for the purpose of preparing his defence, be permitted to inspect and take extracts from such permission may be refused if for reasons to be recorded in writing, in the opinion of the Disciplinary Authority such records are not relevant for the purpose or it against the public interest to allow him access thereto;

Provided that when a Government servant is permitted to inspect and take extracts from official records due case shall be taken against tempering removal or destruction of records.

- (4) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Disciplinary Authority may itself inquire into such of the charge as are not admitted or, if it considers it necessary so to do, appoint for the purpose a Board of inquiry or an Inquiring Officer.

- (5) The Disciplinary Authority may nominate any person to present the case in support of the charges before the Authority inquiring into the charges (hereinafter referred to as the inquiring Authority). The Government servant may present his case with the assistance of any other Government servant approved by the Disciplinary Authority, but may not engage a legal practitioner for the purpose unless the person nominated by the Disciplinary Authority as aforesaid is a legal practitioner or unless the Disciplinary Authority, having regards to the circumstances of the case so permits.
- (6) The enquiring Authority shall, in the course of the enquiry consider such documentary evidence and take such oral evidence as may be relevant or material in regards to the charges. The Government servant shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person and to adduce documentary and oral evidence in his defence. The person presenting the case in support of the charges shall be entitled to cross-examine the Government servant and the witnesses examine any witness or to admit any document in evidence on the ground that his evidence or such document is not relevant or material it shall record its reasons in writing.

- (7) At the conclusion of the inquiry, the inquiring Authority shall prepare a report of the enquiry, recording its findings on each of the charges together with reasons therefore.

**\* Explanations: -**

If in the opinion of the enquiring authority the proceedings of the enquiry establish any article of charge different from the original article of the charge it may record its findings on such article of charge.

Provided that the findings on such article of charge shall not be recorded unless the Government servant has either admitted the facts on which such article of charge is based or has a reasonable opportunity of defending himself against such article of charge.

- (8) The record of the inquiry shall include -
- i. the charges framed against the Government servant and the statement of allegations furnished to him under sub-rule. (2);
  - ii. his written statement of defence, if any;

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| <p>* Inserted vide amendment No. ABP. 189/77/3, dated 10/07/1977.</p> |
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- iii. the oral evidence taken in the course of the enquiry;
  - iv. the documentary evidence considered in the course of the inquiry;
  - v. the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry; and
  - vi. a report setting out the finding on each charge and the reasons therefore,
- (9) The Disciplinary Authority shall, if it is not the Inquiring Authority; consider the record of the inquiry and record its finding on each charge.

\*(10) **Major Penalties.**

If the Disciplinary Authority having regard to its findings on the charges and on the basis of evidence adduced during the inquiry, is of the opinion that any of the penalties specified in Clauses (iv) to (vii) of rule 7 should be imposed on the Government servant it shall make an order imposing such penalty and it shall not

\* Inserted vide Notification No. ABP. 1/11/80/1, dated 28/03/1980.

be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed:

Provided that in every case where it is necessary to consult the Commission the record of the inquiry shall be forwarded by the Disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant.

(11) **Minor Penalties.**

If the Disciplinary Authority, having regard to its findings on the charges, is of the opinion that if any of the penalties specified in clauses (i) to (iii) of Rule 7 should be imposed, it is necessary to consult the Commission, shall do so, after consulting the Commission.

- (12) (a) Notwithstanding anything contained in this rule, it shall not be necessary to follow the procedure laid down in the proceeding sub-rules in cases where it appears to the authority competent to impose the penalty at the initial stage of the

proceedings that the penalty of censure would be adequate, but if at any later stage it is proposed to impose any other penalty specified in Rule. 7 the procedure laid down in the said rules shall be followed.

- (b) No order imposing the penalty of censure shall however be passed, except after -
- i. the Government servant is informed in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken and given an opportunity to make any representation he may wish to make; and
  - ii. such representation, if any is taken into consideration by the Disciplinary Authority.

**\*9.A. Communication of orders: -**

Orders made by the Disciplinary Authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of the inquiry, if any, held by the Disciplinary Authority and a copy of its findings on

\* Inserted vide amendment No. ABP. 189/77/3, dated 07/10/1977.

each charge, or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority and a statement of the findings of the Disciplinary Authority together with brief reasons for its disagreement, if any with the findings of the Inquiring Authority (unless they have already been supplied to him) and also a copy of the advice, if any given by the Commission and, where the Disciplinary Authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance'.

**10. Special Procedure in certain cases.**

Notwithstanding any thing containing in Rule 9 –

- (i) Where a penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge; or
- (ii) where the Disciplinary Authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to follow the procedure prescribed in the said, or
- (iii) where the Governor is satisfied that in the interest of the security of the state, it is not expedient to follow such procedure, -



the Disciplinary Authority may consider the circumstances of the case and pass such orders thereon as it deems fit:

Provided that the Commission shall be consulted before passing such orders in any case in which such consultation is necessary.

**11. Provisions regarding lent officers.**

- (1) Where the services of a Government servant are lent to the Central Government any State Government or to local or other Authority (hereinafter in this rule referred to as “the Borrowing Authority”), the Borrowing Authority shall have the powers of the Appointing Authority for the purpose of placing him under suspension and of the Disciplinary Authority for the purpose of taking a disciplinary proceeding against him.

Provided that the Borrowing Authority shall forthwith inform the Authority which lent his services (hereinafter in this rule referred to as “the Lending Authority”) of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding as the case may be.

- (2) In the light of the findings in the disciplinary proceeding taken against the Government servant –

- (i) If the Borrowing Authority is of the opinion that any of the penalties specified in clauses (I) to (iii) of Rule 7 should be imposed on him, it may, in consultation with the leading Authority pass such orders on the case as it deems necessary:

Provided that in the event of a difference of opinion between the Borrowing Authority and the Leading Authority, the services of the Government Servant shall be replaced at the disposal of the Lending Authority:

- (ii) If the Borrowing Authority is of the opinion that any of the penalties specified in clauses (iv) to (vii) of Rule 7 should be imposed on him, it shall replace his services at the disposal of the Lending Authority and transmit to it the proceedings of the inquiry and thereupon the Lending Authority may, if it is the Disciplinary Authority, pass such orders thereon as it deems necessary, or if it is not the Disciplinary Authority submit the case to the Disciplinary Authority which shall pass such orders on the case as it deems necessary:

Provided that in passing any such order the Disciplinary Authority shall comply with the provisions of sub-rule (10) of Rule 9.

***Explanation: -***

The Disciplinary Authority may make an order under clause (ii) of sub-rule (2) on the record of the inquiry transmitted by the Borrowing Authority, or after holding such further inquiry as it may deem necessary.

**12. Provisions regarding borrowed officers**

- (1) Where an order suspension is made or a disciplinary proceeding is taken against a Government servant whose services have been borrowed from the Central Government, any State Government or a local or other authority, the authority lending his services (hereinafter in this rule referred to as the “Lending Authority”), shall forthwith be informed of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding as the case may be.
- (2) In the light of the finding in the disciplinary proceeding taken against the Government servant –
  - (i) if the Disciplinary Authority is of the opinion that any of the penalty specified in clauses (1) to (iii) of Rule 7 should be imposed on him, it may, subject to the provision of Rule 9 and in

consultation with the Lending Authority pass such orders on the case as it deems necessary:

Provided that in the event of a difference of opinion between the Borrowing Authority and the Lending Authority the services of the Government servant shall be replaced at the disposal of the Lending Authority;

- (ii) if the Disciplinary Authority is of the opinion that any of the penalties specified in clauses (iv) to (vii) of Rule 7 should be imposed on him it shall replace his services at the disposal of the Lending Authority and transmit to it the proceedings of the inquiry for such action as it deems necessary.

## **PART – V – APPEALS**

### **13. Order made by an authority is appealable.**

Every Government servant shall be entitled to Appeal, as hereinafter provided against an order passed by an authority: -

- (a) Placing him under suspension under rule 6:
- (b) imposing upon him any of the penalties specified in rule 7.

### **14. Appeals against orders of suspension.**

A Government servant may appeal against an order of suspension of the Authority to which the authority, which made or is deemed to have made the order, is immediately subordinate.

### **15. Appeals against orders imposing penalties.**

A Government servant may appeal against an order imposing upon in any of the penalties specified in rule 7 to the appellate authority specified in this behalf in the schedule. There shall be no appeal against the orders of the appellate authority.

***Explanation. –***

In this rule the expression “Government servant” include a person who has ceased in Government services.

**\* Rule 15 – A. –**

- (1) Notwithstanding anything contained in Rule 15, the Government servant may appeal against an order imposing upon him the penalty of dismissals, removal or reduction in rank with the aid of the provisos (a), (b) and (c) to Article 311 (2) of the Constitution of India during the period during which the emergency proclaimed in the month of June 1975 was in force, hereinafter called in these rules as the emergency period, to a committee of 3 persons to be set up by the State Government for this purpose, the state Government may constitute as many committees as it may deem fit to deal with the appeals preferred under this rule and specify the appeals of different categories of Government servant which will be heard and dispose of by each such committee appointed. The constitution of each such committee shall be notified by the State Government in the official Gazette:

\* Inserted vide Notification No. ABP. 69/78/Pt./17, dated 20/07/1978.

Provided that any committee so constituted would not hear the case of a person, which have been dealt, directly or indirectly, by any of its members at any stage of the passing of the impugned order. Such cases shall be brought to the notice of the Government which shall then nominated some other person in place of the member in question.

- (2) All appeals against orders of dismissals, removals and reduction in ranks passed under provisos to Article 311 (2) of the Constitution of India which are pending before the appellate authority on or before the date on which these rules come into force shall stand transferred to such committee constituted under the preceding rule as may be specified by the State Government. Any Government servant who did not prefer any appeal against any order would be entitled to do so within a period of thirty days from the date of notification constituting a committee. The appellate authority on receipt of such a memorandum of appeal shall forward the same to the committee in question without delay. Such an appeal could be filed notwithstanding anything to the contrary in rule 19 directly to the appellate authority named in the schedule who shall thereafter call for the records along with the report of the disciplinary authority and transmit the appeal along with records to the committee in question.

***Explanation: -***

For the purpose of this rule all petitions filed against any order of dismissal, removal or reduction in rank under provisos to Article 311 (2) of the Constitution of India during the emergency period and pending before the authority shall be deemed to be appeals filed under rule 15 A.

- (3) Each of the committees constituted by the Government under sub-rules (1) shall have all the powers of the appellate authority and shall be subject to the same restrictions as laid down in rule 23:

Provided that it shall be incumbent for the committee to hear the officer in person before passing any final order on the appeal. But the officer would have no right to be represented by a legal practitioner. The committee may, however, allow lawyer representation in a particular case if deemed fit by it:

Provided further that the disciplinary authority could nominate any person to represent it before the committee. The person so nominated would not be a legal practitioner except in a case where the officer is allowed to be represented by a legal practitioner. Provided also that in hearing a case covered by proviso (b) to Article 311 (2), it shall be the duty of the committee (i) to make available the reasons which were recorded for dispensing with the enquiry, (ii) to inform



the delinquent about the misconduct in question alleged against him and about the materials which had led the appointing authority to come to the conclusion that the misconduct in question had been proved, and (iii) to specifically hear the delinquent on the question of the penalty which had been imposed on him. The last requirement shall be observed in other cases also.

- (4) Where any order of dismissal, removal or reduction in rank \* of any Government servant appealed against is set aside and the case is remitted.
- (i) without any direction; or
  - (ii) with a direction to proceed further but the disciplinary authority does not decide to proceed in such manner; the concerned officers should be re-instated immediately;
  - (iii) with direction to proceed and the disciplinary authority decides to proceed further against the Government servant, the Government servant shall irrespective of the fact whether he was placed under suspension or not be deemed to be placed under suspension with effect from the date of the original order of dismissal, removal

\* Inserted vide Notification No. ABP.69/78/Pt/47 dated 27/07/1978.

or reduction in rank as the case may be and shall continue under suspension till the order of suspension is vacated.

5. (a) In every case where any petition or appeal filed against any order of dismissal, removal or reduction in rank, passed under the proviso (b) to Article 311 (2) of the Constitution of India during the emergency period has been disposed of before coming into force of these rules by the appellate authority and the decision of the appellate authority had been adverse to any Government servant the authority passing the order shall transmit the records of such cases to the committee specified for hearing similar appeals.
- (b) On receipt of the records under the proceeding clause of this sub-rule the committee shall see whether the disposal of the appeal was satisfactory or not. If the disposal is not found to be satisfactory, the committee shall re-hear the matter as if it were a review petition under Rule 26 of these rules and shall exercise all the powers vested in the Governor under the aforesaid rule. In all cases reviewed by the committee under this rule, there shall be no further review by the Governor.

**16. Appeals against other orders.**

- (1) A Government servant may Appeal against an order which -
- (a) denies or varies to his disadvantage his pay, allowances pension or other conditions of service as regulated by any rules or by agreement, or
  - (b) interprets to his disadvantage the provisions of any such rules or agreement – to the authority to which the authority passing such order is immediately subordinate any (\*\*) where the order is passed by the Governor, the appeal shall lie to the Governor.
- (2) An appeal against an order -
- (a) stopping a Government servant at the efficiency bar in the time scale on the ground of his unfitness to cross the bar;
  - (b) reverting to a lower service grade or post, a Government servant officiating in higher service, grade to post, otherwise than as penalty;

\*\* Inserted vide Notification No. ABP. 301/77/44, dated 01/11/1977 and Added vide Notification No. ABP. 87/86/Pt/1, dated 21/08/1987.

- (c) reducing or withholding the pension or denying the maximum pension admissible under the rules;
- (d) determining the pay and allowances for the period of suspension to be paid to a Government servant on his re-instatement or determining whether or not such period shall be treated as a period spent on duty for any purpose; and
- (e) placing a Government servant under suspension, shall lie –
  - (i) in the case of an order made in respect of Government servant on whom the penalty of dismissal from services can be imposed only by the Governor to the Governor; and
  - (ii) in the case of an order made in respect of any other Government servant, to the authority to whom an appeal against an order imposing upon him the penalty of dismissal from service would lie.

***Explanation –***

In this rule –

- (i) the expression “**Government servant**” includes a person who has ceased to be in Government service:
- (ii) the expression “**Pension**” includes additional pension, gratuity and any other retirement benefit.

**17. Period of limitation for appeals.**

No appeal under this part shall be entertained unless it is submitted within a period of three months from the date on which the appellant receives a copy of the order appealed against:

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.

**18. Form and contents of appeal.**

- (1) Every person submitting an appeal shall do so separately and in his own name;
- (2) The appeal shall be addressed to the authority to whom the appeal lies, shall contain all material

statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language and shall be complete in itself.

**19. Submission of appeals.**

Every appeal shall be submitted to the authority, which made the order appealed against and in the case of serving officers, through the head of the office in which the appellant is serving for the time being.

Provided that a copy of the appeal may be submitted direct to the appellate authority.

**20. Withholding of appeal.**

The authority which made the order appealed against may withhold the appeal if –

- (i) it is an appeal against an order from which no appeal lies; or
- (ii) it does not comply with any of the provisions of rule 18; or
- (iii) it is not submitted within the period specified in rule 17 and no sufficient cause is shown for the delay; or

- (iv) it is a repetition of an appeal already decided and new facts or circumstances of material importance are adduced;

Provided that an appeal with held on ground only that it does not comply with the provisions of rule 18 shall be returned to the appellant and, if resubmitted within one month thereof after compliance with the said provisions, shall not be with held:

Provided further that where an appeal is with held, the appellant shall be informed of the fact and the reasons therefore.

**21. Submission of return of appeals withheld.**

Within fifteen days from the commencement of each quarter a list of the appeals withheld by any authority during the previous quarter, together with the reasons for withholding them, shall be furnished by that authority to the appellate authority.

**22. Transmission of appeals.**

- (1) The authority which made the order appealed against shall, without any avoidable delay which in no case shall exceed one month, transmit to the appellate authority every appeal which is not withheld under

rule 20, together with its comments thereon and the relevant records.

- (2) The authority to which an appeal lies may direct transmission to it of any appeal withheld under rule 20 and thereupon such appeal shall be transmitted to that authority together with, the comments of the authority withholding the appeal and the relevant records.

### **23. Consideration of appeal.**

- (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 6 and having regard to the circumstances and gravity of case the order of suspension is justified or not and confirmed or revoke the order accordingly.
- (2) In the case of an appeal against an order imposing any of the penalties specified in rule 7, the appellate authority shall consider -
  - (a) whether the procedure prescribed in these rules has been complied with, and if not, whether such non-compliance has resulted in violation of any provisions of the Constitution or in failure of justice;



- (b) whether the finding are justified; and
- (c) whether the penalty imposed is excessive, adequate or inadequate; and, after consultation with the Commission if such consultation is necessary in the case, pass orders –
  - (i) setting aside, reducing, confirming or enhancing the penalty; or
  - (ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit, in the circumstances of the case:

Provided that –

- (i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose;
- \* (ii) If the enhanced penalty which the appellate authority proposes to impose in one of the penalties specified in Clause (iv)

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| <p>* Substituted vide Notification No.ABP. 111/80/1, dated 28/03/1980.</p> |
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to (vii) of rule 7 and an inquiry under rule 9 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 10, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions or rule 9 and thereafter, on consideration of the proceedings of such inquiry make such orders as it may deem fit;

(iii) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in Clauses (iv) to (vii) of rule 7 and an inquiry under rule 9 has already been held in the case, the appellate authority shall, make such orders as it may deem fit;

(iv) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity as for as may be in accordance with the provisions of rule 9, of making a representation against such enhanced penalty.

(3) In the case of an appeal against any order specified in rule 16 the appellate authority shall

consider all the circumstances of the case and pass such orders as it deems just and equitable.

- (4) While the considering an appeal it will not be necessary to hear the officer in person by the appellate authority.

**24. Expeditious disposal of appeals.**

When an appeal under these rules is preferred it shall be disposed of as expeditiously as possible and in any case with a period of three months from the date of receipt of the appeal by the appellate authority.

**25. Implementation of orders in appeal.**

The authority which made the order appealed against shall forthwith give effect to the orders passed by the appellate authority.

## **PART – VI - REVIEW**

### **26. Governor's power to review.**

Notwithstanding anything contained in these rules, the Governor may, on his own motion or otherwise call for the records of the case and review any order which is made or is appealable under these rules or the rules repealed by rule 28 and, after consultation with the Commission where such consultation is necessary –

- (a) Confirm, modify or set aside, the order;
- (b) impose any penalty or set aside; reduce, confirm or enhance the penalty imposed by the order;
- (c) remit the case to the authority which made the order or to any other authority directing such further action or inquiry as he considers proper in the circumstances of the case; or

(d) pass such other orders as he deems it;

\* Provided that no order imposing or enhancing any penalty shall be made unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in Clauses (iv) to (vii) of rule 7 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in these Clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in rule 9 and except after consultation with the Commission where such consultation is necessary.

**27. Review of orders in disciplinary cases.**

The authority to which an appeal against an order imposing any of the penalties specified in rule 7 lies may, of its own motion or otherwise, call for the records of the case in a disciplinary proceeding, review any order passed in such a case and, after consultation with the Commission where such consultation is necessary, pass such orders as it deems fit, as if the Government servant had preferred an appeal against such order:

\* Substituted vide Notification No. ABP. 111/80/1, dated 28/03/1980.

Provided that no action under this rule shall be initiated more than one year after the date of the order to be reviewed.

## **PART – VII – MISCELLANEOUS**

### **28. Repeal and savings.**

- (1) The Civil Services (Classification, Control and Appeal) Rules and the rules contained in the Notification of the Government of India in the Home Department No. F. /9/10/30 Ests, dated 27<sup>th</sup> February, 1932, and any Notifications issued and orders made under may such rules to the extent to which they apply to persons to whom this rules apply are hereby repealed;

#### **Provided that –**

- (a) such repeal shall not affect the previous operation of the said rules, notification and orders or any thing done or any action taken thereunder;
- (b) any proceedings under the said rules, notifications or orders pending at the commencement of these rules shall be continued and disposed of as may be, in accordance with the provisions of these rules.

- (2) Nothing in these rules shall operate to deprive any person to whom these rules apply of any right of appeal which had accrued to him under the rules, notifications or orders repealed by sub-rule (1) in respect of any order passed before the commencement of these rules.
- (3) And appeal pending at or preferred after the commencement of these rules against an order made before such commencement shall be considered and orders thereon shall be passed, in accordance with these rules.

**29. Removal of Doubts.**

Where a doubt arises as to who is the Head of any office or as to whether any authority is subordinate to or higher than any other authority or as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Governor whose decision thereon shall be final.

**SCHEDULE**

| <b>Sl. No.</b> | <b>Description of Service</b>  | <b>Appointing Authority</b> | <b>Appellate Authority</b> |
|----------------|--|-----------------------------|----------------------------|
|                | 1  | 2                           | 3                          |
| 1.             | Assam Civil Service, Class-I.  | Governor                    | Governor                   |
| 2.             | Assam Civil Service, Class-II.   | -do-                        | -do-                       |
| 3.             | Assam Judicial Service, Grade-I  | -do-                        | -do-                       |
| 4.             | Assam Judicial Service, Grade-II   | -do-                        | -do-                       |
| 5.             | Assam Judicial Service, Grade-III  | -do-                        | -do-                       |
| 6.             | Assam Legal Service  | -do-                        | -do-                       |
| 7.             | All Gazetted Staff (excluding ministerial Gazetted staff) of the offices of the Military Secy. & Private Secy. To the Governor of Assam. | -do-                        | -do-                       |
| 8.             | All Gazetted officers of the Assam Public Service Commission   | -do-                        | -do-                       |



| <b>Sl. No.</b> | <b>Description of Service</b>   | <b>Appointing Authority</b> | <b>Appellate Authority</b> |
|----------------|---|-----------------------------|----------------------------|
| 9.             | All Gazetted officers under Administrative Reforms and Training Department. | -do-                        | -do-                       |
| 10.            | All Gazetted officers under Agriculture Department.                         | -do-                        | -do-                       |
| 11.            | All Gazetted officers under Co-operative Department.                        | -do-                        | -do-                       |
| 12.            | All Gazetted officers under Education (C.T.M.) Department.                  | -do-                        | -do-                       |
| 13.            | All Gazetted officers under Education (Personal) Department                 | -do-                        | -do-                       |
| 14.            | All Gazetted officers under Election Department.                            | -do-                        | -do-                       |
| 15.            | All Gazetted officers under Excise Department.                              | -do-                        | -do-                       |
| 16.            | All Gazetted officers under Finance (E) Department                          | -do-                        | -do-                       |
| 17.            | All Gazetted officers under Finance (Taxation) Department.                  | -do-                        | -do-                       |

| <b>Sl. No.</b> | <b>Description of Service</b>                                     | <b>Appointing Authority</b> | <b>Appellate Authority</b> |
|----------------|---|-----------------------------|----------------------------|
| 18.            | All Gazetted officers under Finance (Budget-I) Department.        | -do-                        | -do-                       |
| 19.            | All Gazetted officers under Forest Department.                    | -do-                        | -do-                       |
| 20.            | All Gazetted Officers under Flood Control Department.             | -do-                        | -do-                       |
| 21.            | All Gazetted officers under Food and Civil Supply Department.     | -do-                        | -do-                       |
| 22.            | All Gazetted officers under General Administrative Department     | -do-                        | -do-                       |
| 23.            | All Gazetted officers under Health and Family Welfare Department. | -do-                        | -do-                       |
| 24.            | All Gazetted officers under Hills Areas Department.               | -do-                        | -do-                       |
| 25.            | Assam Police Service, Class-I                                     | -do-                        | -do-                       |
| 26.            | Assam Police Service, Class-II                                    | -do-                        | -do-                       |
| 27.            | Other Gazetted officer under Home Department                      | -do-                        | -do-                       |

| <b>Sl. No.</b> | <b>Description of Service</b>  | <b>Appointing Authority</b> | <b>Appellate Authority</b> |
|----------------|--|-----------------------------|----------------------------|
| 28.            | All Gazetted officers under Industries Department.   | -do-                        | -do-                       |
| 29.            | All Gazetted officers under Home Department.   | -do-                        | -do-                       |
| 30.            | All Gazetted officers under Judicial Department.   | -do-                        | -do-                       |
| 31.            | All Gazetted officers under Labour and Employment Department.                              | -do-                        | -do-                       |
| 32.            | All Gazetted officers under Legislative Department.  | -do-                        | -do-                       |
| 33.            | All Gazetted officers under Municipal Administrative Department.                           | -do-                        | -do-                       |
| 34.            | All Gazetted officers under Panchayat and Rural Development Department.                    | -do                         | -do                        |
| 35.            | All Gazetted officers under Planning and Development Department.                           | -do-                        | -do-                       |
| 36.            | All Gazetted officers under Political Department.  | -do-                        | -do-                       |
| 37.            | All Gazetted officers under Power (Electricity) Mines and Minerals Development Department. | -do-                        | -do-                       |

| <b>Sl. No.</b> | <b>Description of Service</b>   | <b>Appointing Authority</b> | <b>Appellate Authority</b> |
|----------------|---|-----------------------------|----------------------------|
| 38.            | All Gazetted officers under Printing Department.                            | -do-                        | -do-                       |
| 39.            | All Gazetted officers under Public Enterprise Department.                   | -do-                        | -do-                       |
| 40.            | All Gazetted officers under Public Works Deptt. (Roads and Building Wings)  | -do-                        | -do-                       |
| 41.            | All Gazetted officers under Relief and Rehabilitation Department.           | -do-                        | -do-                       |
| 42.            | All Gazetted officers under Revenue (Land Revenue) Department.              | -do-                        | -do-                       |
| 43.            | All Gazetted officers under Revenue (Reforms) Department.                   | -do-                        | -do-                       |
| 44.            | All Gazetted officers under (Settlement) Department.                        | -do-                        | -do-                       |
| 45.            | All Gazetted officers under Science, Technology and Environment Department. | -do-                        | -do-                       |
| 46.            | All Gazetted officers under Handloom, Textile and Sericulture Department.   | -do-                        | -do-                       |
| 47.            | All Gazetted officers under Registration Department.                        | -do-                        | -do-                       |

| <b>Sl. No.</b> | <b>Description of Service</b>  | <b>Appointing Authority</b> | <b>Appellate Authority</b> |
|----------------|--|-----------------------------|----------------------------|
| 48.            | All Gazetted officers under Soil Conservation Department   | -do-                        | -do-                       |
| 49.            | All Gazetted officers under Sports and Youth Welfare Department.                                   | -do-                        | -do-                       |
| 50.            | All Gazetted officers under Town and Country Planning Department.                                  | -do-                        | -do-                       |
| 51.            | All Gazetted officers under Veterinary Department.   | -do-                        | -do-                       |
| 52.            | All Gazetted officers under Veterinary Department.   | -do-                        | -do-                       |
| 53.            | All Gazetted officers under Welfare of Plain Tribes, Backward Classes & Social Welfare Department. | -do-                        | -do-                       |
| 54.            | Assam Secretariat Service (Deputy Secretary.)  | -do-                        | -do-                       |
| 55.            | Assam Sectt. Service (Under Secretary)   | -do-                        | -do-                       |
| 56.            | Stenographer Service<br>(i) Special Officer<br>(ii) Senior Grade                                   | -do-                        | -do-                       |
| 57.            | Keeper of Records-cum Librarian.   | -do-                        | -do-                       |

| <b>Sl. No.</b> | <b>Description of Service</b>   | <b>Appointing Authority</b> | <b>Appellate Authority</b> |
|----------------|---|-----------------------------|----------------------------|
| 58.            | Personal Assistant to Commissioners, of Division  | -do-                        | -do-                       |
| 59.            | Registrar in the Office of the Chairman, Assam Administrative Tribunal.   | Governor                    | -do-                       |
| 60.            | Assam Secretariat Service (Supdt.).   | Chief Secretary             | -do-                       |
| 61.            | Assam Secretariat Subordinate Service: -<br>(i) Upper Division Assistant.<br>(ii) Lower Division Assistant.<br>(iii) Typist | -do-                        | -do-                       |
| 62.            | Instructor, Stenography Classes, Assam Secretariat Training School.   | -do-                        | -do-                       |
| 63.            | Stenographers Grade – I, Grade-II and Grade-III in the Assam Secretariat.   | -do-                        | -do-                       |

| <b>Sl. No.</b> | <b>Description of Service</b>   | <b>Appointing Authority</b>                           | <b>Appellate Authority</b> |
|----------------|---|---|----------------------------|
| 64.            | All Non-Gazetted Ministerial Staff and Grade-IV Staff in the office of the Chairman, Assam Administrative Tribunal. | Chairman,<br>Assam<br>Administrative<br>Tribunal      | -do-                       |
| 65.            | All Non-Gazetted Ministerial Staff in the office of the Chairman, Assam Board of Revenue.                           | Chairman,<br>Assam Board<br>of Revenue                | -do-                       |
| 66.            | All Non-Gazetted Staff of the offices of the Divisional Commissioners.  | Divisional<br>Commissioners                           | Chief<br>Secretary         |
| 67.            | All Ministerial Gazetted Staff of the office of the Military Secretary to the Governor of Assam.                    | Military<br>Secretary to<br>the Governor<br>of Assam. | Chief<br>Secretary         |
| 68.            | All Non-Gazetted Staff of the office of the Private Secy. To the Governor of Assam.                                 | -do-  | Chief<br>Secretary         |

| <b>Sl. No.</b> | <b>Description of Service</b>  | <b>Appointing Authority</b>                           | <b>Appellate Authority</b>                       |
|----------------|--|---|--|
| 69.            | All Non-Gazetted Staff of the office of the Military Secretary to the Governor of Assam    | Private Secretary to the Governor of Assam            | Chief Secretary                                  |
| 70.            | All Non-Gazetted Staff of the Assam Public Service Commission.                             | Secretary to the Commission.                          | Chairman of the Commission                       |
| 71.            | All Ministerial and Grade-IV Staff of the office of the Senior Government Advocate, Assam. | Senior Government Advocate, Assam.                    | Secy. To the Govt. of Assam, Judicial Department |
| 72.            | All Grade-IV Staff in the Assam Civil Secretariat.   | Dy. Secy. Or Under Secy, Personal S.A (E) Department. | Chief Secretary                                  |
| 73.            | All Grade-IV Staff in the Assam Civil Secretariat P.W.D. (R&B Wing).                       | Secretary P.W.D. (R&B Wing)                           | Chief Secretary                                  |
| 74.            | All Grade-IV Staff in the Assam Secretariat Flood Control department.                      | Secretary, Flood Control Department.                  | Chief Secretary                                  |



| <b>Sl. No.</b> | <b>Description of Service</b>  | <b>Appointing Authority</b>       | <b>Appellate Authority</b>   |
|----------------|--|-----------------------------------|------------------------------|
| 75.            | All Grade-IV Staff in the Assam Secretariat Irrigation Department.   | Secretary, Irrigation Department. | Chief Secretary              |
| 76.            | Stenographer Grade-II & Grade-III in Heads of Department.  | Heads of Department.              | Secy. Of the Deptt.          |
| 77.            | Stenographer Grade-II & Grade-III to Deputy Commissioners Office.  | Deputy Commissioner               | Commissioner of Division.    |
| 78.            | All Non-Gazetted posts under the Control of a "Head of Department" other than the posts in respect of which specific provisions have been made separately. | Heads of Department               | Secretary of the Department. |
| 79.            | Revenue Sheristadars and Head Assistants of the Dy. Commissioners' amalgamated establishments.   | Commissioner of Divisions         | Chief Secretary              |

| <b>Sl. No.</b> | <b>Description of Service</b>  | <b>Appointing Authority</b>                                       | <b>Appellate Authority</b>  |
|----------------|--|---|---|
| 80.            | All Ministerial Staff except the Revenue Sheristadars and Head Assistants of the Dy. Commissioners' amalgamated establishment (including those in the offices of the Sub-Divisional officers and Sub-Deputy Collectors of the District). | Deputy Commissioner   | Commissioner of Division  |
| 81.            | All Grade-IV Staff of the Deputy Commissioners' amalgamated establishment.   | Deputy Commissioner or Sub-Divisional officers as the case may be | Commissioner of Divisions against Dy. Commissioners order & Dy. Commissioner against Sub-Div. Officer's order |
| 82.            | All Non-Gazetted Staff in the district and Sub-Divisional offices under other Heads of Department.   | Head of Office.   | Head of Department.   |

| <b>Sl. No.</b> | <b>Description of Service</b>  | <b>Appointing Authority</b>                        | <b>Appellate Authority</b> |
|----------------|--|--|----------------------------|
| 83.            | All Non-Gazetted Staff in the Office of the Resident Commissioner, Assam House, New Delhi.                           | Resident Commissioner . Assam House, New Delhi.    | Chief Secretary            |
| 84.            | (a)Administrative Officers under Heads of Department.<br><br>(b) Registrar in the Office of the Heads of Department. | Chief Secretary<br><br>Secretary of the Department | Governor<br><br>-do-       |

