

Coir Board Services (Classification, Control And Appeal) Bye-Laws, 1969

February 20, 2013

Preamble

S. O. 200, dated 4th January, 1969¹—The following bye-laws made by the Coir Board in exercise of the powers conferred by sub-section (I)(d) of Sec. 27 of the Coir Industry Act, 1953 (45 of 1953) read with bye-laws 15 and 16 of the Coir Board (Transaction of Business, Conditions of Service of Employees and Maintenance of Accounts) Bye-laws, 1955 and confirmed by the Central Government are hereby published as required by sub-section (2) of the said section, namely :—

1. Published in the Gazette of India Pt. II., Sec. 3(ii), dated 7th January, 1969 (w.e.f. 7th January, 1969).

1. Short Title and commencement.

(a) These bye-laws, may be called the Coir Board Services (Classification. Control and Appeal) Bye-laws, 1969.

(b) They shall come into force at once.

2. Interpretation.

In these bye-laws unless the context otherwise requires—

(a) 'appointing authority' in relation to a Board's employee means—

(i) the authority empowered to make appointments to the post which the Board's employee for the time being holds, or

(ii) the authority which appointed the Board's employee to the post which he for the time being holds :

(b) 'Board' means the Coir Board established under Sec. 4 of the Coir Industry Act, 1953 (45 of 1953):

(c) 'Board's employee' means any person employed under the Board under Sec. 9(2) of the Coir Industry Act, 1953 (45 of 1953) and includes a person whose services have been lent on foreign service to the Central or any State Government or any local body or authority and also a person in the service of the Central Government or State Government or a local or other authority whose services are placed temporarily at the disposal of the Board;

(d) 'Chairman' means the Chairman of the Board :

(e) 'Executive Committee' means the Executive Committee of the Board;

(f) 'Disciplinary authority' in relation to the imposition of a penalty on a Board's employee means the authority competent under these bye-laws to impose on him any of the penalties specified in bye-law 8;

(g) 'Pay' means pay as defined in the Fundamental Rules and Supplementary Rules as applied to Central Government employees.

(h) 'Schedule' means the Schedule appended to these bye-laws;

(i) 'Service' means service under the Board;

(j) 'Secretary' means the Secretary of the Board.

3. Application.

(1) These bye-laws shall apply to every employee of the Board, but shall not apply to—

(a) any person in casual employment:

(b) any person on daily wages;

(c) any person subject to discharge from service on less than one month's notice;

¹[(2) Notwithstanding any thing contained in clause (i), the Central Government may by order exclude from the operation of all or any of these bye-laws any class of employees of the Board].

(3) If any doubt arises as to whether these bye-laws or any of them apply to any person, the matter shall be referred to the Central Government who shall decide the same.

1. Subs, by S. O. 2279, dated 7th July 1975, published in the Gazette of India, Pt. II, Sec. 3(ii), dated 19th July, 1975 (w.e.f. 7th July, 1975).

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

Nothing in these bye-laws shall operate to deprive any Board's employee 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 and the Board at the commencement of these bye-laws.

5. Classification of posts

¹[Classification of posts. All posts under the Board's service shall be classified as follows:

Sl. No	Pay of Maximum of the scale of the post	Grouping
1	2	3

1	Not less than Rs. 1300	A
2	Not less than Rs. 900 but less than Rs. 300	B
3	Over Rs. 290 but less than Rs. 900	C
4	Rs. 290 or less	D]

1. Subs, by S. O. 4372, dated 17th November, 1983, published in the Gazette of India, Pt. II, Sec. 3(ii), dated 3rd December, 1983 (w.e.f. 17th November, 1983).

6.

Appointments to the posts of Chairman and Secretary of the Board shall be made by the Central Government. Appointments to other posts shall be made by the authorities specified in this behalf in the Schedule.

7. Suspension.

(1) The appointing authority or any authority to which it is subordinate or the Chairman may place a Board's employee under suspension—

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(aa) where in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or

(b) where a case against him in respect of 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.

(2) A Board's employee shall be deemed to have been placed under suspension by an order of appointing authority—

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation.

The period of forty-eight hours referred to in Cl. (b) of this bye-law shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

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

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Board's employee 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 Board's employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

¹[Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.]

(5)

(a) An order of suspension made or deemed to have been made under this bye-law shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a Board's employee is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceedings is commenced against him during the continuance of that suspension the authority competent to place him under suspension may, for reasons to be recorded by him in writing direct that the Board's employee shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this bye-law may, at any time, be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

1. Ins. by S. O. 4389, dated 30th October 1976, published in the Gazette of India, Pt. II, Sec. 3(ii) , dated 20th November, 1976 (w.e.f. 30th October, 1976).

8. Penalties.

The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Board's employee, namely :—

Minor Penalties :

(i) Censure;

(ii) Withholding of his promotion;

(iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Board by negligence or breach of orders;

(iv) Withholding of increments of pay;

Major Penalties

(v) reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Board's employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay :

(vi) reduction to a lower time-scale of pay grade, post or Service which shall ordinarily be a bar to the promotion of the Board's employee to the time-scale of pay, grade, post or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or Service from which the Board's employee was reduced and his seniority and pay on such restoration to that grade, post or Service;

(vii) compulsory retirement;

(viii) removal from service which shall not be a disqualification for future employment under the Board;

(ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Board.

Explanation.

The following shall not amount to a penalty within the meaning of this bye-law, namely:—

(i) withholding of increments of pay of a Board's employee for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;

(ii) stoppage of a Board's employee at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;

(iii) non-promotion of a Board's employee whether in a substantive or officiating capacity, after consideration of his case, to a Service, grade or post for promotion to which he is eligible;

(iv) reversion of a Board's employee officiating in a higher Service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade or post or on any administrative ground unconnected with his conduct;

(v) reversion of a Board's employee, appointed on probation to any other Service, grade or post, to his permanent 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 such probation;

(vi) replacement of the services of a Board's employee whose services had been borrowed from a State Government or the Central Government or an authority under the control of a State Government or the Central Government or any other authority at the disposal of the authority from which his services had been borrowed;

(vii) compulsory retirement of a Board's employee in accordance with the provisions relating to his superannuation or retirement:

(viii) termination of the services—

(a) of a Board's employee appointed on probation, during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing such probation; or

(b) of a temporary Board's employee in accordance with the terms of his appointment; or

(c) of a Board's employee employed under an agreement, in accordance with the terms of such agreement;

(ix) transfer of a person from one post to another or from one locality to another, when such transfer is not to a lower post or expressly states that the transfer is being made as a measure of penalty.

9. Disciplinary Authorities.

(1) The Central Government may impose any of the penalties specified in bye-law 8 on any Board's employee.

(2) Without prejudice to the provisions of Cl. (1), any of the penalties specified in bye-law 8 may be imposed on any Board's employee by the appointing authority or the authorities specified in the schedule in this behalf or by any other authority empowered in this behalf by a general or a special order of the Central Government.

(3) No penalty specified in Cls. (v) to (ix) of bye-law 8 shall be imposed by any authority lower than the appointing authority.

10. Authority to institute proceedings.

A disciplinary authority competent under these bye-laws to impose any of the penalties specified in Cls. (i) to (iv) of bye-law 8 may institute disciplinary proceedings against any Board's employee for the imposition of any of the penalties specified in Cls. (v) to (ix) of bye-law 8 notwithstanding that such disciplinary authority is not competent under those bye-laws to impose any of latter penalties.

11. Procedure for imposing major penalties.

(1) No order imposing any of the penalties specified in Cls. (v) to (ix) of bye-law 8 shall be made except after an enquiry held, as far as may be in the manner hereinafter provided.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of any misconduct or misbehaviour against a Board's employee, it may itself inquire into or appoint an authority to inquire into the truth thereof.

Explanation.

Where the disciplinary authority itself holds the inquiry, any reference to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Board's employee under this bye-law and bye-law 12, the disciplinary authority shall draw up or cause to be drawn up—

(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge,

(ii) a statement of the imputation of misconduct or misbehaviour in support of each article, of charge which shall contain a statement of all relevant facts including any admission or confession made by the Board's employee, and a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Board's employee, a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained, and shall require the Board's employee to submit, within such time (not less than ten

days) as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5)

(a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or if it considers it necessary so to do, appoint under Cl. (2) an inquiring authority for the purpose and where all the articles of charge have been admitted by the Board's employee in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in bye-law 12.

(b) If no written statement of defence is submitted by the Board's employee, the disciplinary authority may inquire into the articles of charge or may, if it considers it necessary to do so, appoint under Cl. (2), an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquire into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Board's employee or a legal practitioner to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

(6) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority—

(i) a copy of the articles of charge and a statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any, submitted by the Board's employee;

(iii) a copy of the statement of witnesses, if any;

(iv) evidence proving the delivery of the documents referred to in Cl. (3) to the Board's employee; and

(v) a copy of the order appointing the "Presenting Officer".

(7) The Board's employee shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by a notice in writing, specify in this behalf, or within such further time, not exceeding ten days as the inquiring authority may allow.

(8) The Board's employee may take the assistance of any other Board's employee to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits.

(9) If the Board's employee who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the Board's employees thereon.

(10) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the Board's employee pleads guilty.

(11) The inquiring authority shall, if the Board's employee fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Board's employee may, for the purpose of preparing his defence—

(i) inspect within five days of the order or within such further time not exceeding five days as the Inquiring Authority may allow, the documents specified, if any;

(ii) submit a list of witnesses to be examined on his behalf.

(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the Inquiring Authority may allow for the discovery or production of any documents which are in the possession of the Board.

Note. The Board's employee shall indicate the relevance of the documents required by him to be discovered or produced by the Board. ^

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

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

(13) On receipt of the requisition referred to in Cl. (12), the Board or any authority under it having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority :

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or the security of the State, it shall inform the enquiring authority, accordingly and the enquiring authority shall, on being so informed and satisfied about the genuineness of the reasons recorded for the non-production of the aforesaid documents, communicate the information to the Board's employee and withdraw the requisition made by it for the production or discovery of such documents.

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Board's employee. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit. Where any new matter has been introduced with the leave of the enquiring authority, the witness can be cross-examined on that matter.

(15) If it still appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Board's employee or may itself call for new evidence or recall and re-examine any witness and in such case the Board's employee shall be entitled ^to have, if he demands it, a copy of the list of further evidence proposed to be produced and on adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority may also allow the Board's employee to produce new

evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice. Where a witness has been recalled and re-examined, the Board's employee will have the right to further cross-examine him on the points brought out during the re-examination.

Note. New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

(16) When the case for the disciplinary authority is closed, the Board's employee shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Board's employee shall be required to sign the record. In either case a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.

(17) The evidence on behalf of the Board's employee shall then be produced. The Board's employee may examine himself in his own behalf if he so prefers. The witnesses produced by the Board's employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(18) The inquiring authority may, after the Board's employee closes his case, and shall, if the Board's employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Board's employee to explain any circumstances appearing in the evidence against him.

(19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed, and the Board's employee, or permit them to file written briefs of their respective case, if they so desire.

(20) If the Board's employee to whom a copy of the articles of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this bye-law, the inquiring authority may hold the inquiry ex-parte.

(21)

(a) Where a disciplinary authority competent to impose any of the penalties specified in bye-law 8 has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in Cls. (v) to (ix) of bye-law 8 should be imposed on the Board's employees, that authority unless it is competent to impose such of the penalties shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties, according to the Schedule.

(b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witness and examine, cross-examine and re-examine the witness and may impose on the Board's employee such penalty as it may deem fit in accordance with these bye-laws.

(22) Whenever any inquiry authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself:

Provided that if the succeeding inquiry authority is of the opinion that further examination of any of file witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore provided.

(23)

(i) After the conclusion of the inquiry, a report shall be prepared and it shall contain—

(a) the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(b) the defence of the Board's employee in respect of each article of charge;

(c) an assessment of the evidence in respect of each article of charge;

(d) the findings on each article of charge and the reasons therefor.

Explanation.

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

(ii) The inquiring authority where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include—

(a) the report prepared by it under sub-clause (i);

(b) the written statement of defence, if any, submitted by the Board's employee;

(c) the oral and documentary evidence produced in the course of the inquiry;

(d) written briefs, if any, filed by the presenting officer or the Board's employee or both during the course of the inquiry; and

(e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

12. Action on the inquiry report.

(1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of bye-law 11 as far as may be.

(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(3) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in Cls. (i) to (iv) of bye-law 8 should be imposed on the Board's employee, it shall, notwithstanding anything contained in bye-law 13, make an order imposing such penalty.

¹(4) If the disciplinary authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the enquiry is of the opinion that any of the penalty, specified in Cls. (v) to (ix) of bye-law 8 should be imposed on the Board's employee, it shall make an order imposing such penalty and it, shall not be necessary to give the Board's employee any opportunity of making representation on the penalty proposed to be imposed.]

1. Subs, by S.O. 4372, dated 17th November, 1983, published in the Gazelle of India, Pt. II, Sec. 3 (ii), dated 3rd December, 1983 (w.e.f. 17th November, 1983).

13. Procedure for imposing minor penalties.

(1) Subject to the provisions of Cl. (3) of bye-law 12, no order imposing on a Board's employee any of the penalties specified in Cls. (i) to (iv) of bye-law 8 shall be made except after—

(a) informing the Board's employee in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in Cls. (3) to (23) of bye-law 11, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) asking the representation if any submitted by the Board's employee under sub-clause (a) and the record of inquiry, if any held under Cl. (b) into consideration; and

(d) recording a finding on each imputation of misconduct or misbehaviour.

(1-a) Notwithstanding anything contained in Cl. (b) of sub-clause (1), if in a case it is proposed, after considering the representation, if any, made by the Board's employee under Cl. (a) of that sub-clause, to withhold increments of pay for a period exceeding 3 years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-clauses (3) to (5) of bye-law 11 before any order imposing on the Board's employee any such penalty.

(2) The record of the proceedings in such cases shall include—

(i) a copy of the intimation to the Board's employee of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) his representation, if any;

(iv) the evidence produced during the inquiry;

(v) the findings on each imputation of misconduct or misbehaviour; and

(vi) the orders on the case together with the reasons therefor.

14. Communication of orders.

Orders made by the disciplinary authority shall be communicated to the Board's employee 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 each article of charge, or where the disciplinary authority

is not 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).

15. Common Proceedings.

(1) Where two or more Board's employees are concerned in any case, the Central Government or any other authority competent to impose the penalty of dismissal from service on all such Board's employees may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

Note. If the authorities competent to impose the penalty of dismissal on such Board's employees are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the others.

(2) Subject to the provisions of Cl. (3) of bye-law, 9, any such order shall specify—

(i) the authority which may function as the disciplinary authority for the purpose of such common proceeding;

(ii) the penalties specified in bye-law 8 which such disciplinary authority shall be competent to impose;

(iii) whether the procedure laid down in bye-law 11 or bye-law 12 or bye-law 13 shall be followed in the proceeding.

16. Special procedure in certain cases.

Notwithstanding anything contained in bye-law 11 to bye-law 15—

(i) where any penalty is imposed on a Board's employee on the ground of conduct which has led to his conviction on a criminal charge, or

(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these bye-laws, or

(iii) where the Central Government is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these bye-laws, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit.

17. Provisions regarding officers lent to other authorities.

(1) Where the services of a Board employee are lent to any 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 proceedings against him :

Provided that the borrowing authority shall forthwith inform the Board which lent his services 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 such lent Board employee—

(i) If the "Borrowing authority" is of the opinion that any of the penalties specified in Cls. (i) to (iv) of bye-law 8 should be imposed on him it may in consultation with the Board pass such order as the case as it deems necessary :

Provided that in the event of a difference of opinion between the borrowing authority and the Board, the services of the Board employee shall be replaced at the disposal of the Board.

(ii) If the "Borrowing authority" is of the opinion that any of the penalties specified in Cls. (v) to (ix) of bye-law 8 should be imposed on him, it shall replace his services at the disposal of the Board and transmit to it the proceedings of the enquiry, and thereupon, the Board 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.

Explanation.

The Disciplinary Authority may make an order under this clause on the record of the inquiry transmitted by the borrowing authority, or after holding such further enquiry as it may deem necessary.

18.Provisions regarding officers borrowed from Central Government, State Governments, etc.

(1) Where an order of suspension is made or a disciplinary proceeding is taken against a Board's employee whose services have been borrowed from the Central Government or a State Government, or an authority subordinate thereto, or a local or other authority, the authority lending his services (hereinafter in this bye-law 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 findings in the disciplinary proceeding taken against the Board's employee —

(i) if the disciplinary authority is of the opinion that any of the penalties specified in Cls. (i) to (iv) of bye-law 8 should be imposed on him, it may, after 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 disciplinary authority and the lending authority the services of the Board's employee 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 Cls. (v) to (ix) of bye-law 8 should be imposed on him, the services of the Board's employee shall be replaced at the disposal of the lending authority and the proceedings of the inquiry shall be transmitted to it for such action as it might deem necessary.

19. Orders against which an appeal lies.

Notwithstanding anything contained in this part, no appeal shall lie against—

(i) any order made by the Central Government;

(ii) any order of an interlocutory nature or of the nature of a step-in-aid or the final disposal of a disciplinary proceeding, other than an order of suspension;

(iii) any order passed by an inquiring authority in the course of an inquiry under bye-law 11.

¹[Explanation.

Appeal under this bye-law means "appeal" within the ambit of the bye-laws to the authorities specified under the bye-laws and does not purport to prevent appeals to court of law by aggrieved persons against any orders passed under these bye-laws.]

1. Ins. by S.O. 4389, dated 30th October, 1976, published in the Gazette of India, Pt. II, Sec. 3 (ii), dated 20th November, 1976, (w.e.f. 30th October, 1976).

20. Orders against which appeal lies.

Subject to the provisions of bye-law 19, a Board's employee may prefer an appeal against all or any of the following orders, namely :—

- (i) an order of suspension made or deemed to have been made under bye-law 7;
- (ii) an order imposing any of the penalties specified in bye-law 8 whether made by the disciplinary authority or by any appellate or reviewing authority;
- (iii) an order enhancing any penalty imposed under bye-law 8;
- (iv) an order which—
 - (a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or
 - (b) interprets to his disadvantage the provisions of any such rule or agreement;
- (v) an order—
 - (a) stopping him at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
 - (b) reverting him while officiating in a higher service, grade or post to a lower service, grade or post, otherwise than as a penalty;
 - (c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;
 - (d) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;
 - (e) determining his pay and allowances—
 - (i) for the period of suspension, or
 - (ii) for the period from the date of his dismissal, removal, or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time-scale or stage in time-scale of pay, to the date of his retirement or restoration of his service, grade or post, or
 - (f) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-

scale of pay or stage in a lime-scale of pay to the date of his re-instatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose.

Explanation.

In this bye-law—

(i) the expression Board's employee includes a person who has ceased to be in Board's service;

(ii) the expression 'pension' includes pension, gratuity and any other retirement benefit.

21. Appellate Authorities.

(1) A Board's employee including a person who has ceased to be a Board's servant may prefer an appeal against all or any of the orders, specified in bye-law 20 to the authority specified in this behalf in the schedule, or where no such authority is specified—

(a) to the appointing authority where the order appealed against is made by an authority subordinate to it; or

(b) to the Central Government where such order is made by any other authority.

(2) Notwithstanding anything contained in Cl. (1)—

(i) an appeal against an order in a common proceeding held under bye-law 15 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate :

(ii) where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate.

22. Period of limitation for appeals.

No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:

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

23. Form and of appeal.

(1) Every person preferring an appeal shall do so separately and in his own name.

(2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.

(3) The authority which made the order appealed against shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the

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

24. 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 bye-law 7 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in bye-law 8, the appellate authority shall consider—

(a) whether the procedure prescribed in these bye-laws has been complied with, and if not, whether such non-compliance has resulted in the violation of any provision of the Constitution or in failure of justice;

(b) whether the findings are justified; and

(c) whether the penalty imposed is excessive, adequate or inadequate; and 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) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty; and

(iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in Cls. (v) to (ix) of bye-law 8 and an inquiry under Cl. (4) of bye-law 12 has not already been held in the case, the appellate authority shall, subject to the provisions of bye-law 16, itself hold such inquiry or direct that such inquiry be held and thereafter, on consideration of the proceedings of such inquiry and after giving the appellant an opportunity of making any representation which he may wish to make against such penalty, pass such orders as it may deem fit.

(3) In the case of an appeal against any order specified in bye-law 21, the appellate authority shall consider all the circumstances of the case and pass such orders as it deems just and equitable.

25. Implementation of orders in appeal.

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

26.

(1) Notwithstanding anything contained in these bye-laws, the Central Government, on its own motion or otherwise, after calling for the records of the case, review any order which is made under these bye-laws and may—

(a) confirm, modify or set-aside the order; or

(b) impose any penalty or set-aside, reduce, confirm or enhance, the penalty imposed by the orders; or

(c) remit the case to the authority which made the order or to any other authority directing such further action or inquiry as it considered proper in the circumstances of the case; or

(d) pass such other orders as it deems fit:

Provided that—

(i) an order imposing or enhancing a penalty shall not be passed unless the person concerned has been given an opportunity of making any representation which he may wish to make against such enhanced penalty;

(ii) if the Central Government proposes to impose any of the penalties included in Cls. (v) to (ix) of bye-law 8 in a case where an inquiry under Cl. (4) of bye-law 12 has not been held, it shall, subject to the provisions of bye-law 16, direct that such inquiry be held and thereafter on consideration of the proceedings of such inquiry and after giving the person concerned an opportunity of making any representation which he may wish to make against such penalty, pass such orders as it may deem fit.

(2) No proceeding for review shall be commenced until after

(i) The expiry of the period of limitation for an appeal, or

(ii) The disposal of the appeal, where any such appeal has been preferred.

(3) An application for review shall be dealt with in the same manner as if it were an appeal under these bye-laws.

27. Service of orders, notices etc.

Every order, notice and other process made or issued under these bye-laws shall be served in person on the Board's employee concerned and receipt obtained or communicated to him by registered post with acknowledgment due.

28. Power to relax time-limit and to condone delay.

Save as otherwise expressly provided in these bye-laws, the authority competent under these bye-laws to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these bye-laws for anything required to be done under these bye-laws or condone any delay.

29. Savings.

(1) Any proceedings pending at the commencement of these bye-laws shall be continued and disposed of as far as may be in accordance with the provisions of these bye-laws.

(2) Any appeal or application for review pending at or preferred after the commencement of these bye-laws on any matter on which an appeal or review lies under these bye-laws shall be considered and orders thereon shall be passed in accordance with these bye-laws.

30. Removal of doubts.

If any doubt arises as to the interpretation of any of the provisions of these bye-laws, the matter shall be referred to the Central Government, who shall decide the same.

Schedule

¹[SCHEDULE

Description of post and/ or Group	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in bye-law 8)		Appellate Authority
		Authority	Penalties	
All Group 'A' Posts	Chairman (on the recommendation of Executive Committee and with the approval of Central Govt.)	Central Government	All	Central Government
"Group 'B' Posts:				
1. Post for which the maximum of the scale of pay is Rs. 960 or above	Chairman (on the recommendation of the Executive Committee & with the approval of Central Govt.)	Central Government	All	Central Government
2. Post for which the maximum of the scale of pay is less than Rs. 960.	Chairman (on the recommendation of the Executive Committee)	Central Government	All	Central Government
Group 'C' Posts	Chairman (on the recommendation of the Executive Committee)	Chairman	All	Central Government
Group 'D' Posts	Secretary	Secretary	All	Chairman"]

1. Subs, by S.O. 4372, dated 17th November, 1983, published in the Gazette of India, Pt. II, Sec. 3 (ii), dated 3rd December, 1983 (w.e.f. 17th November, 1983).
