

GOVERNMENT OF ASSAM



सत्यमेव जयते

THE ASSAM SERVICES
(DISCIPLINE AND APPEAL)
RULES

1964

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in November, 1964

1964/61.—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 ^{if no such state-} except—

- (a) persons in casual employment ;
- (b) persons 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 would 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 servant or class of Government servant 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 servant who holds a pensionable 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 servant 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 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 a case against him in respect of any criminal offence involving moral turpitude is under investigation 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 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 rules 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 a 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 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 this rule may at any time be revoked by the Authority to 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 reasons and as hereinafter provided, be imposed on a Government servant, namely:—

- (i) Censure ;
- (ii) Withholding of increments or 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 a 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 rules or orders governing the service or post or the terms of his appointment ;
- (b) stoppage 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 in 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 a lower Service, grade or post of a Government servant officiating in a 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 Services—
 - (i) of a Government servant appointed 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 ;

Not
penalty

(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 a 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 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 Servants (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.

Explanation.—In this sub-rule and in 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 official records as he may specify, provided that 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 is 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 care shall be taken against tampering 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 regard to the circumstances of the case, so permits.

(6) The Inquiring Authority shall, in the course of the inquiry consider such documentary evidence and take such oral evidence as may be relevant or material in regard 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 examined in his defence. If the Inquiring Authority declines to 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 inquiry, recording its findings on each of the charges together with reasons therefor.

(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;
- (iii) the oral evidence taken in the course of the inquiry;
- (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 findings on each charge and the reasons therefor.

(9) The Disciplinary Authority shall, if it is not the Inquiring Authority, consider the record of the inquiry and record its findings on each charge.

Copy

Copy of Govt. Notification Memo No. ABP.477/77/G-A
dt. 18.1.78 from Under Secretary to the Govt. of Assam,
Personnel (B) Branch to the Deputy Commissioner, Kamrup, Gauhati
& others etc., etc.

N O T I F I C A T I O N

Dated Dispur, the 18th January, 1978.

No. ABP.477/77/G :- In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Assam is pleased to amend the Assam Services (Discipline and Appeal) Rules, 1964, hereinafter called the said 'Rules' in the manner hereinafter appearing, namely :-

Short title and commencement.

1. (a) These Rules may be called the Assam Services (Discipline and Appeal) (Amendment) Rules, 1978.

(b) They shall come into force at once.

2. In the said Rules, in the second proviso to sub-rule (3) of Rule 15(A) after the sentence "The person so nominated would not be a legal practitioner", the following shall be inserted, namely :-

" except in a case where the officer is allowed to be represented by a legal practitioner."

Sd/- BHASKAR BARUA,
SECRETARY TO THE GOVERNMENT OF ASSAM
PERSONNEL (B) BRANCH.

@@@@@

copy obtained by D. Chatterjee

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL & ADMIN REFORM PERSONNEL (D) BRANCH
GAUHATI.

NOTIFICATION
Dated Dispur, the 7th Oct/77.

NO.ABP-189/77/3 : In exercise of the powers conferred by the provide to Article 309 of the Constitution of India, the Governor of Assam is pleased to make the following further amendment to the Assam Services (Discipline & Appeal) Rules, 1964 hereinafter called the said Rules in the manner hereinafter ~~called~~ appearing, namely :-

In the said Rules, in Rule 9, below sub-rule (1) the following explanation shall be inserted, namely :-

" Explanations - If in the opinion of the enquiring authority the proceedings of the enquiry establishment 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".

This shall come into force with immediate effect.

So/- BHASKAR BARUA
SECRETARY TO THE GOVERNMENT OF
PERSONNEL (D) DEPTT.
@@@ ASSAM

) Major Penalties—

- (i) If the Disciplinary Authority, having regard to its findings on the charges, is of the opinion that any of the penalties specified in clauses (iv) to (vii) of rule 7 should be imposed, it shall—
- (a) furnish to the Government servant a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its finding together with brief reasons for disagreement if any, with the findings of the Inquiring Authority ; and
- (b) give him a notice stating the penalty proposed to be imposed on him and calling upon him to submit within a specified time such representation as he may wish to make on the proposed penalty only on the basis of the evidence adduced during the inquiry.
- (ii) The Disciplinary Authority shall consider the representation, if any, made by the Government servant as aforesaid and determine what penalty, if any, should be imposed on the Government servant. If such representation contains statements, references, requests, demands, etc., not based on the evidence adduced during the inquiry, such statements, etc., should be ignored and this fact should be brought out in the final orders passed in the case.
- (iii) In every case in which it is necessary to consult the Commission, the record of the inquiry, together with a copy of the notice given under clause (i) above, and the representation made in response to such notice, if any, as well as the penalty determined by the Disciplinary authority under clause (ii) above shall be forwarded to the Commission for its advice.
- (iv) On receipt of the advice of the Commission and taking such advice into consideration, the Disciplinary Authority shall pass appropriate orders on the case.
- (v) In any case in which it is not necessary to consult the Commission, the Disciplinary Authority shall consider the representation, if any, made by the Government servant in response to the notice under clause (i) above and determine what penalty, if any, should be imposed on the Government servant and pass appropriate orders.
- (vi) Orders passed by the Disciplinary Authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority unless they have already been supplied to him under clause (i) 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.

(11) Minor Penalties—

If the Disciplinary Authority, having regard to its findings on the charges, is of the opinion that any of the penalties specified in clauses (i) to (iii) of Rule 7 should be imposed, it shall, pass appropriate orders and in every case in which 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 preceding 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.

10. Special procedure in certain cases.—Notwithstanding anything contained 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 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 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 of 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 findings 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 (i) to (iii) of Rule 7 should be imposed on him, it may, subject to the provisions 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. 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 to 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 him 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 service.

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.

(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 a higher service, grade, or post, otherwise than as a penalty ;

(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 reinstatement 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 appellants 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 withheld on the 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 withheld:

Provided further that where an appeal is withheld, the appellant shall be informed of the fact and the reasons therefor.

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 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 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 findings 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) 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 clauses (iv) 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 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 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 fit:

Provided that—

- (i) an order imposing or enhancing a penalty shall not be passed without affording the person concerned an opportunity of making any representation which he may wish to make against such enhanced penalty;
- (ii) if the Governor proposes to impose any of the penalties specified in clauses (iv) to (vii) of rule 7 in a case where an inquiry under rule 9 has not been held, he shall subject to the provisions of rule 10, 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 he may deem fit.

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:

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 27th February 1932, and any notifications issued and orders made under any such rules to the extent to which they apply to persons to whom these rules apply are hereby repealed:

Provided that—

- (a) such repeal shall not affect the previous operation of the said rules, notifications and orders or anything 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 far 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) An 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.

A. N. KIDWAI,

Chief Secretary to the Government of Assam.

SCHEDULE

Description of Service (1)	Appointing Authority (2)	Appellate Authority (3)
Assam Civil Service Class I	Governor	Governor.
Assam Civil Service Class II	Do ...	Do.
Assam Judicial Service (Senior) Grade I ...	Do ...	Do.
Assam Judicial Service (Senior) Grade II ...	Do ...	Do.
Assam Judicial Service (Junior) Grade I ...	Do ...	Do.
Assam Judicial Service (Junior) Grade II ...	Do ...	Do.
State Legal Service	Do ...	Do.
All Gazetted Staff (excluding the ministerial gazetted staff) of the offices of the Military Secretary and Private Secretary to the Governor of Assam.	Do ..	Do.
All Gazetted Officers of the office of the Assam Public Service Commission.	Do ...	Do.
All Gazetted Officers under Community Development.	Do ...	Do.
All Gazetted Officers under Panchayat ...	Do ...	Do.
All Gazetted Officers under Co-operation Department.	Do ..	Do.
All Gazetted Officers under Education (P.T.M.) Department.	Do ...	Do.
All Gazetted Officers under Education (General) Department.	Do ...	Do.
All Gazetted Officers under Agriculture Department.	Do ...	Do.
All Gazetted Officers under Finance (E) Department.	Do ...	Do.
All Gazetted Officers under Finance (Tax) Department.	Do ..	Do.
All Gazetted Officers under Finance (Budget I) Department.	Do ...	Do.
All Gazetted Officers under Forest Department.	Do ...	Do.
All Gazetted Officers under General Administration Department.	Do ...	Do.
Assam Police Service Class I	Do ...	Do.
Assam Police Service Class II	Do ...	Do.
Other Gazetted Officers under Home Department.	Do ...	Do.
All Gazetted Officers under Labour Department.	Do ...	Do.
All Gazetted Officers under Health Department.	Do ...	Do.
All Gazetted Officers under Planning and Development Department.	Do ..	Do.
All Gazetted Officers under Revenue (Land Revenue) Department.	Do ...	Do.
All Gazetted Officers under Revenue (Settlement) Department.	Do ...	Do.

Description of Service (1)	Appointing Authority (2)	Appellate Authority (3)
All Gazetted Officers under Revenue (Reforms) Department.	Governor	Governor
All Gazetted Officers under Supply Department.	Do.	Do.
All Gazetted Officers under Transport and Commence Department.	Do	Do.
All Gazetted Officers under Tribal Areas and Welfare of Backward Classes Department.	Do	Do.
All Gazetted Officers under Town and Country Planning Department.	Do	Do.
All Gazetted Officers under Industries Department.	Do	Do.
All Gazetted Officers under Industries (S. and W.) Department.	Do	Do.
All Gazetted Officers under Power (Electricity) Department.	Do	Do.
All Gazetted Officers under Excise and Registration Department.	Do	Do.
All Gazetted Officers under Veterinary Department.	Do	Do.
All Gazetted Officers under Printing and Stationery Department.	Do	Do.
All Gazetted Officers under Election Department.	Do	Do.
All Gazetted Officers under Public Works Department (Roads and Buildings Wing),	Do	Do.
All Gazetted Officers under Public Works Department (Flood Control and Irrigation Wing).	Do	Do.
All Gazetted Officers under Municipal Administration Department.	Do	Do.
Assam Secretariat Service (Deputy Secretary)	Do	Do.
Assam Secretariat Service (Under-Secretary)	Do	Do.

Description of Service	Appointing Authority	Appellate Authority
(1)	(2)	(3)
Stenographers Service—		
(i) Selection Grade ...	}	Governor.
(ii) Senior Grade .		}
Keeper of Records-cum-Librarian ...	Do	Do.
Personal Assistants to Commissioner's of Divisions.	Do	Do.
Assam Secretariat Service (Superintendent).	Chief Secretary	Do.
Assam Secretariat Subordinate Services—		
(i) Assistant Superintendent ...	}	Do.
(ii) Upper Division Assistant ...		}
(iii) Lower Division Assistant ...		}
(iv) Typist		}
Instructor, Stenography Classes, Assam Secretariat Training School.	Do	Do.
Stenographers Grade I, Grade II and Grade III in the Assam Secretariat.	Do	Do.
All Ministerial Gazetted Staff of the office of the Military Secretary to Governor of Assam.	Military Secretary to the Governor of Assam.	Chief Secretary.
All non-Gazetted Staff of the office of the Military Secretary to the Governor of Assam.	Do	Do.
All non-Gazetted Staff of the office of the Private Secretary to the Governor of Assam.	Private Secretary to the Governor of Assam.	Do.

Description of Service	Appointing Authority	Appellate Authority
(1)	(2)	(3)
All non-Gazetted Staff of the Public Service Commission.	Assam Secretary to the Commission.	Chairman of the Commission.
All Grade IV Staff in the Secretariat.	Assam Civil Deputy Secretary or Under-Secretary, Secretariat Administration Department.	Chief Secretary.
All Grade IV Staff in the Assam Secretariat (P.W.D.)—		
(i) Roads and Buildings Wing ...	Secretary, P.W.D. (R. & B. Wing).	Do.
(ii) Flood Control and Irrigation Wing.	Secretary, P.W.D. (F. C. and I. Wing).	
Stenographers Grade II and III in Heads of Departments.	Grade Heads of Department.	Secretary of the Department.
Stenographers Grade II and III in Deputy Commissioner's Office.	Grade Deputy Commissioner.	Commissioner of Division.
All non-Gazetted posts under the Control of a "Heads of Department" other than the posts in respect of which specific provisions have been made separately.	Heads of Department.	Secretary of the Department.
All non-Gazetted posts in the Office of the Deputy Commissioners and Sub-divisional Officers and other District and Subdivisional Officers under the Heads of Department.	Head of the Office	Heads of Department.
All non-Gazetted posts in the Government Press.	Assam Superintendent Assam Government Press.	Secretary of the Department