

In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of notification no. 237/Karmik-2/2003-55(25) 2002, dated March 06, 2003.

No. 237/Karmik-2/2003-55(25) 2002

Dated Dehradun, March 06, 2003

**NOTIFICATION**

**Miscellaneous**

In exercise of the powers conferred by the proviso of Article 309 of the Constitution, the Governor is pleased to make the following Rules:--

**THE <sup>1</sup>[UTTARAKHAND] GOVERNMENT SERVANT (DISCIPLINE AND  
APPEAL) RULES, 2003**

**(as amended by Amendment Rules, 2010)**

**1. Short title and Commencement--**

(1) These rules may be called the "The Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003".

(2) They shall come into force at once.

(3) They shall apply to Government Servants under the rule making power of the Governor under the proviso to Article 309 of the Constitution except the Officers and Servants of the High Court of Judicature at Nainital covered under Article 229 of the Constitution of India.

**2. Definitions--**

In these Rules, unless there is anything repugnant in the subject or context-

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<sup>1</sup> Substituted By Notification No. 748/XXX(2)/2010, dated 28.05.2010

- (a) “**Appointing Authority**” means the Authority empowered to made appointments to the posts under the relevant service Rules;
- (b) “**Constitution**” means the Constitution of India;
- (c) “**Commission**” means the Uttarakhand Public Service Commission;
- (d) “**Departmental Inquiry**” means the inquiry under rule-7 of these Rules;
- (e) “**Disciplinary Authority**” means an Authority empowered under rule-6 to impose penalties;
- (f) “**Governor**” means the Governor of Uttarakhand;
- (g) “**Government**” means the State Government of Uttarakhand;
- (h) “**Government Servant**” means a person appointed to public services and posts in connection with the affairs of the State of Uttarakhand;
- (i) “**Group A, B, C and D post**” means the posts mentioned as such in the relevant Service Rules or the orders of the Government issued from time to time in this regard;
- (j) “**Service**” means the public services and posts in connection with the affairs of the State of Uttarakhand.

### **3. Penalties--**

The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed upon the Government Servants :--

#### **(a) Minor Penalties--**

- (i) Censure;
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- (ii) Withholding of increments for a specified period;
- (iii) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders;
- (iv) Fine in case of persons holding Group "D" posts :

Provided that the amount of such fine shall in no case exceed twenty five percent of the months pay in which the fine is imposed.

**(b) Major Penalties--**

- (i) Withholding of increments with cumulative effect;
- (ii) Reduction to a lower post or grade or time scale or to a lower stage in a time scale;
- (iii) Removal from the Service which does not disqualify from future employment;
- (iv) Dismissal from the Service, which disqualifies from future employment.

**Explanation--**The following shall not amount to penalty within the meaning of this Rule, namely :--

- (i) Withholding of increment of a Government Servant for failure to pass a departmental examination or for failure to fulfil any other condition in accordance with the rules or orders governing the service;
  - (ii) Reversion of a person appointed on probation to the Service during or at the end of the period of probation in accordance with the terms of appointment or the rules and orders governing such probation;
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- (iii) Termination of the Service of a person appointed on probation during or at the end of the period of probation in accordance with the terms of the Service for the rules and orders governing such probation.

#### **4. Suspension—**

- <sup>2</sup> [ (1) **A Government Servant against whose conduct an inquiry is contemplated, or is proceeding, may be placed under suspension pending the conclusion of the inquiry at the discretion of the Appointing Authority . It will be clearly mentioned in the suspension order that the charges against the concerned government servant are so serious that in the event of these being established, major penalty would be inflicted;**

**Provided that suspension should not be resorted to unless the allegations against the Government Servant are so serious that in the event of these being established may be normally the basis of major penalty ;**

**Provided further that concerned Head of the Department empowered by the Governor by an order in this behalf may place a Government Servant or class of Government Servants belonging to Group ‘A’ and ‘B’ under suspension under this Rule;**

**Provided also that in the case of any Government Servant or class of Government Servants belonging to Group ‘C’ and ‘D’ the Appointing Authority may delegate his power under this Rule to the next lower authority.]**

- (2) A Government Servant in respect of, or against whom an investigation, inquiry or trial relating to a criminal charge, which is

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<sup>2</sup> Substituted By NotificationNo. 748/XXX(2)/2010, dated 28.05.2010

connected with his position as a Government Servant or which is likely to embarrass him in the discharge of his duties or which involves moral turpitude, is pending, may, at the discretion of the Appointing Authority or the Authority to whom the power of suspension has been delegated under these rules, be placed under suspension until the termination of all proceedings relating to that charge.

- (3) (a) A Government Servant shall be deemed to have been placed or, as the case may be, continued to be placed under suspension by an order of the Competent Authority to suspend, with effect from the date of his detention, if he is detained in custody, whether the detention is on criminal charge or otherwise, period exceeding forty eight hours.
- (b) The aforesaid Government Servant shall, after the release from the custody, inform in writing to the Competent Authority about his detention and may also make representation against the deemed suspension. The Competent Authority shall after considering the representation in the light of the facts and circumstances of the case as well as the provisions contained in this rule, pass appropriate order continuing the deemed suspension from the date of release from custody or revoking or modifying it.
- (4) Government Servant shall be deemed to have been placed or, as the case may be, continued to be placed under suspension by an order of the Competent Authority to suspend under these rules, 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 removed consequent to such conviction.

**Explanation**--A period of forty eight hours referred to in sub-rule 11 be computed from the commencement of the imprisonment after the

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conviction and for this purpose, intermitent periods of imprisonment shall be taken to account.

(5) Where a penalty of dismissal or removal from Service imposed upon a Government Servant is set aside in appeal or on review under these rules or under rules resinded by these rules and the case is remitted for further inquiry or action or with any other directions :

(a) If he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any such directions as aforesaid, be deemed to have continued in force on and from the date of the original order of dismissal or removal;

(b) If he was not under suspension, he shall, if so directed by the appellate or Reviewing Authority, be deemed to have been placed under suspension by an order of the Appointing Authority on and from the date of the original order of dismissal or removal :

Provided that nothing in this sub-rule shall be construe as affecting the power of the Disciplinary Authority in a case where a penalty of dimissal or removal in Service imposed upon a Government Servant is set aside in appeal or on review under these rules grounds other than the merits of the allegations which, the said penalty was imposed but the case is remitted for further inquiry or action or with any other directions to pass an order of suspension being further inquiry against him on those allegations so, however, that any such suspension shall not have retrospective effect.

(6) Where penalty of dismissal or removal 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 Appointing Authority, on a consideration of the circumstances of the case, decides

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to hold a further inquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, whether the allegations remain in their original form or are clarified or their particulars better specified or any part thereof of a minor nature omitted :

- (a) If he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any direction of the Appointing Authority, be deemed to have continued in force on and from the date of the original order of dismissal or removal;
- (b) If he was not under such suspension, he shall, if so directed by the Appointing Authority, be deemed to have been placed under suspension by an order of the Competent Authority on and from the date of the original order of dismissal or removal.

(7) Where a Government Servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the Competent Authority to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government Servant shall continue to be under suspension till the termination of all or any of such proceedings.

(8) Any suspension ordered or deemed, to have been ordered or to have continued in force under this Rule shall continue to remain in force until it is modified or revoked by the Competent Authority.

(9) A Government Servant placed under suspension or deemed to have been placed under suspension under this rule shall be entitled to subsistence allowance in accordance with the provisions of

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Fundamental Rule-53 of the Financial Hand Book, Volume-II, Part II to IV.

**5. Pay and allowances etc. of the suspension period--**

After the order is passed in the departmental enquiry or in the criminal case, as the case may be under these rules, the decision as to the pay and allowances of the suspension period of the concerned Government Servant and also whether the said period shall be treated as spent on duty or not, shall be taken by the Disciplinary Authority after giving a notice to the said Government Servant and calling for his explanation within a specified period under rule-54 of the Financial Hand Book Volume-II part II to IV.

**6. Disciplinary authority--**

The Appointing Authority of a Government Servant shall be his Disciplinary Authority who, subject to the provisions of these rules, may impose any of the penalties specified in rule-3 on him :

Provided that no person shall be dismissed or removed by an authority subordinate to that by which he was actually appointed :

Provided further that the Head of Department notified under the Uttarakhand Class II Services (Imposition of Minor Punishments) Rules, 2003 subject to the provisions of these rules, shall be empowered to impose minor penalties mentioned in rule-3 of these rules :

Provided also that in case of a Government Servant belonging to Group 'C' and 'D' posts, the Government, by a notified order, may delegate the power to impose any penalty, except dismissal or removal from Service under these rules, to any Authority subordinate to the Appointing Authority and subject to such conditions as may be prescribed therein.

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**3[7. Procedure for imposing major punishment--**

Before imposing any major punishment on any Government Servant, an inquiry shall be conducted in the following manner :--

- (1) Whenever the Disciplinary Authority is of the opinion that there are grounds to inquire into the charge of misconduct or misbehaviour against the government servant, he may conduct an inquiry.
- (2) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge sheet. The charge sheet shall be signed by the Disciplinary Authority:  
Provided that where the appointing authority is Governor, the charge-sheet may be signed by the Principal Secretary or the Secretary, as the case may be, of the concerned department
- (3) The charges framed shall be so precise and clear as to give sufficient indication to the charged Government Servant of the facts and circumstances against him. The proposed documentary evidences and the name of witnesses proposed to prove the same along with oral evidences, if any, shall be mentioned in the chargesheet.
- (4) The chargesheet, alongwith the copy of documentary evidences mentioned therein and list of witnesses and their statements, if any, shall be served on the charged Government Servant personally or by registered post at the address mentioned in the official records. In case the chargesheet could not be served in aforesaid manner, the chargesheet shall be served by publication in a daily news paper having wide circulation :

Provided that where the documentary evidence is voluminous, instead of furnishing its copy with chargesheet, the charged Government Servant shall be permitted to inspect the same.

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<sup>3</sup> Substituted By Notification No. 748/XXX(2)/2010, dated 28.05.2010

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- (5) The charged Government servant shall be required to put in a written statement in his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge-sheet and to clearly inform whether he admits or not all or any of the charges mentioned in the chargesheet. The charged government servant shall also required to state whether he desires to cross examine any witness mentioned in the chargesheet whether he desires to give or produce any written or oral evidence in his defence. He shall be also be informed that in case he does not appear or file the written statement on the specified date, it will be presumed that he has none to furnish and ex-parte inquiry shall be initiated against him.
- (6) Where on receipt of the written defence statement and the government servant has admitted all the charges mentioned in the charge sheet in his written statement, the Disciplinary Authority in view of such acceptance shall record his findings relating to each charge after taking such evidence he deems fit if he considers such evidence necessary and if the Disciplinary Authority having regard to its findings is of the opinion that any penalty specified in Rule 3 should be imposed on the charged government servant, he shall give a copy of the recorded findings to the charged government servant and require him to submit his representation, if he so desires within a reasonable specified time. The Disciplinary Authority shall, having regard to all the relevant records relating to the findings recorded related to every charge and representation of charged government servant, if any, and subject to the provisions of Rule 16 of these rules, pass a reasoned order imposing one or more penalties mentioned in Rule 3 of these rules and communicate the same to the charged government servant.
- (7) if the government servant has not submitted any written statement in his defence, the Disciplinary Authority may, him self inquire into the charges or if he considers necessary he may appoint an Inquiry Officer for the purpose under sub rule (8).
- (8) The Disciplinary Authority may himself inquire into those charges not admitted by the government servant or he may appoint any authority
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subordinate to him at least two stages above the rank of the charged government servant who shall be Inquiry Officer for the purpose.

- (9) Where the Disciplinary Authority has appointed Inquiry Officer under sub rule (8) he will forward the following to the Inquiry Officer, namely:
- (a) A copy of charge sheet and details of misconduct or misbehavior:
  - (b) A copy of written defence statement, if any submitted by the government servant:
  - © Evidence as a proof of the delivery of the documents referred to in the chargesheet to the government servant:
  - (c) A copy of statements of evidence referred to in the chargesheet.
- (10) The Disciplinary Authority or the Inquiry Officer, whosoever is conducting the inquiry shall proceed to call the witnesses proposed in the charge-sheet and record their oral evidence in presence of the charged Government servant who shall be given opportunity to cross-examine such witnesses after recording the aforesaid evidences. After recording the aforesaid evidences, the Inquiry Officer shall call and record the oral evidence which the charged Government servant desired in his written statement to the produced in his defence:

Provided that the Inquiry Officer may, for reasons to be recorded in writing, refuse to call a witness.

- (11) The Disciplinary Authority or the Inquiry Officer whosoever is conducting the inquiry may summon any witness to give evidence before him or require any person to produce documents before him in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witness and Production of Documents) Act, 1976 which is enforced in the State of Uttarakhand under provisions of Section-86 of the Uttar Pradesh Reorganization Act, 2000.
- (12) The Disciplinary Authority or the Inquiry Officer whosoever is conducting the inquiry Officer may ask any question, he pleases, at any time from any witness or person charged with a view to find out the truth or to obtain proper proof of facts relevant to charges.
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- (13) Where the charged Government Servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite of the Service of the notice on him or having knowledge of the Date, The Disciplinary Authority or the Inquiry Officer whosoever is conducting the inquiry shall record the statement of witnesses mentioned in the chargesheet in absence of the charged Government Servant
- (14) The Disciplinary Authority, if it Considers it necessary to do so, may, by an order, appoint a Government Servant or a legal practitioner, to be known as “Presenting Officer” to present on his behalf the case in support of the charge
- (15) The charged Government Servant may take the assistance of any other Government Servant to present the case on his behalf but not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner of the Disciplinary Authority, having regard to the circumstances of the case, so permits :
- (16) Whenever after hearing and recording all the evidences or any part of the inquiry jurisdiction of the Inquiry Authority ceases and any such Inquiry Authority having such jurisdiction takes over in his place and exercises such jurisdiction and such successor conducts the inquiry such succeeding Inquiry Authority shall proceed further, on the basis of evidence or part thereof recorded by his predecessor or evidence or part thereof recorded by him:

Provided that if in the opinion of the succeeding Inquiry Officer if any of the evidences already recorded further examination of any evidence is necessary in the interest of justice, he may summon again any such evidence, as provided earlier, and may examine, cross examine and reexamine him.

- (17) This rule shall not apply in the following case;--*i.e.* there is no necessity to conduct an inquiry in such cases:-
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- (a) Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or
- (b) Where the Disciplinary Authority is satisfied, that for reasons, to be recorded by it in writing, it is not reasonably practicable to hold an inquiry in the manner provided these rules; or
- (c) Where the Governor is satisfied that in the interest of the security of the State it is not expedient to hold an enquiry in the manner provided in these rules.”]

#### **8. Submission of Inquiry Report--**

When the inquiry is complete, the Inquiry Officer shall submit its inquiry report to the Disciplinary Authority alongwith all the records of the inquiry. The inquiry report shall contain a sufficient record of brief facts, the evidence and statement of the findings on each charge and the reasons thereof. The Inquiry Officer shall not make any recommendation about the penalty.

#### **9. Action on Inquiry Report--**

- (1) The Disciplinary Authority may, for reasons to be recorded in writing, remit the case for re-inquiry to the same or any other Inquiry Officer under intimation to the charged Government Servant. The Inquiry Officer shall thereupon proceed to hold the inquiry from such stage as directed by the Disciplinary Authority, according to the provisions of Rule-7.
  - (2) The Disciplinary Authority shall, if it disagrees with the findings of the Inquiry Officer on any charge, record its own findings thereon for reasons to be recorded.
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- (3) In case the charges are not proved, the charged Government Servant shall be exonerated the Disciplinary Authority of the charges and informed him accordingly.
- (4) If the Disciplinary Authority, having regard to its findings on all or any of charges, is of the opinion that any penalty specified in rule-3 should be imposed on the charged Government Servant, he shall give a copy of the inquiry report and his findings recorded under sub-rule (2) to the charged Government Servant and require him to submit his representation if he so desires, within a reasonable specified time. The disciplinary Authority shall, having regard to all the relevant records relating to the inquiry and representation of the charged Government Servant, if any, and subject to the provisions of rule-16 of these rules, pass a reasoned order imposing one or more penalties mentioned in rule-3 of these rules and communicate the same to the charged Government Servant.

#### **10. Procedure for imposing minor penalties--**

- (1) Where the Disciplinary Authority is satisfied that good and sufficient reasons exist for adopting such a course, it may, subject to the provisions of sub-rule (2) impose one or more of the minor penalties mentioned in rule-3.
- (2) The Government Servant shall be informed of the substance of the imputations against him and called upon to submit his explanation within a reasonable time. The Disciplinary Authority shall, after considering the said explanation, if any and the relevant records, pass such orders as he considers proper and where a penalty is imposed, reason thereof shall be given, the order shall be communicated to the concerned Government Servant.

#### **11. Appeal--**

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- (1) Except the orders passed under these rules by the Governor, the Government Servant shall be entitled to appeal to the next higher authority from an order passed by the Disciplinary Authority.
- (2) The appeal shall be addressed and submitted to the Appellate Authority. A Government Servant Preferring an appeal shall do so in his own name. The appeal shall contain all material statements and arguments relied upon by the appellant.
- (3) The appeal shall not contain any intemperate language. Any appeal, which contains such language may be liable to be summarily dismissed.
- (4) The appeal shall be preferred within 90 days from the date of communication of impugned order. An appeal preferred after the said period shall be dismissed summarily.

#### **12. Consideration of Appeals--**

The Appellate Authority shall pass such order as mentioned in clauses (a) to (d) of rule-13 of these rules, in the appeal as he thinks proper after considering :--

- (a) Whether the facts on which the order was based have been established;
- (b) Whether the fact established afford sufficient ground for taking action;  
and
- (c) Whether the penalty is excessive adequate or inadequate.

#### **13. Revision--**

Notwithstanding anything contained in these rules, the Government may of its own motion or on the representation of concerned Government Servant call for the record of any case decided by an authority subordinate to it in the exercise of any power conferred on such authority by these rules; and

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- (a) confirm, modify or reverse the order passed by such authority, or
- (b) direct that a further inquiry be held in the case, or
- (c) reduce or enhance the penalty imposed by the order, or
- (d) make such other order in the case as it may deem fit.

#### **14. Review--**

The Governor may, at any time, either on his own motion or on the representation of the concerned Government Servant review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has the effect of changing the nature of the case.

#### **15. Opportunity before imposing or enhancing penalty--**

No order under rules 12, 13 and 14 imposing or enhancing any penalty shall be made unless the Government Servant concerned has been given reasonable opportunity or showing cause against the proposed imposition or enhancement, as the case may be.

#### **<sup>4</sup>16. Consultation with the Commission--**

Before any order is passed by the Governor under these rules, the Commission, as required under the Uttarakhand Public Service Commission (Limitation of Functions) Regulation, 2003, as amended from time to time, shall also be consulted.]

#### **17. Recission and savings--**

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<sup>4</sup> Substituted By Notification No. 748/XXX(2)/2010, dated 28.05.2010

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- (1) Delegation of power mentioned in Punishment and Appeal Rules for Subordinate Services U.P., 1932 and any order issued under the Civil Service (Classification, Control and Appeal) Rules, 1930 or Punishment and Appeal Rules for Subordinate Services, U.P., 1932 delegating the power of imposing any of the penalties mentioned in rule-3 or power of suspension the any authority shall be deemed to have been issued under these rules and shall remain valid unless cancelled or rescinded.
- (2) Any inquiry appeal, revision or review pending on the date of coming into force of these rules shall be continued and concluded in accordance with the provisions of these rules.
- (3) Nothing in these rules shall operate to deprive any person of any right of appeal, revision or review which he would have had if these rules had not been enforce in respect of any order passed before the commencement of these rules and such appeal, revision or view shall be preferred under these rules and disposed of according by as if the provisions of this rule were enforce at all material times.

By Order,

ALOK KUMAR JAIN,  
*Secretary.*

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