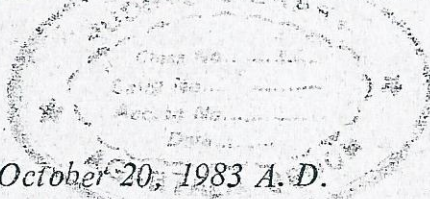


**Tripura Board of Secondary Education (Terms and Conditions of
Appointment and Discipline of the Employees) Rules, 1982**

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**GOVERNMENT OF TRIPURA
EDUCATION DEPARTMENT**

No. F. 10(28-10)-DSE/80

Dated, Agartala,
the 13th September, 1983.

NOTIFICATION

In exercise of the powers conferred by clause (d) and (f) of Sub-Section(2) of Section 26 of the Tripura Board of Secondary Education Act, 1973 (Tripura Act No. 12 of 1973), and all other powers enabling it to make rules in this regard, the State Government hereby makes the following rules, namely :

CHAPTER—I

1. Short Title and commencement :

- (i) These rules may be called the Tripura Board of Secondary Education (Terms and Conditions of Appointment and Discipline of the Employees) Rules, 1982.
- (ii) They shall come into force on and from the date of their notification in the Official Gazette.

2. Application :

Save as otherwise provide in these rules, these rules shall apply to the employees appointed to posts in connection with the affairs of the Board but shall not apply to :

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- (i) The President, the Vice-President and the Secretary of the Board ;
- (ii) the Government Servants on deputation to the Board ;
- (iii) persons in casual or daily rated part-time employment.

3. Definition :

- (i) In these rules, unless the context otherwise requires—
 - (a) the Act means the Tripura Board of Secondary Education Act, 1973.
 - (b) 'Employees' means all the whole time Class-I and Class-II officers, the Class-III and Class-IV staff of the Board, including the Government Servants appointed by the Board on the basis of their applications in response to advertisements, circulation of vacancies etc. who retains lien in Government post for a limited period.
 - (c) 'Form' means a form appended to these rules.
 - (d) 'Fund' means the Contributory Provident Fund of the Board.
 - (e) The 'Government' means the State Government of Tripura.
 - (f) 'Gratuity' means the gratuity payable under any rule that may be framed for the purpose.
 - (g) 'Leave' means any kind of leave as provided in the Fundamental Rules or any other rule framed by the Government in respect of its employees.
 - (h) 'Pay' means pay, as defined in the Fundamental Rules and includes special pay, personal pay, dearness pay appropriated to pay if admissible and any other emoluments which may, by special order of the Board, be treated as pay.
 Provided that the pay of the re-employed pensioner(s) shall include the amount of pension and the pension equivalent of gratuity.

- (i) 'Qualifying Services' means service rendered on duty or otherwise which shall be taken into account for the purpose of calculating gratuity admissible under any rule/regulation that may be framed for the purpose.
- (j) 'Retirement Benefits' means only gratuity/contributory provident fund.
- (ii) Words and expressions used in these rules and not defined, but defined in the Fundamental Rules or in the Supplementary Rules or in the Act shall have the same meaning as assigned to them therein.

CHAPTER—II

4. Classification of post :

- (i) The posts under the Board shall be classified as follows :
 - (a) Class—I post
 - (b) Class—II post
 - (c) Class—III post
 - (d) Class—IV post
- (ii) The Board shall classify the existing posts and posts that may be created in future according to the criteria that may be prescribed from time to time by the State Government for classification of the employees of the State Government.

Provided that any post may for reasons to be recorded in writing be classified in a manner other than the above.

5. Power to create posts :

The Board, with the approval of the State Government, may create posts for efficient functioning of the Board. Having regard to the nature of work to be performed by the incumbent of the post, it may be created permanently or on a temporary basis for a specific period.

6. Power to abolish a post :

- (i) The Board may abolish any post, even a permanent one, with the approval of the

State Government, if the Board considers that the continuance of the post is no longer necessary. If any post is abolished, the services of the incumbent holding the post may be terminated by the Board after giving 3 months' notice or 3 months' pay and allowances in lieu of the notice. The employee may get retirement benefit, if admissible under the appropriate rules, for period of service rendered by him under the Board.

- (ii) A person whose service has been terminated or who has been served with a notice under Sub-Rule(i) may be offered any other post by the Board, if there be any vacancy and if the person accepts such post, the Board may appoint him to that post.

7. Scale of pay of the posts under the Board :

The scales of pay of the posts under the Board may, as far as practicable, be so prescribed as to conform to the scales of pay of comparable posts under the State Government but a deviation therefrom shall not confer any right to any holder of the post under the Board to claim higher scale of pay than what has been prescribed for such post.

8. Appointing Authority :

The Board shall be the Appointing Authority for all Class-I and Class-II posts and the President shall be the Appointing authority for all Class-III and Class-IV posts.

CHAPTER—III

9. Probation and Confirmation :

- (i) Every person appointed to a post in a substantive vacancy shall be placed on probation for a period of two years.
- (ii) All appointments on probation to posts in the Board's service shall commence from the date of appointment on probation. The Board may, however, allow continuous temporary or officiating service to count towards the period of probation.

- (iii) If during or at the end of the probationary period, it is found that a person has not been able to attain/maintain the standard expected of him, he may be reverted to his substantive post if he/was appointed on promotion or may be discharged, with one month's notice, if he was appointed by direct recruitment.



Provided that in the case of Government servant appointed on deputation or having a lien in any post under the Government, the Government shall be notified of the Board's decision before the notice terminating his service in the Board is issued.

- (iv) The Board, for sufficient reasons, may extend the period of probation in any cases.
- (v) Subject to sub-rule(4) a probationer shall be confirmed in his post, if permanent, at the end of the period of probation if his work and conduct are found satisfactory by the Board. In the case where the period of probation is extended, the date of confirmation shall follow the date of the extended period of probation.
- (vi) (a) A Government servant appointed in the Board's service on the basis of his application in response to advertisement or circulation of vacancies shall on expiry of the period of probation either resign from Government service or revert to his parent office. The Government servant shall be required to intimate his option in this regard to his parent office at least three months before the expiry of the period of probation.
- (b) If the Board does not like to confirm the Government servant in the Board's Service, the Board's decision should be communicated immediately to the Government.
- (vii) If a Government servant deputed to the Board by the State Government, expresses in writing his desire to be absorbed in the Board's Service and the Board decides,

having regard to the Recruitment Rules of the post, if any, to absorb him on a permanent basis on completion of two years continuous service in the Board, such Government servant shall submit his letter of resignation/notice of retirement from Government service to his appointing authority through the Secretary of the Board and the letter of resignation/notice of retirement shall be forwarded by the Board to the appropriate appointing authority of the Government servant, together with the decision of the Board. The pay of a Government servant deputed to the Board by the State Government shall, upon his retirement from Government Service with retirement benefits and permanent absorption in the service of the Board, be fixed on the date of his permanent absorption in the manner as prescribed by the Government for fixation of pay of re-employed pensioners.

The pay of a Government servant deputed to the Board by the State Government shall, upon his resignation from the Government service and permanent absorption in the service under the Board, be fixed on the date of his permanent absorption at such stage of the scale of pay of the post which he holds under the Board, as may be offered by the Board and as may be accepted by him.

- (viii) A permanent Government servant who retires from Government service with retirement benefits and is absorbed in the service of the Board under clause (vii) shall be allowed to draw, in addition to the pay of the post under the Board, as fixed under that clause, pensionary benefits, if any, in respect of the past services under the Government as may be admissible to him under the rules of the Government.

10. Permanent Service :

- (i) The temporary posts which have been in existence for at least three years and are likely to continue indefinitely may be declared permanent by the Board at a meeting.
- (ii) An employee who has held a permanent post on probation shall be confirmed in the post on his successful completion of the period of probation or the extended period of probation.
- (iii) An employee who has held a temporary post which is subsequently made permanent or who has held a permanent post on officiating basis may be confirmed in the post on completion of at least two years' service in the post, if his work and conduct are considered satisfactory by the Board.
- (iv) The services of a permanent employee shall be liable to termination at any time by three months' notice in writing given by the appointing authority to the employee :—
 - (a) if he has been declared physically unfit for continuance in service by a Medical Board constituted for the purpose, or
 - (b) if he has absented himself from duty without the permission of the Secretary for a period of three months, or
 - (c) if the post is abolished by the Board.

Provided that no order terminating the services of a permanent employee under clause (b) shall be made, except after giving the employee a reasonable opportunity of being heard.
- (v) The Services of a permanent employee shall also be liable to termination by three months' notice in writing given by the employee to the appointing authority.
- (vi) An employee, whose service is terminated under Sub-Rule(iv) or (v) shall be entitled to such terminal benefits as are admissible to the employees of the State Government in similar circumstances.



11. Temporary Service :

- (i) Each and every employee of the Board shall be deemed to be in temporary service until he has been declared permanent.
- (ii) An employee shall be deemed to be in quasi permanent service if he has been in continuous temporary service for more than three years.
- (iii) The services of a temporary employee, who is not in quasi permanent service shall be liable to termination at any time by a notice of one month in writing given either by the *appointing authority to the employee* or by the employee to the appointing authority.
- (iv) The services of an employee in quasi permanent services shall be liable to termination in the same circumstances and in the same manner as an employee in permanent service.
- (v) An employee whose service is *terminated under sub-rule (iii) or (iv)* shall be entitled to such terminal benefits, as are admissible to the employees of the State Government in similar circumstances.

12. Service Record :

- (i) An employee to whom these rules apply shall have a Service Book in which the record of his service in the Board, whether temporary or permanent, shall be maintained. The Secretary shall open a Service Book for such employee in the proforma prescribed by the Government for the Service Book of its employees and record his service therein. The Service Book so opened shall be got countersigned by the President. The services of an employee shall be verified annually by the Secretary and certificate of such verification shall be recorded in the Service Book.
- (ii) The Secretary shall also maintain a leave account for each employee in the proforma.

prescribed by the Government for the leave account of its employees, immediately after completion of his service in the Board for one year.

13. Annual Confidential Report :

- (i) (a) Each Officer of the Board shall submit to the Secretary a confidential report, within one month after the 31st March of a year, in respect of each employee placed under his supervision. The report shall contain a realistic assessment of the employee in respect of :
 - (1) the quality of his performance in the discharge of his duties in the preceeding year.
 - (2) his sincerity, conduct, integrity and character.
 - (3) any meritorious service rendered by him to the Board in the preceeding year, and
 - (4) fitness for promotion.
- (b) The Secretary shall record his comments in the A.C.R. by way of review.
- (c) The Secretary shall submit to the President similar reports in respect of the officers of the Board and the President shall record his comments by way of review.
- (ii) Whenever an adverse remark is made in the report, it shall be brought, within one month of the submission of the confidential report, to the notice of the concerned employee who shall be advised to improve the quality of his work or to rectify the defects pointed out in the report.
- (iii) The employee concerned may make a representation to the President against the adverse report within 15 days from the date of receipt of the report and the decision of the President on the representation shall be communicated to the employee

within one month of the date of receipt of the representation.

(iv) The concerned employee, if he is not satisfied with the decision of the President may make an appeal to the Board whose decision in the matter shall be final.

(v) Wherever adverse remarks have been made in three consecutive years against an employee, the Board may impose upon him a penalty in the form of reduction in rank or stoppage of time scale increment for a specified period :

Provided that no penalty in the form of reduction in rank or stoppage of time scale increment shall be imposed under this sub-rule except in accordance with the procedure prescribed under chapter-vi of these rules for imposition of penalty of reduction in rank or stoppage of time scale increment.

(vi) The President may prescribe suitable forms for writing the A.C. Rs of different categories of employees, having regard to the nature of their duties.

14. Notice of resignation :

(i) A permanent employee shall not leave or discontinue his service under the Board without giving three months' prior notice in writing to the appointing authority of his intention to leave or discontinue the service.

Provided that the appointing authority may reduce the period of notice to one month at his discretion.

(ii) A temporary employee, including an employee on probation, shall not leave or discontinue his service under the Board without giving one month's prior notice in writing to the appointing authority.

(iii) An employee before leaving the Board's service shall be required to hand over the charge of his post to a duly authorised

employee, clear all his dues to the Board and obtain a no-demand certificate from the Board.

- (iv) If the conditions of this rule are fulfilled, the appointing authority shall accept the resignation of the employee, in writing from a specified date.

15. Leave and Leave Salary :

The employees of the Board (including the Government servants on deputation to the Board) shall be entitled to leave as per leave rules and orders applicable to the Government servants in the State Government. For this purpose, the Secretary will act as the leave sanctioning authority of all Class-III and Class-IV employees (including Government servants appointed on deputation) and the President will act as the leave sanctioning authority for all Class-I and Class-II officers.

16. Holidays :

The public holidays declared for the Government offices by the State Government from time to time shall also be the holidays for the Board :

Provided that the President shall have the authority to declare, in addition, two holidays and two half-holidays in a year, in special circumstances.

17. Attendance and Office Hours :

The attendance of the employees in the Board office shall be regulated by the rules and practices prevalent in the offices of the State Government and the office hours in the Board's office shall correspond to those in the offices of the State Government :

Provided that the President may alter the working hours of any employee for convenience of the Board's work.

18. Work beyond normal working hours :

- (i) The Secretary may ask any employee of the Board to work in the office beyond the

normal working hours of such employee and also on holidays.

- (ii) A member of the Class-III or Class-IV service shall be entitled to compensatory leave for work beyond normal working hours as per rules of the State Government for its employees :

Provided that the employees may be granted honorarium for overtime work in connection with the examinations of the Board and the publication of their results at the rates to be fixed by the Board, the total amount of honorarium not exceeding the maximum honorarium admissible in a year in respect of an employee of the corresponding grade of the State Government.

19. Retirement :

- (i) Every employee shall retire from the service of the Board on attaining the age of superannuation which shall be the same as applicable to the corresponding class of State Government employees :

Provided that the Board may, if it is of opinion that the extension of service of any particular employee is necessary in the interest of the Board, grant extension of service to such employee from time to time, but the total period of extension shall not exceed two years in aggregate :

Provided further that if the Board is satisfied that it is necessary to grant further extension of service of such employee, than it may, for reasons to be recorded in writing, and with the previous approval of the State Government, extend the service of such employee for a period not exceeding one year at a time, so that the total period of extension of service of such employee (after the expiry of two years as specified in the first proviso) shall not exceed two years.

At any time after an employee has completed 30 years' qualifying service under the Board :

(a) he may retire from service by giving a notice in writing to the appointing authority at least three months before the date on which he wishes to retire ;

(b) he may be required by the Board to retire from service by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice :

Provided that where the employee giving notice under clause(a) is under suspension or where a disciplinary proceeding is pending against him it shall be open to the Board to withhold permission to such employee to retire under this sub-rule.

(iii) An employee, who is entitled to retire under this rule and who has given the notice to that effect to the appointing authority, shall not be entitled to withdraw the notice or to withhold the operation of the period of notice except with the approval of the appointing authority.

20. Provident Fund and Retirement Benefits :

- (i) Every employee of the Board, other than a Government servant on deputation from the State Government, shall subscribe to the Contributory Provident Fund at the rate and in the manner as may be prescribed by the Board by regulation.
- (ii) Retirement benefits on the basis of qualifying service shall accrue to the employees of the Board, other than Government Servants appointed on deputation from the State Government, at the rate and in the manner as may be prescribed by the Board by regulation.

CHAPTER—IV

Duties, Rights and Obligations of the employees of the Board :

21. Definitions—In this Chapter, unless there is anything contrary to the context—
- (a) "Appointing Authority" in relation to an employee means the authority empowered to make appointment to the post held by him for the time being ;
 - (b) "Employee" means a person appointed to a post in connection with the affairs of the Board, to whom these rules are applicable ;
 - (c) "Members of the family" in relation to an employee means the wife or husband, as the case may be, and the child/children or the step-child or step children of the employee ;
 - (d) "Public Servant" has the same meaning as in the Indian Penal Code (45 of 1860) ;
 - (e) "State" means the State of Tripura ;
 - (f) "Strike" means strike as defined in clause (q) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947).
22. Duties—The following shall be the duties of an employee :—
- (a) Every employee shall at all times maintain absolute integrity, maintain devotion to duties and do nothing which is unbecoming of a public servant.
 - (b) Every employee shall bear in mind that he is a public servant. He shall faithfully discharge his duties, shall always behave courteously with the member of the public or colleagues with whom he has to come in contact in the discharge of his duties as a public servant and shall always try to help them in all possible ways through quick, efficient and faithful discharge of the duties assigned to him.

(c) Every employee shall in the discharge of his duties rise above all personal, political and other considerations and maintain integrity, impartiality and devotion to duty.

(d) Every employee shall, notwithstanding his personal views on any matter relating to Board's policy and programme, carry out faithfully the duties and responsibility entrusted to him as a public servant without any bias.

(e) Every employee shall practise, promote and encourage collective functioning in the interest of the administrative efficiency and apply his personal initiative to the efficient discharge of his duties.

(f) When in the discharge of his duties an employee is called upon to decide a matter in which he or a relation of his is financially or otherwise interested, every such employee shall, at the earliest opportunity bring this fact in writing to the notice of the authority to whom he is subordinate.

(g) Every employee shall once in every year submit in the prescribed form to the appointing authority a return of movable and immovable property and other assets owned/acquired or inherited by him or any member of his family, provided that the Board may exempt Class-IV employees from this requirement.

(h) Every employee shall sincerely discharge such duties, as may be assigned to him from time to time by the President, having regard to the post held by him. In case he is not satisfied with the assignment of duties he should still carry out the assigned duties but may prefer an appeal to the Board, whose decision in the matter shall be final.

23. Rights :

(a) Every employee shall have the right to form Association, Unions or Federative Bodies of the employees.

(b) Every employee shall have all democratic rights, but no employee shall be a member of any Political Party. If any question arises whether a party is a political party, the decision of the Board shall be final.

(c) Every employee may, subject to the conditions specified in the Appendix-I to these rules have a right to strike, provided that this right shall not be available to any Officer of the Board.

(d) Any employee may with prior intimation to the President and subject to the conditions laid down in clause (d) of rule 22 of these rules, participate in a radio or television programme, provided that nothing should be said in such programme which—

(a) incites communal and/or parochial feelings.

(b) goes against the unity and integrity of the State or the Country.

(e) Any employee may contribute any literary or scientific writing or write any letter to any newspaper or periodical subject to the provisions laid down in clause (d).

24. Obligations :—Every employee shall have the following obligations :

(a) No employee shall commit any misconduct as laid down in Section 5 of the Prevention of Corruption Act 1947 (2 of 1947) or take any gratification other than the legal remuneration or obtain valuable things without consideration or for consideration which he knows to be inadequate, from persons concerned in proceeding or business transacted by such employee, as detailed in section 161 and section 165 of the Indian Penal Code (45 of 1860).

(b) No employee shall, except with prior sanction of the appointing authority, acquire or dispose of any immovable property by lease, mortgage, sale, gift or otherwise

either in his own name or in the name of any member of his family, where such transaction is conducted otherwise than through a regular or reputed dealer. The same condition shall apply in the case of sale or purchase of movable property exceeding rupees 5,000 in value.

Note :—The movable or immovable properties owned by the members of the family of the employee which are either acquired by them from out of their own funds or inherited by them will not come under the provisions of this clause or clause(g) of rule 22 of these rules ;

(c) No employee shall lend money to, or obtain loan from, any member of the public, business house or a trader with whom he has to deal in his official capacity either directly or indirectly ;

(d) No employee who has a wife/husband living shall contract another marriage without obtaining previously the dissolution of the first marriage in accordance with any law for the time being in force notwithstanding that such second marriage is permissible under any personal law of the community to which he or she belongs ;

(e) No employee shall employ or engage any subordinate for any private, domestic or personal service or for any purpose other than official business ;

(f) No employee shall use or permit any other person to use a Board's vehicle or a safe or any other property of the Board for any purpose other than official business ;

(g) No employee shall except in accordance with any general or special orders of the Board or in the performance of the duties assigned to him, communicate directly or indirectly any official document or any part thereof to any other employee or any other person or press to whom he is not authorised to communicate such documents or information ;

- (h) No employee shall,
 - (a) Violate any law relating to intoxicating drinks or drugs ;
 - (b) consume or be under the influence of any intoxicating drink or drug during the course of his duty and/or in any public place ;

- (i) No employee shall, without the previous sanction of the appointing authority, accept either directly or indirectly on his own behalf or on behalf of any person any gift of more than trifling value ;

Note :—Gifts in conformity with religious or social customs shall not come within the purview of this clause,

- (j) No employee shall, while on leave, accept any service or employment ;
- (k) No employee shall, except with the previous sanction of the Board, engage in any trade or canvas for business either of his own or on behalf of members of his family or undertake any employment other than his public duties or carry on directly or indirectly any business or undertaking except honorary work of social and charitable nature or work of co-operative societies.
- (l) No employee shall, in discharge of his official duties, deal with any matter if he or any member of his family is interested in such matter and every such matter shall be referred by the employee to his official superior and such matter shall be disposed of according to the instructions of the authority to whom such reference is made ;
- (m) No employee shall, except with the previous sanction of the Board, give evidence in connection with any enquiry conducted by any person committee or authority, except in the following cases :—
 - (a) Evidence given at any enquiry before

an authority appointed by the Government, Parliament or a State Legislature or

(b) evidence given in any judicial enquiry, or

(c) evidence given at any departmental enquiry ordered by authorities subordinate to the Government ;

(n) No employee shall, except with the previous sanction of the Board, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour, or in the honour of any other employee ;
Provided that nothing in this rule shall apply to—

(i) A farewell entertainment of a substantially private and informal character held in honour of the employee or any other employee on the occasion of his retirement or transfer or of any person who has recently quitted the service of Government or Board.

(ii) The acceptance of simple and inexpensive entertainment arranged by public bodies or institutions.

(o) No employee shall canvas in connection with or take part in any election to any legislature or local authority ;
Provided that—

(i) An employee qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted ;

(ii) an employee shall not be deemed to have contravened the provisions of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him

by or under any law for the time being in force.

Explanation :—

The display by an employee on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule.

- (p) No employee shall join, or continue to be member of an association the object or activities of which are prejudicial to the interests of the sovereignty and integrity of India. The State or public order or morality.
- (q) No employee shall engage himself or participate in any demonstration which is prejudicial to the interest of the sovereignty and integrity of India, the security of the State, friendly relation with foreign States, public order, decency or morality, or which involves contempt of court, defamation or incitement to an offence.
- (r) An employee shall be liable to be transferred from the main office of the Board at Agartala to any other office in any part of the State of Tripura or outside the State, if and when such offices are set up by the Board and vice versa.
- (s) An employee shall carry out all orders issued to him by the President, the Secretary or those under whom he works, shall not be guilty of insubordination intemperance, negligence of duty, moral turpitude and shall not set in violation of these rules.

25. SUBMISSION OR PETITIONS AND MEMORIALS.

- (1) Any employee or a group of employees desiring to place a claim or seeking redress of his or their grievance in any matter connected with the service condition shall ordinarily address the authority at the lowest level competent to deal

with the matter or the authorities superior to the officer against whose order or action redress is being sought for. If the employee or the group of employees does not received within a reasonable time any intimation of the action taken or of the redress given by the said authority, or is not satisfied with the action taken or the redress given by the said authority the employee or the group of employees may directly address higher authorities, including the Board seeking interview or intervention.

(2) Any employee desiring to apply for any other post shall apply through his appointing authority who shall, unless there is any disciplinary proceedings pending against the employee, forward the application to the addressee.

An employee may, if necessary, send an advance copy of application direct to the addressee.

26. EMPLOYMENT IN ORGANISATION HAVING OFFICIAL DEALING.

- (i) No employee shall use his position of influence directly or indirectly to secure employment for any member of his family in any private undertaking.
- (ii) No Class-I Officer shall, except with the previous sanction of the Board, permit his son, daughter or other dependent to accept employment in any private undertaking with which he has official dealings or in any other undertaking having official dealing with the Board :

Provided that where the acceptance of the employment cannot await prior permission of the Board or is otherwise considered urgent, the matter shall be reported to the Board and the employment may be accepted provisionally subject to the permission of the Board.

- (iii) A Class-I Officer shall, as soon as he becomes aware of the acceptance by a member of his family of an employment in any private undertaking intimate such acceptance to the Board authority and shall also intimate whether he has or he had any official dealings with that undertaking; Provided that no such intimation shall be necessary in the case of a Class-I Officer if he has already obtained the sanction of, or sent a report to the Board under clause (ii).

27. VIOLATION OF RULES.

Any violation or infringement of the rules in this chapter shall be deemed to be a good and sufficient reason within the meaning of rule 29 of these rule for imposing penalties.

CHAPTER—V

Suspension :

28. (i) An employee may be placed under suspension by the appointing authority :—
- (a) Where a disciplinary proceeding against him is contemplated or is pending ; or
 - (b) Wherein the opinion of the appointing authority, he has engaged himself in activities prejudicial to the interest or the security of the State or
 - (c) Where a case against him in respect of any criminal offence is under investigation, inquiry or trial ;
- (ii) An employee shall be deemed to have been placed under suspension by an order of the 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 clause (b) of this sub-rule shall be computed from the commencement of imprisonment after conviction and for this purpose intermittent period of imprisonment, if any, shall be taken into account.

- (iii) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee under suspension is set aside in appeal or on review under these rules or 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 enquiry against him on the allegations which the penalty of dismissal, removal or compulsory retirement was originally imposed, the employee shall be deemed to have been placed under suspension from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.
- (iv) (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the appointing authority.
- (b) Where an employee 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 authority competent to place him under suspension may for reasons to be recorded by him in writing, direct that the employee shall continue to be under suspension until termination of all or any such proceedings.

- (c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the appointing authority or the Board.
- (v) An employee against whom a proceeding had been taken on a criminal charge but who is not actually detained in custody (i.e. a person released on bail) may be placed under suspension by an order of the appointing authority. If the charge is connected with the official position of the employee or involves any moral turpitude on his part suspension shall be ordered under this rule, unless there are exceptional reasons for not adopting this course.

CHAPTER—VI

PENALTIES AND DISCIPLINARY AUTHORITIES

29. The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on an 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 order ;
- (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 employee will earn increment 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 a time-scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the employee

to the time-scale of pay, grade, post or Service from which he was reduced, with or without further direction regarding conditions of the restoration to that grade or Service from which the 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/Government ;

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

Explanation :—

The following shall not amount to penalty within the meaning of this rule, namely :

- (i) withholding of increments of pay of an employee for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or the post which he holds or the terms of his appointment.
- (ii) stoppage of an 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 an 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 an 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 on any administrative ground unconnected with his conduct ;
- (v) reversion of an 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 service of an employee whose services had been borrowed from a State Government or an authority under the control of State Government, at the disposal of the State Government or the authority from which the service of such employee had been borrowed ;
- (vii) compulsory retirement of an employee in accordance with the provisions relating to his superannuation or retirement ;
- (viii) termination of service—
 - (a) of an employee appointed on probation during or at the end of the period of his probation in accordance with the terms of his appointment or the rules and orders governing such probation ;
 - (b) of a temporary employee in accordance ; with the provision of Rules 11.
 - (c) of an employee, employed under an agreement in accordance with the terms of such agreement.-

30. (1) The Board may impose any of the penalties specified in rule 29 on any employee.

(2) Without prejudice to the provision of sub-rule (1), any of the penalties specified in rule 29 may be imposed on an employee by the appointing authority.

31. (1) The Board or any other authority empowered by it by general or special order may ;

(a) institute disciplinary proceeding against any employee.

(b) direct a disciplinary authority to institute disciplinary proceeding against any employee on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule-29.

- (2) A disciplinary authority competent under these rules to impose on any employee any of the penalties specified in Rule 29 may institute disciplinary proceedings against that employee for the imposition of any of the penalties specified in rule 29.

CHAPTER—VII

PROCEDURE FOR IMPOSING PENALTIES

32. (1) No order imposing any of the penalties specified in clause (v) to (ix) of rule 29 shall be made except after an enquiry held, as far as may be, in the manner provided in this rule and rule 33, or in the manner provided by the Public Servants (Inquiries) Act, 1850, (37 of 1850) where such enquiry is held under that Act.
- (2) Wherever the disciplinary authority is of the opinion that there are grounds for inquiry into the truth of any imputation of misconduct or misbehaviour against an 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 in sub-rule (7) to sub-rule (20) and sub rule (22) to the enquiring authority shall be constructed as a reference to the disciplinary authorities.

- (3) Where it is proposed to hold an enquiry against an employee under this rule and rule 33, the disciplinary authority shall draw up or cause to be drawn up—

- (i) the substance of the imputation of misconduct or misbehaviour into definite and distinct articles of charge ;
- (ii) a statement of imputations of misconduct or misbehaviour in support of each article or charge, which shall contain—
 - (a) statement of all relevant facts including any admission or confession made by the employee ;
 - (b) a list of documents by which, and a list of witness by whom the articles of charge are proposed to be sustained.

- (4) The disciplinary authority shall deliver or cause to be delivered to the employee a copy of the articles of charges, the statement of the imputation of misconduct or misbehaviour and a list of documents and witness by which each article of charges is proposed to be sustained and shall require the employee to submit, within such time as may be specified a written statement of his defence and to state whether he desire 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 sub-rule (2) an inquiring authority for the purpose, and where all the articles of charge have been admitted by the employee in his written statement of defence the disciplinary authority shall record its findings on each charge as may thinks fit and shall act in the manner laid down in rule 33.
- (b) If no written statement of defence is submitted by the employee, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under sub-rule (2), an inquiring authority for the purpose.
- (c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint an employee of the Board 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 the statement of the imputations of misconduct or misbehaviour ;

- (ii) a copy of the written statement of defence, if any, submitted by the employee ;
 - (iii) a copy of the statements of witnesses, if any, referred to in sub-rule (3) ;
 - (iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the employee and
 - (v) a copy of the order appointing the "Presenting Officer."
- (7) The 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 imputation 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) (a) The employee may take the assistance of any other 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.
- (b) The employee may also take the assistance of a retired employee of the Board or a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the President from time to time by general or special order in this behalf".
- (9) If the employee who has not admitted any of the articles of charge in his 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 article of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the employee thereon.

- (10) The inquiring authority shall return a finding if guilt in respect of those articles of charge to which the employee pleads guilty.
- (11) The inquiring authority shall, if the employee fails to appear within the specified time 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 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 in the list referred to in sub-rule (3) ;
 - (ii) submit a list of witness 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 but not mention in the list referred to in sub-rule (3).
- (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 whose custody or possession the documents are kept, with a requisition for the production of the documents 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 sub-rule (12) every authority 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 writ-

ing that the production of all or any of such documents would be against the public interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the employee and withdraw the requisition made by it for the production or discovery of such documents.

- (14) On the date fixed for the enquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf the disciplinary authority. The witness, shall be examined by or on behalf of the Presenting Officer and may be cross examined by or on behalf of the 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 question to the witnesses as it thinks fit.

- (15) If it shall 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 employee or may itself call for new evidence or recall and re-examine any witness and in such case the employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an 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 shall give the employee an opportunity of inspection such documents before they are taken on the record. The inquiring authority may also allow the employee to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interests of justice.

- (16) When the case for the disciplinary authority is closed, the 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 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 employee shall then be produced. The employee may examine himself in his own behalf, if he so prefers. The witnesses produced by the 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 witness for disciplinary authority.
- (18) The inquiring authority may, after the employee closes his case and shall, if the employee has not examine himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the 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 employee or permit them to file written briefs of their respective case, if they so desire.
- (20) If the 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 rule, the inquiring authority may hold the inquiry ex-parte.
- (21) Whenever any inquiring 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 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 the 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 herein before provided.

- (22) (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 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 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 employee 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.

- (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 clause (i) ;
 - (b) the written statement of defence, submitted by the 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 employee or both during the course or inquiry ; and

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

33. (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 inquiry authority for further inquiry and report and the inquiring authority shall there upon proceed to hold the further inquiry according to the provision of rule 32 as far as may be.

(2) The disciplinary authority shall if it disagrees with the finding of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding 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 charge is of the opinion that any of penalties specified in clauses (i) to (iv) of rule 29 should be imposed on the employee, it shall notwithstanding anything in rule 34, make an order imposing such penalty ;

(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 inquiry, is of the opinion that any of the penalties specified in clauses (v) to (ix) of rule 29 should be imposed on the employee, it shall make an order imposing such penalty and it shall not be necessary to give the employee any opportunity of making representation on the penalty proposed to be imposed.

34.(1) Subject to the provisions of sub-rule (3) of rule 33, no order imposing on an employee any of the penalties specified in (i) to (iv) of rule 29 shall be made except after—

- (a) informing the 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 sub-rule (3) to (22) of rule 32 in every case in which the disciplinary authority is of the opinion that such inquiry is necessary ;

(c) taking the representation if any, submitted by the employee under clause (a) and record of inquiry if any, held under clause (b) into consideration ;

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

(1-A) Notwithstanding anything contained in clause (b) of Sub-rule (1), if in a case it is proposed, after considering the representation, if any, made by the employee under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increment is likely to effect adversely the amount of retirement benefits payable to the employee or to withhold increments of pay for a period exceeding three 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-rules (3) to (22) of rule 32 before making any order imposing on the employee any such penalty.

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

(i) a copy of the intimation to the 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 inquiry,

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

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

35. Orders made by the disciplinary authority shall be communicated to the 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 finding on each article of charge, or, where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority and a statement of the findings of the disciplinary authority together with brief reasons for its

disagreement, if any, with the findings of the inquiring authority (unless they have already been supplied to him).

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

(2) 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 rule 29 which such disciplinary authority shall be competent to impose ;

(iii) Whether the procedure laid down in rule 32 and rule 33 or rule 34 shall be followed in the proceedings.

37. Notwithstanding anything contained in rule 32 to rule 36.—

(i) Where any penalty imposed on 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 by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or

(iii) Where the 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 rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit ;

38. (1) Where the service of an employee is lent to State Government or authority subordinate there to 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 such employee under suspension and of the disciplinary authority for the purpose of conducting a disciplinary proceeding against him.

Provided that the borrowing authority shall forthwith inform the authority which lent the services of the employee (hereinafter in this rule referred to as "lending authority") of the circumstances leading to the order of suspension of such employee or the commendment of disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceedings conduct against the employee :—

(i) If the borrowing authority is of opinion that any of the penalties specified in clauses (i) to (iv) of rule 29 should be imposed on the employee, it may after consultation with lending authority, make 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 employee 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 (v) to (ix) of rule 29 should be imposed on the employee, it shall replace his service at the disposal of the lending authority and transmit to it the proceeding of the inquiry and thereupon the lending authority may, if it is the disciplinary authority, pass such orders thereon as it may deem necessary, or, if it is not the disciplinary authority submit the case to the disciplinary authority which shall pass orders on the case as it may deem necessary :

Provided that before passing any such order the disciplinary authority shall comply with the provisions of the sub-rules (3) and (4) of rule 33.

Explanation :—The disciplinary authority may make an order under this clause on the record of the inquiry transmitted to it by the borrowing authority, or after holding such further inquiry as it may deem necessary, as far as may be in accordance with rule 32.

39. (1) Where an order of suspension is made or a disciplinary proceeding is conducted against an employee whose services have been borrowed by the Board from a state Government or an authority subordinate thereto or a local or other authority the authority lending his services

(herein after in this rule referred to as "the lending authority") shall forthwith be informed of the circumstances leading to the order of suspension of the employee or of the commencement of the disciplinary proceeding as the case may be.

(2) In the light of the findings in the disciplinary proceedings conducted against the employee if the disciplinary authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 29 should be imposed on him, it may, subject to the provisions of sub-rule (3) of the rule 33 and after consultation with the lending authority, pass such orders on the case as it may deem necessary.

(i) Provided that in the event of a difference of opinion between the borrowing authority and the lending authority the service of the 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 clauses (v) to (ix) of rule 29 should be imposed on the employee it shall replace the service of such employee at the disposal of the lending authority and transmit to it proceeding of the inquiry for such action as it may deem necessary.

CHAPTER—VIII

APPEAL

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

- (i) any order made by the Government ;
- (ii) any order of an interlocutory nature on or of the nature of a ste-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 courses of an inquiry under rule 32.

41. Subject to the provisions of rule 40 an employee may prefer an appeal against all or any of the following namely :—

- (i) an order of suspension made or deemed to have been made under Rule 28.

- (ii) an order imposing any of the penalties specified in rule 29 whether made by the disciplinary authority or by any appellate or reviewing authority.
- (iii) an order enhancing any penalty imposed under rule 29.
- (iv) an order which—
 - (a) denies or varies to his disadvantages his pay, and allowances, retirements benefits or other conditions of service as regulated by rules or by agreements ; or
 - (b) interprets to his disadvantage provisions of any such rule or agreement ;
- (v) an order—
 - (a) Stepping 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 retirement benefits or denying the maximum retirement benefits 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 a time scale of pay to the date of his reinstatement or restoration to 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 to pay or stage in a time scale pay to the date of his reinstatement or restoration to his service, grade, or post shall be treated as a period spent on duty for any purpose ;

Explanation : In this rule—

the expression, employee includes a person who has ceased to be in Board's service.

42 (1) An employee including a person who has ceased to be in Board's service, may prefer an appeal against all or any of the orders specified in rule 41 to the Government when the order appealed against is of the Board, to the Board, when the order is of the President and to the President when the order is of any other subordinate authority.

(2) Notwithstanding anything contained in sub-rule (1).

(i) an appeal against an order in a common proceeding held under rule 36 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.

(3) An employee may prefer an appeal against an order imposing any of the penalties specified in rule 29 to the Government where no such appeal lies to it under sub rule (1) or sub-rules (2), if such penalty is imposed, by any authority other than the Government on such employee in respect of his activities connected with his work as an

office bearer of an association, federation or union participating in the joint consultation and negotiation as per provisions of Appendix : I to these Rules.

43. No appeal preferred under this chapter shall be entertained unless such appeal is preferred within a period of fortyfive 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.

44. (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 a receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant record to the appellate authority without any available delay and without waiting for any direction from the appellate authority.

45. (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 28 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 rule 29 or enhancing any penalty imposed under the said rule, the appellate authority shall consider.

(a) Whether the procedure laid down in these rules has been complied with, and if not, whether



such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice ;

- (b) Whether the findings of the disciplinary authority are warranted by the evidence on the record, and
- (c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate ; or severe and pass orders—
 - (i) Confirming, enhancing, reducing or setting aside the penalty or
 - (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case :

Provided that :—

- (i) If the enhanced penalty, which the appellate authority proposes to impose, is one of the penalties specified in clauses (v) to (ix) of rules 29 and an enquiry under rule 32 has not already been held in the case, the appellate authority shall subject to the provisions of rule 37, itself hold such inquiry or direct that such enquiry be held in accordance with the provisions of the rule 32 and thereafter, on a consideration of the proceedings of such enquiry makes such orders as it may deem fit ;
- (ii) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of rule 29 and an enquiry under rule 32 has already been held in the case, the appellate authority shall make such orders as it may deem fit ; and
- (iii) No order imposing an enhanced penalty shall be made in any other case, unless the appellant has been reasonable opportunity, as far as may be in accordance with the provisions of rule 34 of making a representation against such enhanced penalty.

- (3) In an appeal against any other order specified in rule 41, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

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

CHAPTER—IX

47. (1) Notwithstanding anything contained in these rules :

- (i) the Government at any time, or
- (ii) The appellate authority, within six months of the date of the order proposed to be reviewed may either on its own motion or otherwise call for the records of any enquiry and review any order made under these rules from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed and may—

- (a) confirm, modify or set aside the order, or
- (b) confirm, reduce, enhance or set aside the penalty imposed ; or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case ; or
- (d) pass such other orders as it may deem fit :

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of rule 29 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses no such penalty shall be imposed except after an inquiry in the manner laid down in rule 32.

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

- (i) the expiry of ~~the~~ 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 rules.

CHAPTER—X

Miscellaneous

48. Every order, notice and other process made or issued under these rules shall be served in person on the employee concerned or communicated to him by registered post.

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

50. If any doubt arises as to the interpretation of any of the provisions of these rules the matter shall be referred to the Government and the Government shall decide the same, which shall be final.

51. In respect of the conditions of service of the employees of the Board, for which no provision has been made in these rules or any other rules, regulations, orders or instructions, those shall be regulated by the rules, regulations, orders and instructions applicable to the employees of the State Government of the corresponding class or grade.

52. When the Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, it may, by order dispense with or relax the requirement of that rule, to such extent and subject to such exception and condition as it may consider necessary, for dealing with the case in a just and equitable manner.

Sd/- Illegible
Secretary to the
Government of Tripura.

APPENDIX—I

(See rule 23 (C))

Procedure to be followed before going on strike :

1. No employee shall go on strike without—
 - (i) Completing the process of conciliation or negotiation in the manner laid down hereunder ; and
 - (ii) Giving notice of at least 14 days in all cases to the President.
2. No strike shall commence before the expiry of the period of notice.
3. The matter over which the employees can go on strike should relate only to conditions of service and work, welfare of the employees and improvement of efficiency and standard of work.
4. The following shall be the process of negotiation or conciliation.
 - (a) There shall be a Negotiating Body under the Board. The Body shall be headed by the President and shall consist of two other members of the Board to be nominated by the Board.
 - (b) The body shall be entrusted with the task of holding negotiation with Association/Union/Federative Bodies on the grievances of the employees both of general nature or of departmental or sectional character.
 - (c) The Unions/Associations/Federative Bodies after exhausting the negotiations with the Secretary and or the President shall place their points of grievances to those Negotiating Body in writing, on receipt of which the Negotiating Body shall call the aggrieved party for negotiating and settlement of the grievances, The Negotiating Body shall not take more than 30 days, except with mutual agreement

of the Body and the aggrieved party to complete the negotiating. It shall be the responsibility of the Negotiating Body to make its recommendation to the Board or settle the grievances within the period of 30 days ;

5. If the negotiation fails and no settlement of the grievances is reached within the stipulated period above, the Federative Bodies/Unions/Associations may serve a strike notice to the President under intimation to this Body mentioning the grievances.
6. On receipt of the strike notice, the Negotiating Body may take further initiative to resolve the dispute and make all efforts to that effect by arranging discussion between the approved party and the authorities concerned. In case of failure of such discussion the aggrieved party shall give the right to give effect to the strike notice.
7. When a strike, which can commence after the procedure laid down here-in-before has been complied with, continuances for more than a fortnight, the President may refer the disputes/grievances to a Board or Arbitrators, the composition of which may be by agreement between the parties. If, however, there is no agreement between and amongst the parties regarding the composition of the Board of Arbitrators, such a Board of Arbitrators shall be nominated by the Government which shall consist of not more than three members, majority of whom shall be other than employees.
8. The Board of Arbitrators shall hear all parties to the dispute and give its award within a period of one month.
9. As soon as the grievances/disputes leading to the commencement of a strike are referred by the President to a Board of Arbitrators, the strike shall be called off forthwith or the Government may by an order, prohibit the continuance of the strike.

Sd/- Illegible
Secretary to the
Government of Tripura.
