

## **Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989**

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## **Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989**

In exercise of the powers conferred by sub-section (1) of section 10 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 (Act II of 1960), the Government of Andhra Pradesh hereby makes the following rules, in supersession of rules issued in the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1961, G.O.Ms.No.895, General Administration (Services-D) Department, dated the 18th July, 1961 and published at pages 429-433 in the Andhra Pradesh Gazette Rules supplement to Part-I, dated the

### **1. . :-**

These rules may be called the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1989.

### **2. . :-**

In these rules, unless the context otherwise requires:-

(a) "Act" means the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960

(b) "Misconduct" shall mean contravention of the rules made under the proviso to Article 309 of the Constitution of India, to regulate the conduct of persons appointed to public services and posts in connection with the affairs of the State.

### **3. . :-**

(1) The Government may subject to the provisions of Rule 4, refer to the Tribunal for enquiry and report under Section 4 of the Act-

(a) cases relating to Gazetted Officers in respect of matters involving misconduct; and

(b) cases relating to Non-Gazetted Officers in respect of matters involving misconduct committed by such Government servants either jointly with Gazetted Officers or in the course of the same transaction involving misconduct committed by Gazetted Officers.

(2) Where two or more Government servants are concerned in any case, the Government may make an order directing that disciplinary proceeding against all of them may be taken in a common proceeding; and thereupon the Tribunal shall conduct the enquiry into such case accordingly.

(3) Notwithstanding anything in sub-rule (1) cases arising in the judicial Department and cases of officers and servants of the High Court who come under the rule making control of the Chief Justice as laid down in Article 229 of the Constitution of India shall not be referred to the Tribunal.

#### **4. . :-**

(1) In a case of the type referred to in sub-rule (1) of Rule 3, on completion of enquiry or investigation, as the case may be, the Anti-Corruption Bureau or the departmental authority shall, where it is necessary that an inquiry by the Tribunal is called for, submit a report of the case to the Government.

(2) The Government shall after examining such records and after consulting the Head of the Department concerned, if necessary, decide whether the case shall be inquired into by the Tribunal.

(3) If the Government decide that the case shall be enquired into by the Tribunal, they shall send or cause to send, as the case may be, the records relating thereto to the Tribunal.

(4) There shall be a Government Counsel and as many Government Counsels as may be considered necessary, to conduct enquiries on behalf of the Government in disciplinary cases before the Tribunal and the Charged officer concerned shall be allowed to be represented by counsel. In case where the Government Counsel or Counsels cannot attend to examination of witnesses on commission, an ad-hoc Government Counsel shall be appointed.

**5. . :-**

The Tribunal may sit at such places as it may determine, with due regard to the convenience of the parties concerned and expenses involved.

**6. . :-**

(1) Notwithstanding anything contained in the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963, the following procedure shall be followed by the Tribunal in conducting enquiries into cases of misconduct referred to it under Section 4 of the Act.

(a) As soon as the records relating to allegations of misconduct against a Government Servant are received, the Tribunal shall frame appropriate charges and communicate them to the Government servant charged, together with a list of witnesses proposed to be examined in respect of each of the charges and with information as to the date and place of enquiry.

(b) The Tribunal shall, before the date fixed for enquiry, furnish copies of the statements of witnesses proposed to be examined and recorded by the Anti-Corruption Bureau and the concerned Departments to the Government servant charged for purposes of cross examination. The charge or charges shall at the enquiry, be read over to the Government servant charged and he shall be asked whether he admits or denies the charge or charges. If the Government servant charged admits any of the charges, the Tribunal shall record the plea and return a finding of guilty in respect of the charge or charges as are admitted by him. If the Government servant charged denies any of the charges brought against him, evidence shall be recorded on such of the charge or charges as are not admitted by him.

(c) At the enquiry, oral and documentary evidence shall be first adduced by the prosecution and the Government servant charged shall be entitled to cross examine the prosecution witnesses and to explain any documents produced by the prosecution. The Government servant charged may, thereafter within the time allowed by the Tribunal, file a written statement of his defence together with a list of witnesses whom he wishes to examine stating the points on which he proposes to examine each of them and a list of documents proposed to be summoned, stating the purpose for which such documents are sought to be summoned. He

may also offer himself as a witness in his own defence. The oral and documentary evidence on his side may then be adduced and the Government servant charged shall be entitled to advance the necessary arguments. The prosecution shall also be entitled to advance the necessary counter arguments to the Government servant's arguments or file a mere written statement detailing the whole prosecution case. The arguments may be oral or written or both and when time is requested for written arguments by either party, a reasonable time shall be granted.

(d) The Tribunal shall, as far as possible, observe the basic rules of evidence relating to the examination of witnesses and the marking of documents and the enquiry shall conform to the principles of natural justice.

(e) The Tribunal on the application of the Government servant charged, shall furnish to him certified copies of depositions of witnesses recorded by the Tribunal and may also furnish to him certified copies of the documents exhibited before the Tribunal.

Provided that the Tribunal may, for reasons to be recorded in writing, refuse to grant certified copy of any such documents: Provided further that the Tribunal shall in every case where it refuses to grant a certified copy of any document asked for, give, under proper supervision, an opportunity to the Government servant charged or to his counsel, if any to inspect the document and take notes.

(f) The Tribunal shall, on the application of the Government Counsel or Additional Government Counsel, furnish to him certified copies of depositions of witnesses recorded by the Tribunal and the documents exhibited before it, on plain unstamped paper.

(g) The Tribunal may also interrogate the Government servant charged after the closure of the prosecution evidence.

(h) For sufficient reasons to be recorded in writing, the Tribunal shall have power to refuse on either side:

(i) to summon and examine any witness;

(ii) to call for and exhibit any document; or

(iii) to recall a witness for further examination

(i) The Tribunal may, if necessary, authorise the Government

servant charged or his counsel, if any, to go to the offices where the documents are available in order to enable him either to secure copies of such documents or take necessary extracts from such documents.

(j) The proceedings of the Tribunal shall contain a sufficient record of the evidence.

(2)

(a) After the enquiry has been completed, the Tribunal shall send the report of its findings and recommendations to the Government together with its opinion, in cases in which exoneration of Government servant charged is recommended, whether he is "fully exonerated" for purposes of Fundamental Rule 54 (A). Where the Tribunal does not express any such opinion it shall be presumed by the Government that he is not fully exonerated by the Tribunal

(b) The Government, after receipt of the report from the Tribunal for Disciplinary Proceedings, shall supply a copy of the report of the Tribunal to the charged Government Servant and shall pass final orders after taking into consideration any representation made by him thereto within a reasonable time, ordinarily not exceeding one month. However, it shall not be necessary to give to the person charged any opportunity of making representation on the penalty proposed to be imposed:

Provided that the Government shall consult the Director General, Vigilance and Enforcement in regard to the course of further action to be taken and take the advice into consideration, before orders are passed: Provided further that where the Government disagree with the whole or any part of the Tribunal's findings, the point or points of disagreement together with a brief statement of the grounds therefor shall, in case where it affects the Government servant charged adversely or prejudicially, be communicated along with the enquiry report of the Tribunal.

(c) The Government may, for the reasons to be recorded in writing, remit the case to the Tribunal for enquiry and report, and the Tribunal shall thereupon hold further enquiry.

(3) Where the Government servant charged has absconded or where it is for other reasons impracticable to communicate with him or where he wilfully fails to take part in an enquiry, the enquiry shall be conducted or continued even in his absence.

(4) All or any of the provisions of sub-rule (1) may, in exceptional cases, for special and sufficient reasons to be recorded in writing, be waived by the Tribunal, where there is difficulty in observing the requirements of the sub-rule, and the requirements can be waived without injustice to the person charged.

(5) The provisions of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963, shall apply in regard to any other matter for which no specific provision has been made in these rules.

(6) Where the Chairman or any Member of the Tribunal is prevented by death, transfer or any other cause from concluding any enquiry or from reporting his findings in any case referred to the Tribunal, his successor may deal with any evidence taken down by his predecessor in office as if such evidence had been taken down by him and may proceed with the enquiry from the stage at which his predecessor has left it, or report his findings to the Government.

**7. . :-**

Notwithstanding anything contained in the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963, the Government shall be the authority competent to impose a penalty in cases of Government servants enquired into by the Tribunal.