

Madhya Pradesh Civil Services (Classification, Control And Appeal) Rules, 1966

CONTENTS

PART 1 :- GENERAL

1. Short title and commencements
2. Interpretation
3. Application

PART 2 :- CLASSIFICATON

4. Classification of Services
5. Constitution of State Civil Services
6. Classification of post

PART 3 :- APPOINTING AUTHORITY

7. Appointments to Class I and Class II Services and posts
8. Appointments to other Services and Posts

PART 4 :- SUSPENSION

9. Suspension

PART 5 :- PENALTIES AND DISCIPLINARY AUTHORITIES

10. Penalties
11. Punishment of Members of Class IV Service
12. Disciplinary Authorities
13. Authority to institute proceedings

PART 6 :- PROCEDURE FOR IMPOSING PENALTIES

14. Procedure for imposing major penalties
- 14A. xxx xxx xxx
15. Action on the inquiry report
16. Procedure for imposing minor penalties
17. Communication of orders
18. Common Proceedings
19. Special procedure in certain cases
20. Provisions regarding officers lent to the Union or any other State Government or any subordinate or Local Authority, etc
21. Provisions regarding officers borrowed from Union or other State Government etc

PART 7 :- APPEALS

22. Orders against which no appeal lies
23. Orders against which appeal lies
24. Appellate authorities
25. Period of limitation for appeals
26. Form and contents of appeal
27. Consideration of appeal
28. Implementation or orders in appeal

PART 8 :- REVIEW

29. Review

PART 9 :- MISCELLANEOUS

30. Service of orders notices etc
31. Power to relax time-limit and to condone delay
32. Supply of copy of commissions advice
33. Transitory Provisions
34. Repeal and Saving
35. Removal of doubts

Madhya Pradesh Civil Services (Classification, Control And Appeal) Rules, 1966

PART 1 GENERAL

1. Short title and commencements :-

- (1) These Rules may be called "the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966"
- (2) They shall come into force on the date of their publication in the Gazette.

2. Interpretation :-

In these rules, unless the context otherwise requires,-

- (a) "appointing authority" in relation to a Government servant means-
 - (i) the authority empowered to make appointments to the service of which the Government servant is for the time being a member or to the grade of the Service in which the Government servant is for the time being included, or
 - (ii) the authority empowered to make appointment to the post which the Government servant for the time being holds, or
 - (iii) the authority which appointed to the post which the Government servant to such Service, grade or post, as the case

may be, or

(iv) Where the Government servant having been a permanent member of any other service of having substantively held and other permanent post, has been in continuous employment of the Government, the authority which appointed him to that Service or to any grade in the Service or to that post, whichever authority is the highest authority ;

(b) "Commission" means the Madhya Pradesh Public Service commission;

(c) "Department of the Government of Madhya Pradesh" means any establishment of organisation declared by the Governor by a notification in the official Gazette to be a department of the Government of Madhya Pradesh;

(d) "disciplinary authority" means the authority competent under these rules to impose on a Government servant any of the penalties specified in rule 10;

(e) "Government" means the Government of Madhya Pradesh;

(f) "Government Servant" means a person who-

(i) is a member of a Service or holds a civil post under the State, and includes any such person on foreign service or whose services are temporarily placed at the disposal of the Union Government, or any other State Government or a local or other authority;

(ii) is a member of a Service or holds a civil post under the Government of India or any other State Government and whose services are temporarily placed at the disposal of the State Government;

(iii) is in the service of a local or other authority and whose services are temporarily placed at the disposal of the State Government;

(g) "head of the department" for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority, means the authority, declared to be the head of the department under the Fundamental and Supplementary Rules or the Civil Service Regulations, as the case may be;

(h) "Schedule" means the Schedule to these rules;

(i) "Service" means a civil service of the state;

(j) "State" means the State of Madhya Pradesh.

3. Application :-

(1) These rules shall apply to every Government servant but shall not apply to-

(a) any member of the All-India Services,

- (b) any person in casual employment,
 - (c) any person subject to discharge from service on less than one months notice,
 - (d) any person for whom special provision is made, in respect of matters covered by these rules, by or under any law for the time being in-force or by or under any agreement entered into by or with the previous approval of the Governor before or after the commencement of these rules, in regard to matters covered by such special provisions;
- (2) Notwithstanding anything contained in sub-rule (1), the Governor may by order exclude any class of Government servants from the operation of all or any of these rules.
- (3) Notwithstanding anything contained in sub-rule (1), these rules shall apply to every Government servant temporarily transferred to a Service of post coming within exception (d) in sub-rule (1), to whom, but for such transfer, these rules would apply.
- (4) If any doubt arises-
- (a) whether these rules or any of them apply to any person; or
 - (b) whether any person to whom these rules apply belongs to a particular service; the matter shall be referred to the Governor, who shall decide the same.

PART 2 CLASSIFICATON

4. Classification of Services :-

(1) The civil Services of the State shall be classified as follows:-

- (i) State Civil Services, Class I;
- (ii) State Civil Services, Class II;
- (iii) State Civil Services, Class III;
- (iv) State Civil Services, Class IV.

(2) If a Service consists of more than one grade, different grades of such Service may be included in different classes.

5. Constitution of State Civil Services :-

The State Civil Services, Class I, Class II, Class III and Class IV shall consist of the Services and grades of Services specified in the Schedule, and such other services or grades or posts as may be notified by the State Government from time to time.

6. Classification of post :-

(1) Civil posts under the State other than those ordinarily held by

persons to whom these rules do not apply, shall by a general or special order of the Governor be classified as follows :-

- (i) State Civil Posts, Class I;
- (ii) State Civil Posts, Class II;
- (iii) State Civil Posts, Class III;
- (iv) State Civil Posts, Class IV.

(2) Any order made by the competent authority, and in force immediately before the commencement of these rules relating to classification of civil posts under the State, shall continue to be in force until altered, rescinded or amended by an order made by the Governor under sub-rule (1).

PART 3 APPOINTING AUTHORITY

7. Appointments to Class I and Class II Services and posts

:-

All appointments to State Civil Services, Class I and Class II shall be made by the State Government:

Provided that the State Government may, by a general or a special order and subject to such conditions as it may specify in such order delegate to any other authority the power to make such appointments.

8. Appointments to other Services and Posts :-

All appointments to the State Civil Services Class III and Class IV, shall be made by the authorities specified in this behalf in the Schedule.

PART 4 SUSPENSION

9. Suspension :-

(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in the behalf by the Governor by general or special order, may place a Government servant under suspension:-

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

(b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial:

*Provided that a Government Servant shall invariably be placed under suspension when a challan for a criminal offence involving

corruption or other moral turpitude is filed after sanction of prosecution by the Government against him.

Provided *further that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority-

(a) with effect from the date of his detention, if, he is detained in custody whether on a criminal charge or otherwise, for a period exceeding fortyeight 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 subrule shall be computed from the commencement of the period of imprisonment, if any, shall be taken into account.

*(2-a) Where a Government servant is placed under suspension under clause (a) of sub-rule (1) the order of suspension shall contain the reasons for making such order and where it is proposed to hold an enquiry against such Government servant under rule 14, a copy of the articles of charges, the statement of imputations of miss-conduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained shall be issued or caused to be issued by the disciplinary authority to such Government servant as required by sub-rule (4) of rule 14, within a period of 45 days from the date of order of suspension:

Provided that where the disciplinary authority is the State Government # or the High Court copy of charges and other documents mentioned above shall be issued or caused to be issued to such Government servant within a period of 90 days from the date of order of suspension:

*(2-b) Where the disciplinary authority fails to issue to the Government servant a copy of the charges and other documents referred to in sub-rule (2-a) within the period of 45 days, the disciplinary authority shall, before expiry of the said period obtain orders in writing of the State Government for extension of the said period of suspension:

Provided that the period of suspension shall in no case be enhanced beyond a period of 90 days from the date of the order of suspension.

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

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant, is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him in the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5) (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 authority competent to do so:

* Provided that the order of suspension shall stand revoked on expiry of the period of forty five days from the date of order of suspension in case a copy of charges and other documents referred to in sub-rule (2-a) are not issued to such Government servant by the disciplinary authority (if it is not the State Government) without obtaining the orders of the State Government for extension of the period for issue of the said documents, as required under sub-rule (2-b) :

* Provided further that the order of suspension shall stand revoked on expiry of the period of 90 days from the date of order of suspension, in case the copy of charges and other document referred to in sub-rule (2-a) are not issued to such Government servant.

*(b) In respect of a Government servant, whose orders of suspension stand revoked in accordance with the first or second proviso of clause (a) the authority competent may, if it considers expedient so to do, place him under suspension after a copy of

charges and other documents, as required by subrule (4) of rule 14, have been issued to him.

** (c) 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 proceedings is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any so such proceedings.

** (d) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deem to have made the order or any authority to which that authority is subordinate.

// Provided that an order of suspension made under the first proviso to sub-rule (1) of rule 9 shall not be revoked except by an order of the Government made for reasons to be recorded.

*The following first proviso and the word "further" in the second proviso inserted vide GAD Notification noC-6-2-96-3-EK dated 17.04.1996 and published in Madhya Pradesh gazette 03.08.96, which was as followed :- "Provided that a Government Servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him. " Again, In the first proviso words "after sanction of prosecution by the Government" inserted vide GAD notification NoC-6-1-2007, dated 26.02.2007 which is published in Gazette dated 26.02.2007.

* In rule 9 the sub rules (2-a) and (2-b) with their provisons inserted vide GAD Notification No.. F.6-5-81-3-I, dated 26th February 1982 and published in Madhya Pradesh Gazette (Ordinary), dated 12th March 1982.

In the proviso of sub rule (2-a) the words "or the High Court" Inserted vide GAD Notification NoC-6-3-98-EK, dated 20.05.98 and published in M.P. Gazette dated 21.05.98.

* After sub rule (5)(a) both provisons inserted vide GAD notification No.. F-6-5-81-3-I, dated 26th February 1982 and published in Madhya Pradesh Gazette (Ordinary), dated 12th March 1982, and vide the same notification-

** The Previous clauses (b) & (c) of sub-rule (5) re-lettered as clauses (c) & (d) respectively.

// After sub rule (5)(d) the proviso inserted vide GAD Notification

No C-6-2-96-3-EK, dated 17.04.96 and published in MP Gazette dated 03.08.96.

PART 5 PENALTIES AND DISCIPLINARY AUTHORITIES

10. Penalties :-

The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed on a Government servant, 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 Government by negligence or breach of orders;

(iv) withholding of increments of pay * or stagnation allowance;

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 Government servant will earn increments of pay "or the stagnation allowance, as the case may be" 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 or his pay or stagnation allowance.

NOTE.- The expression "reduction to a lower stage in the time scale of pay" shall also include reduction of pay from the stage of pay drawn by a Government servant on account of grant of stagnation allowance, if any.

(vi) reduction to a lower time-scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or Service from which the Government servant 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 Government;

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

*Provisio- [Have been deleted]

Explanation.- The following shall not amount to a penalty within

the meaning of this rule, namely:-

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

(ii) stoppage of a Government servant at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;

(iii) non-promotion of a Government servant, whether in a substantive or officiating capacity, after consideration of his case, to a service, grade or post for promotion to which he is eligible;

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

(v) reversion of a Government servant, 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 prohibition;

(vi) replacement of the services of a Government servant, whose services had been borrowed from the Union Government or any other State Government or an authority under the control of any such Government, at the disposal of the authority from which the services of such Government Servant had been borrowed;

(vii) compulsory retirement of a Government servant in accordance with the provision relation to his superannuation or retirement;

(viii) termination of the services.-

(a) of a Government servant 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; or

(b) of a temporary Government servant appointed until further orders on the ground that his services are no longer required; or

(c) of a Government servant, employed under an agreement, in accordance with the terms of such agreement.

*Clauses (iv) and (v) substituted vide G.A.D. Notification No F. 6-2-76-3-I, dated 24th March 1976 and published in Madhya Pradesh Gazette (Ordinary), dated 2nd April 1976.

NOTE-To find out the previous clause (iv) & (v), the words "or stagnation allowance" and the words "or the stagnation allowance, as the case may be" with the note below to clause (v) shall be

omitted from the amended clauses (iv) and (v) respectively.

*Provisio have been deleted vide GAD Notification No 6-4-77-3-I, dated 26th September, 1977 and published in Madhya Pradesh Gazette (ordinary dated 11th November 1977. It was as following- "Provided that a government Servant shall not be reduced to a service, grade or post lower than that to which he was appointed at the time of his entry in government Service"

11. Punishment of Members of Class IV Service :-

Besides the penalties specified in Rule 10, the penalty of fine not exceeding Rupees fifty may also be imposed on a Government servant belonging to class IV service "by the appointing authority or any other authority specified in the schedule in this behalf", for petty carelessness, unpunctuality, idleness or similar misconduct of a minor nature: Provided that the maximum fine imposed on any Government servant in any month shall not exceed rupees fifty; Provided further that the order of fine imposed in accordance with this rule shall not be subject to review under rule 29.

12. Disciplinary Authorities :-

(1) The Governor may impose any of the penalties specified in rule 10 on any Government servant.

(2) Without prejudice to the Provisions of sub-rule (1), but subject to the provisions of sub-rule (3), any of the penalties specified in rule 10 may be imposed on-

(a) a member of a State Civil Service by the appointing authority or the authority specified in the Schedule in this behalf or by any other authority empowered in this behalf by a general or special order of the Governor;

(b) a person appointed to a State Civil post by the authority specified in this behalf by a general or special order of the Governor or, ** by the appointing authority or the authority specified in the Schedule in this behalf.

(3) Notwithstanding anything contained in this rule-

(a) no penalty specified in clauses (v) to (ix) of rule 10 shall be imposed by any authority subordinate to the appointing authority;

Provided that the high court shall have the power to impose all the penalties as specified in clause (vi) (So far as it relates to reduction in rank i.e. post of service), and clauses (vii) to (ix) of rule 10.

(b) where a Government servant who is a member of a service, is temporarily appointed to any other Service or post, the authority competent to impose on such Government servant any of the penalties specified in clauses (v) to (ix) of rule 10 shall not impose any such penalties unless it has consulted such authority, not being a n authority subordinate to it, as would have been competent under sub-rule (2) to impose on the Government servant any of the said penalties had he not been appointed to such other Service or post.

Explanation.-Where a government servant belonging to a Service or holding a State Civil post of any class, is promoted, whether on probation or temporarily to the Service or civil post of the next higher class, he shall be deemed for the purposes of this rule to belong to the Service of, or hold the State Civil post of such higher class.

£ In Rule 11 words "by the appointing authority or any other authority specified in the schedule in this behalf" and the proviso inserted vide GAD Notification No.1514-3533-I (iii)-67, dated 27th June 1967, published in Madhya Pradesh Gazette (Ordinary), dated 7th July 1967.

Note.-To find out the previous rule 11, the words from "by the appointing.....to.....this behalf" and the second proviso to this rule shall be omitted from the amended rule 11.

* In rule 11, words "Rupees fifty" substituted in place of "Rupees five" amending vide GAD Notification No.C-6-5-2002-3EK, dated 17.06.2002 and published in M.P. Gazette dated 17.06.2002.

** In the said Rules, in clause (b) of sub-rule (2) of Rule 12, the words "where no such order has been made:" shall be omitted in between the words "Governor orby the", vide GAD Notification No. 503/C.R. 437/I(3)72, dated 25th August 1972, published in Madhya Pradesh Gazette (Ordinary), dated 22nd September 1972.

In 12(3)(a) the proviso Inserted vide GAD Notification No. C-6-3-98-3-EK, dated 20.05.98 and published in M.P. Gazette date 21.05.98.

13. Authority to institute proceedings :-

(1) The Governor or any other authority empowered by him by general or special order may-

(a) institute disciplinary proceedings against any Government servant;

(b) direct a disciplinary authority to institute disciplinary

proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 10.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of rule 10 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (v) to (ix) of rule 10 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.

PART 6 PROCEDURE FOR IMPOSING PENALTIES

14. Procedure for imposing major penalties :-

(1) No order imposing any of the penalties specified in clauses (v) to (ix) of rule 10 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and rule 15 or in the manner provided by the Public Servants (inquiries) Act, 1850 (37 of 1850), where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

*provided that where there is a complaint of sexual harassment within the meaning of sub-rule(3) of Rule 22 of the Madhya Pradesh Civil Services (Conduct) Rules, 1965, the complaints committee established in each Department or office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the complaints committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the enquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

Explanation.-Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be constructed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Government servant under this rule and rule 15, the disciplinary authority shall

draw up or cause to be drawn up-

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

(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-

(a) a statement of all relevant facts including any admission or confession made by the Government servant;

(b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of document and witnesses by which each article of charges is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint, under sub-rule (2), an inquiring authority for the purpose; and where all the articles of charges have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 15.

(b) If no written statement of defence is submitted by the Government servant, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under subrule (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 a Government servant 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 article 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 Government servant;

(iii) a copy of the statements of witnesses, if any, referred to in subrule (3);

(iv) evidence providing the delivery of the documents referred to in sub-rule (3) to the Government servant; and

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

(7) The Government servant 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 written specify in this behalf, or within such further time, not exceeding ten days, as inquiring authority may allow.

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

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

(10) The inquiring authority shall return a finding of guilt in respect of there articles of charge to which the Government servant pleads guilty.

(11) The inquiring authority shall, if the Government servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government servant 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 enquiring authority may allow, the documents specified in the list referred to in sub-rule (3);

(ii) submit a list of witnesses to be examined on his behalf. Note.-If the Government servant applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (3), the inquiring authority shall furnish him

with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(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 Government but not mentioned in the list referred to in sub-rule (3).

Note.- The Government servant shall indicate the relevance of the documents required by him to be discovered are produced by the Government.

(12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the 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 writing that the production of all or any of such documents would be against the public interest or production of all or any of such document 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 Government servant and withdraw the requisition made by it for the production or discovery of such documents.

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

(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 Government servant or may itself call for new evidence or re-call and re-examine any witness and in such case the Government servant 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 Government servant an opportunity of inspection such documents before they are taken on the record. The inquiring authority may also allow the Government servant to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interest of justice.

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

(16) When the case for the disciplinary authority is closed, the Government servant 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 Government servant 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 Government servant shall then be produced, The Government servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government servant 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 the disciplinary authority.

(18) The inquiring authority may, after the Government servant closes his case and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government servant 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 Government servant, or permit them to file

written briefs of their respective case, if they so desire.

(20) If the Government servant 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) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iv) of rule 10, but not competent to impose any of the penalties specified in clauses (v) to (ix) of rule 10, has itself inquired into or the articles of any charge and that authority having regard to its own findings or having regard to its decision on any of the finding of any inquiring authority appointed by it, is of opinion that by penalties specified in clauses (v) to (ix) of rule 10 should be imposed on the Government servant that authority shall forward the records of the inquiry to the such disciplinary authority as is competent to impose the last mentioned penalties.

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

(22) Whenever any inquiring authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction herein and is succeeded by another inquiring authority which has, and which exercises such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or party recorded by itself: Provided that if the succeeding inquiring 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, crossexamine and re-examine any such witnesses as hereinbefore provided.

(23) (i) after the conclusion of the inquiry, a report shall be prepared and it shall contain-

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

(b) the decence of the Government servant in respect of each articles 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 therefore.
Explanation.- If in the opinion of the inquiring authority the proceedings of the inquiry establish an article of charge different from the original articles of the charge, it may record its finding on such article of charge:

Provided that the finding on such article of charge shall not be recorded unless the Government servant has either admitted the facts on which such article of charge is based or has had 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, if any, submitted by the Government servant;

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

(d) written briefs, if any, filed by the Presenting Officer of the Government Servant or both during the course of the inquiry; and

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

* In rule 14(2) the proviso inserted vide GADs Notification C-6-1-2004-3-1, dated 17-03-2005 and published in MP Gazette 17-03-2005

14A. xxx xxx xxx :-

Notwithstanding anything contained in rule 16, where the charges contain any charge of corruption or conduct involving moral turpitude, the procedure laid down in rule 14 shall be followed.

Rule 14-A and at the end of sub-rule (3) of rule 14, the words i.e., from "but in" shall be added vide GAD Notification No. F.C-6-4-83-3-I, dated 16th December 1983, published in "Madhya Pradesh Gazette" (Ordinary), dated 13 January 1984.

15. Action on the inquiry report :-

(1) The disciplinary authority if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to

the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of rule 14 as far as may be.

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

*(3) If the disciplinary authority having regard to its finding on all or any of the articles of charge is of the opinion that any of the penalties specified in *rule 10 should be imposed on the Government servant, it shall, notwithstanding any thing contained in rule 16, make an order imposing such penalty* "but in doing so it shall record reasons in writing;"

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Government servant.

§ Rule 15 sub-rule (4) shall be omitted

*In sub-rule (3) of rule 15, the words, figures and brackets i.e. "clause (i) to (iv) of" in between the words "specified in..... rule 10" shall be omitted vide GAD Notification No. C-6-5-83-I, dated 23rd July 1984, published in "Madhya Pradesh Gazette" (Ordinary), dated 3rd August 1984.

§ The following sub-rule 15(4) shall be omitted vide GAD Notification No. C-6-5-83-3-I dated 23rd July 1984, published in "Madhya Pradesh Gazette" (Ordinary), dated 3rd August 1984:-

"(4) (i) If the disciplinary authority having regard to its finding on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (v) to (ix) of rule 10 should be imposed on the Government Servant, it shall,-

(a) furnish to the Government servant copy of the report of the enquiry held by it and its findings on each article of charge or, where the inquiry has been held by an inquiring authority, appointed by it, a copy of the report of such authority and a statement of its findings on each article of charge together with brief reason for its disagreement, if any, with the findings of the inquiring authority;

(b) give the Government servant notice stating the penalty proposed to be imposed on him and calling upon him to submit within fifteen days of receipt of the notice or such further time not exceeding fifteen days, as may be allowed, such representation as he may wish to make on the proposed penalty on the basis of the evidence adduced during the inquiry held under Rule 14;

(ii) (a) In every case in which it is necessary to consult the

Commission, the record of the inquiry, together with a copy of the notice given under clause (i) and the representation made in pursuance of such notice, if any, shall be forwarded by the disciplinary authority to the Commission for its advice.

(b) the disciplinary authority shall after considering the representation, if any, made by the Government servant, and the advice given by the Commission, determine what penalty, if any, should be imposed on the Government servant and make such order as it may deem fit;

(iii) Where it is not necessary to consult the Commission the disciplinary authority shall consider the representation, if any, made by the Government servant in pursuance of the notice given to him under clause (i) and determine what penalty if any, should be imposed on him and make such order as it may deem fit.

16. Procedure for imposing minor penalties :-

(1) Subject to the provision of sub-rule (3) of rule 15, no order imposing on a Government servant any of the penalties specified in clauses (i) to (iv) of rule 10 #and rule 11 shall be made except after,-

(a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour and which it is proposed to be taken, and given 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 (23) of rule 14, 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 Government servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration:

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

(e) consulting the Commission where such consultation is necessary.

*(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 Government Servant under such withholding or increments of pay or Stagnation Allowance is likely to effect adversely the amount of pension payable to the Government Servant or to withhold increments of pay or Stagnation allowance for a period exceeding three years or to withhold increments of pay or Stagnation allowance with cumulative effect for any period, an

inquiry shall be held in the manner laid down in sub-rule (3) to (23) of rule 14, before making any order imposing on the Government Servant any such penalty.

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

(i) a copy of the intimation to the Government servant of the proposal to take action against him;

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

(iii) his representation, if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the Commission, if any;

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

(vii) the orders on the case together with the reasons therefore.

#In sub-rule (1) of Rule 16, after the word and figure rule 10, words and figure "and rule 11" shall be inserted vide GAD Notification No. 1514-1533-I(iii)-67, dated 27th June 1967, published in "Madhya Pradesh Gazette" (Ordinary), dated 7th July 1967.

* In rule 16, sub rule (1-a) inserted vide GAD Notification No. C-6-30-92-3-EK, dated 22.06.92 and published in M.P. Gazette date 10.07.92.

17. Communication of orders :-

Orders made by the disciplinary authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of the inquiry, if any, held by the disciplinary authority and a copy of its findings on each article of charge, or, where the disciplinary authority is not the inquiring authority, 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) and also a copy of the advice, if any given by the Commission and, where the disciplinary authority, has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.

18. Common Proceedings :-

(1) Where two or more Government servants are concerned in any case, the Governor or any other authority competent to impose the

penalty of dismissal from service on all such Government servant may make an order directing that disciplinary action against all of them may be taken in a common proceedings.

* Provided that the powers conferred on the Governor under this rule shall in case of Judicial officers, be exercised by the chief justice.

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

(2) Subject to the provisions of sub-rule (3) of rule 12, any such order shall specify-

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

(ii) the penalties specified in rule 10 which such disciplinary authority shall be competent to impose;

(iii) whether the procedure laid down in rule 14 and rule 15 or rule 16 shall be followed in the proceeding.

* The proviso of rule 18(1) inserted vide GAD Nonfiction No. C-6-3-98-3-I, dated 20.05.98 and published in M.P. Gazette date 21.05.98.

19. Special procedure in certain cases :-

Notwithstanding anything contained in rule 14 to rule 18-

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

(ii) where the disciplinary authority is satisfied for reasons to be recorded 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 Governor 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 representations, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Commission shall be consulted where such consultation is necessary, before any orders are made in any case under this rule.

20. Provisions regarding officers lent to the Union or any other State Government or any subordinate or Local

Authority, etc :-

(1) Where the services of a Government servant are lent by one department to another department or to the Union Government or to any other State Government or any authority subordinate there to or to a 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 Government servant 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 Government servant (hereinafter in this rule referred to as "the lending authority") of the circumstances leading to the order of suspension of such Government servant or 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 Government servant-

(i) If the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 10 should be imposed on the Government servant, it may, after consultation with the 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 Government servant shall be replaced at the disposal of the lending authority;

(ii) If the borrowing authority is of the opinion that a penalty specified in rule 11 should be imposed on any member of class IV Government servant, it may impose such penalty without consulting the lending authority;

(iii) If the borrowing authority is of the opinion that any of the penalties specified in clauses (v) to (ix) of rule 10 should be imposed on the Government servant, it shall replace his services at the disposal the lending authority and transmit to it the proceedings of the inquiry and thereupon the lending authority may, if it is the disciplinary authority, pass such orders thereon as it may deem necessary or, if it is not the disciplinary authority, submit the case to the disciplinary authority which shall pass such orders on the case as it may deem necessary:

Provided that before passing any such order the disciplinary authority shall comply with the provision of sub-rules (3) and (4) of rule 15.

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 14.

21. Provisions regarding officers borrowed from Union or other State Government etc :-

(1) Where an order of suspension is made or a disciplinary proceeding is conducted against a Government servant whose services have been borrowed by one department from other department or from the Union Government or any other State Government or an authority subordinate thereto or a local or other authorities, the authority leading 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 the suspension of the Government servant or of the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the Government servant if the disciplinary authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 10 should be imposed on him, it may subject to the provisions of sub-rule (3) of rule 15, 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 services of the Government servant shall be replaced at the disposal of the lending authority;

(ii) If the disciplinary authority is of the opinion that any of the penalties specified in clauses (iv) to (ix) of rule 10 should be imposed on the Government servant, it shall replace the services of such Government servant at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such action as it may deem necessary.

PART 7 APPEALS

22. Orders against which no appeal lies :-

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

(i) any order made by the Governor;

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

* (ii-a) any order passed under rule 11.

(iii) any order passed by an inquiring authority in the course of an inquiry under rule 14.

(iv) any order passed by the High Court as an Appellate Authority.

* In Rule 22 after clause (ii), the clause "(ii-a)" shall be inserted vide GAD Notification No. 1514-3533-I (iii)-67, dated 27th June 1967, published in Madhya Pradesh Gazette (Ordinary), dated 7th July 1967.

In Rule 22 after clause (iii), the clause "(iv)" shall be inserted vide GADs Notification No C-6-3-98-3-ek, dated 20th May 1998, published in Madhya Pradesh Gazette dated 21th May 1998.

23. Orders against which appeal lies :-

Subject to the provisions of rule 22, a Government servant may prefer an appeal against all or any of the following orders, namely;-

(i) an order imposing any of the penalties specified in rule 10 whether made by the disciplinary authority or by any appellate or reviewing authority; (ii) an order enhancing any penalty, imposed under rule 10;

©(iii) an order of suspension made or deemed to have been made under rule 9. Explanation.- In this rule the expression "Government servant" includes a person who has ceased to be in Govt. service.

© The clause (iii) of rule 23 shall be inserted inserted vide GADs Notification No C-5-6-87-3-49, dated 01-10-1988, published in Madhya Pradesh Gazette dated 28-10-1988.

24. Appellate authorities :-

(1) A Government servant including a person who has ceased to be in Government service, may prefer an appeal against all or any of the orders specified in rule 23 to the authority specified in this behalf either in Schedule or by a general or special order of the Governor or, where on such authority is specified,

(i) Where such Government servant is or was a member of a State Civil Service Class I or Class II or holder of a State Civil post, Class I or Class II-

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

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

(ii) where such Government servant is or was a member of a State Civil Service Class III or Class IV or holder of a State Civil Post, Class III or Class IV, to the authority to which the authority making the order appealed against is immediately subordinate.

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

(i) an appeal against an order in a common proceeding held under rule 18 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.

25. Period of limitation for appeals :-

No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty five days from the date on which a copy of the order appealed against is delivered to the appellant; Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

26. Form and contents of appeal :-

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

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

(3) The authority which made the order appealed against shall in receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay and without

waiting for any direction from the appellate authority.

27. Consideration of appeal :-

****27 Consideration of appeal-**

(1) In the case of an appeal against, an order of suspension, the Appellate authority shall consider whether in the light of provisions of rule 9 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 10 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) the Commission shall be consulted in all cases where such consultation is necessary;

£(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 10 and an inquiry under rule 14 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 19, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 14 and thereafter on consideration of the proceedings of such inquiry, make such orders as it may deem fit.

* (iii) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of rule 10 and an inquiry under rule 14 has already been held in the case, the appellate authority shall, after giving the appellant a reasonable opportunity of making representation against the penalty proposed make such orders as it may deem fit.

(iv) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions of rule 16, of making a representation against such enhanced penalty.

** In rule 27, sub rule (1), inserted and existed sub rule renumbered as sub rule (2) vide GAD Notification No.C-5-6-87-3-XLIX, dated 1.10.88 and published in M.P. Gazette 28.10.88.

£ Clause (ii), in proviso to rule 27, shall be substituted vide GADs Notification No. C-6-5-83-1, dated 23rd July 1984, published in "Madhya Pradesh Gazette" (Ordinary), dated 3rd August 1984. Note.-To find out the previous clause (ii), the following sentences shall be inserted before the last sentence i.e. "make such orders as it may deem fit" is amended clause- "and after giving the appellant a reasonable opportunity, as far as may be, in accordance with the provisions of sub-rule (4) of rule 15, of making a representation against the penalty proposed on the basis of the evidence adduced during such inquiry".

* Clause (iii), in proviso to rule 27, shall be substituted vide GAD Notification No. C-6-5-83-3-I dated the 23rd July 1984, published in "Madhya Pradesh Gazette" (Ordinary), dated the 3rd August 1984. Note.- To find out previous clause (iii), the following sentences should be inserted in the amended clause in between the words "opportunity.....of making" and in between the words "proposed.....make such" respectively- "as far as may be in accordance with the provisions of sub-rule (4) of rule 15". "on the basis of the evidence adduced during the inquiry".

28. Implementation or orders in appeal :-

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

PART 8 REVIEW

29. Review :-

(1) Notwithstanding anything contained # in these rules except rule 11"-

(i) the Governor, or

(ii) the head of a department directly under the State Government, in the case of a Government servant serving in a department or office (not being the Secretariat), under the control of such head of a department, or

(iii) the appellate authority, within six months of the date of the

order proposed to be reviewed, or

(iv) any other authority specified in this behalf by the Governor by a general or special order, and within such time as may be prescribed in such general or special order; may at any time, either on his or its own motion or otherwise call for the records of any inquiry and review any order made under these rules or under the rules repealed by rule 34 from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed, after consultation with the commission where such consultation is necessary, and may-

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

(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been 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 ;

* Explanation.- I The powers conferred on the Governor under this sub-rule shall, in the case of a class III or class IV Government servant serving in a district court or a court subordinate thereto, be exercised by the Chief Justice;

** Explanation-II The powers conferred on the Governor under this rule shall, in the case of Judicial officers be exercised by the High Court.

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it has proposed to impose any of the penalties specified in clauses (V) to (IX) of rule 10 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 14 * and except after consultation with the commission where such consultation is necessary:

Provided further that no power to review shall be exercised by the head of department unless-

(i) the authority which made the order in appeal, or

(ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.

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

- (i) the expiry of the period of limitation for an appeal; or
 - (ii) the disposal of the appeal, where any such appeal has been preferred.
- (3) An application for review shall be dealt with in the same manner as if it were an appeal under these rules.

In sub-rule (1) of rule 29, for the words "in these rules" the words and figures "in these rules except rule 11" shall be substituted vide GAD Notification No.1514-3533-i (iii)-67 dated the 27th June 1967, published in the "Madhya Pradesh Gazette" (Ordinary), dated the 7th July 1967.

* In rule 29 of the said Rules, below sub-rule (1), the explanation shall be inserted vide GAD Notification No. 1204-3195-I (iii)-67, dated 17th May 1967.

**Explanation II shall be inserted after explanation I, vide GADs notification C-6-3-98-3-1, dated 20-05-1998 and published in MP Gazette dated 21-05-1998

* In proviso to sub-rule (1), in rule 29 the words "and after giving a reasonable opportunity to the Government servant concerned of showing cause against the penalty proposed on the sentence adduced during .the inquiry" shall be omitted vide GAD Notification No. C-6-5-83-3-I, dated 23rd July 1984, published in Madhya Pradesh Gazette (Ordinary), dated 3rd August 1984.

PART 9 MISCELLANEOUS

30. Service of orders notices etc :-

Every order, notice and other process made of issued under these rules shall be served in person in the Government servant concerned of communicated to him be registered post.

31. Power to relax time-limit and to condone delay :-

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 these rules or condone any delay.

32. Supply of copy of commissions advice :-

Whenever the Commission is consulted as provided in these rules, a copy of the advice by the Commission, and where such advice had not been accepted, also a brief statement of the reasons for such

non-acceptance, shall be furnished to the Government servant concerned along with a copy of the order passed in the case, by the authority making the order.

33. Transitory Provisions :-

On and from the commencement of these rules until the publication of the Schedules under these rules, the Schedules to the Madhya Pradesh Civil Service (Classification, Control and Appeal) Rules, 1965 as amended from time to time, shall be deemed to be the Schedules relating to the respective categories of Government servants to whom they are, immediately before the commencement of these rules, applicable and such Schedules shall be deemed to be the Schedules referred to in the corresponding provisions of these rules.

34. Repeal and Saving :-

(1) Subject to the provisions of rule 33, the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1965 and any notifications or orders issued there under in so far as they are in consistent with these rules, are hereby repealed:

Provided That-

(a) such appeal shall not affect the previous operation of the said rules, or any notification or order made, or anything, done, or any action taken, there under;

(b) any proceedings under the said rules, pending at the commencement of these rules shall be continued and disposed of as far may be in accordance with the provisions of these rules, as if such proceedings were under these rules.

(2) Nothing in these rules shall be construed as depriving any persons to whom these rules apply, of any right of appeal which had accrued to him under the rules, notification or orders in force before the commencement of these rules.

(3) An appeal pending at the commencement of these rules against an order made before such commencement shall be considered and order there on shall be made, in accordance with these rules, as if such order were made and the appeal where preferred under these rules.

(4) As from the commencement of these rules any appeal or application for review against any orders made before such commencement shall be preferred or made under these rules, as if such orders were made under these rules. Provided that nothing in

these rules shall be construed as reducing any period of limitation for any appeal or review provided by any rule in force before the commencement of these rules.

35. Removal of doubts :-

If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Governor or such other authority as may be specified by the Governor by a general or special order, and the Governor or such other authority shall decide the same .