

APPENDIX XXI

Punjab Jail Department Executive Staff (Punishment and Appeal) Rules

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Punjab Jail Department Executive Staff (Punishment and Appeal) Rules to regulate the conduct and discipline of persons charged with the performance of executive duties in Jails.

HOME DEPARTMENT

JAILS

✓ NOTIFICATION

The 29th April, 1943

No. 2617-JI-43/29454. - Exemption having been granted in Punjab Government notification No. 949-G-43/29452, dated 29th April, 1943, to the executive jail personnel from the operation of Punjab Civil Service (Punishment and Appeal) Rules, the Governor of the Punjab is pleased in exercise of the powers conferred on him by clause (b) of sub-section (2) of section 241 of the Government of India Act, 1935 to make the following rules to regulate the conduct and discipline of persons charged with the performance of executive duties in the Punjab Jails :-

1. (1) These rules may be called the Punjab Jails Department Executive Staff (Punishment and Appeal) Rules;
- (2) they shall come into force from the date of their publication in the official Government Gazette; and
- (3) shall apply to the following classes of officers (hereinafter referred to as "subordinate officers") -
 - (a) Deputy Superintendents,
 - (b) Senior Assistant Superintendents,
 - (c) Assistant Superintendents,
 - (d) European warders,
 - (e) Head warders,
 - (f) Warders,
 - (g) Gate keepers,
 - (h) Female warders; and
 - (i) Matrons.
2. In these rules unless there is anything repugnant in the subject or context. -
 - (a) "Government" means the Provincial Government;
 - (b) "Inspector-General" means the Inspector-General of Prisons, Punjab, appointed as such by Government, and
 - (c) "Superintendent" means the officer appointed by Government to hold charge of a jail.

3. Departmental punishments. - Every subordinate officer who shall at any time be found to have been guilty of any breach of any law, rule, regulation, direction or order for the time being in force; in regard to the duties or any of the duties, which he is required to perform, or the manner in which he is to perform them, or any of them, shall be liable to be punished by any one or more of the following punishments, namely (Punjab Government No. 32476-Jails, dated 5th November, 1930) :-

- (a) Censure;
- (b) in the case of any such officer who is subject to discipline in the nature of military discipline-extra drill, up to a maximum period of one hour a day, for not more than seven consecutive days, confinement to barracks for a period not exceeding 15 days, extra guard or fatigue duty for a period not exceeding 7 days in a month; reduction on the Promotion Board up to five places.
- (c) deprivation or stoppage of leave for any period;
- (d) entry of a black mark;
- (e) withholding of increments or promotion including stoppage at an efficiency bar;
- (f) reduction to a lower post or time-scale or to a lower stage in a time-scale;
- (g) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence of orders;
- (h) suspension for any period not exceeding six months;
- (i) removal from the service of Government which does not disqualify from future employment;
- (j) dismissal from the service of Government which disqualifies from future employment.

Explanation - The discharge -

- (a) of a person appointed on probation during the period of probation;
- (b) of a person appointed otherwise than under contract to hold a temporary appointment, on the expiration of the period of the appointment,
- (c) of a person engaged under contract, in accordance with the terms of his contract does not amount to removal or dismissal within the meaning of this rule.

Notes - (i) The penalty of removal may be inflicted upon a Subordinate Officer for such a cause as general unfitness for the duties of his office.

(ii) The penalty of dismissal should only be inflicted for the gravest misconduct, or as the culminating result of continued misconduct, indicating complete unfitness for the public service. A person who succeeds in obtaining employment in Government service by the concealment of his antecedents would also merit dismissal on discovery of the true facts. In inflicting this penalty regard should be paid to the length of service of the offender and his claim to pension.

(iii) As a precaution against the inadvertent re-employment of a dismissed officer, it should be ascertained whether an applicant for an appointment has been in Government service before, and if the circumstances relating to his discharge are not clear, reference should be made to his last employer. The applicant should be required to produce a copy of his character book or other record of service.

An authority which makes an order dismissing an officer is required to intimate to all Heads of Department the name and other particulars necessary for identification

of such dismissed officer, unless the dismissal has been notified in the official Gazette.

- (iv) Departmental punishment is altogether distinct from punishments under the criminal law, and may be inflicted apart from any action taken under the latter.
- (v) No subordinate officer shall be removed or dismissed except by order of the authority by which such officer was appointed.
- (vi) In the case of dismissal or removal or reduction or stoppage of increment of warders and head warders by the orders of a Superintendent other than Superintendent of a Headquarters Jail, the confirmation of the order by the latter is necessary.
- (vii) Punishing authorities have full discretion to publish in the Official Gazette reasons for dismissal where such publication is considered desirable in the public interest.

4. (1) Punishments inflicted under heads (e), (f) and (g) of rule 4 shall also involve the entry of a black mark in the character roll of the subordinate officer concerned but not more than one black mark shall be awarded for any offence.

(2) A subsequent commendatory entry in a character roll, made or approved by an officer not less in rank than the officer who awarded the punishment or uninterrupted good conduct for a period of six months spent on duty after the date of award of the last black mark, shall cancel one black mark for the purpose of sub-rule (1) of this rule. It shall be discretionary with the officer awarding the commendatory entry to declare whether such entry shall cancel an outstanding black mark or not.

(3) The existence of one or more uncanceled black marks shall ordinarily bar all leave other than sick leave or hospital leave.

(4) The existence of three uncanceled black marks shall render the recipient liable to reduction in grade or deferment of a single increment for one year, according as the officer concerned is on a graded or time-scale of pay. Such punishment shall cancel all existing black marks for the purpose of sub-rule (3) above.

(5) When the total number of uncanceled black marks outstanding against a subordinate officer exceed 6, he shall be called upon to show cause why he should not be dismissed on the ground of his persistent misconduct.

5. (1) The order awarding a punishment which involves a black mark shall specify the number of black marks outstanding against the delinquent, and when the imposition of one more such punishment will render him liable to reduction or dismissal under these rules the order shall warn him that such is the fact, and he shall be supplied with a copy of such order.

(2) Black marks shall take effect from the first of the month following the date of offence unless otherwise ordered.

(3) In addition to the entry in the character roll of details of the offence for which a black mark is awarded, a record of all such black marks and of their cancellation shall be kept in the form of a tabular statement in the character roll.

6. If in the opinion of the Superintendent, any Deputy Senior Assistant and Assistant Superintendent and European Warder is guilty of an offence which cannot be adequately punished by him, the Superintendent shall forthwith suspend such subordinate officer, pending reference to and the orders of the Inspector-General.

7. When any subordinate officer is accused or is suspected of having committed any offence and, after such enquiry as the Superintendent may think fit to make, he is of opinion that a *prima facie* case against such officer has been made out and that the case cannot be adequately dealt with departmentally, he shall forthwith suspend such officer and cause him to be brought before a magistrate having jurisdiction to enquire into or try the case:

Provided that when any subordinate officer is accused or suspected of having committed any of the following offences, and *prima facie* case against him exists, a prosecution shall be instituted :-

- (a) wilfully or negligently permitting a prisoner to escape or any other serious offence punishable under the Indian Penal Code;
- (b) any offence punishable under section 42 of the Prisons Act, 1894;
- (c) any breach of paragraph 173 or clause (e) of paragraph 174 of the Punjab Jail Manual;
- (d) any breach of section 9 or section 10 of the Prisons Act, 1894.

Note - A copy of the judgment in the case of every subordinate officer prosecuted, shall be forwarded to the Inspector-General.

8. Every subordinate officer who shall at any time be convicted of any serious offence by a criminal court shall, without prejudice to any other punishment to which he may be liable or subjected, be liable to be summarily dismissed from his office.

9. No subordinate officer who has been punished by a criminal court shall, without the sanction of the competent authority, be retained in the jail service.

10. In enquiring into and passing orders upon charges against subordinate officers, in which, if proved, the punishment is likely to be under clauses (a), (b), (c), (e) and (g) of rule 3. It shall be sufficient for the Superintendent to record the name and the office of accused person, the nature of the offence and the final order passed.

11. (1) Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1850, no order awarding a punishment specified in clauses (d), (f), (h), (i) and (j) of rule 3 shall be passed against a subordinate officer other than an order based on facts found proved by a criminal court unless he has been informed in writing of the grounds on which it is proposed to take action and has been afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be reduced in the form of a definite charge or charges which shall be communicated to the person charged together with a statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders in the case. He shall be required, within a reasonable time, to put in a written statement of his defence and to state whether he desires to be heard in person. If he so desires and if the authority so direct, an oral inquiry shall be held. At the enquiry oral evidence shall be heard as to such of the allegations as are not admitted and the person charged shall be entitled to cross-examine the witnesses in person and to have such witnesses called as he may wish, provided that the officer conducting the inquiry may, for special and sufficient reasons to be recorded in writ-

ing, refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and the statement of the findings and the grounds thereof;

Provided that -

- (a) this sub-rule shall not apply where the person concerned has absconded, or where it is, for other reasons, impracticable to communicate with him;
- (b) all or any of the provisions of this sub-rule may, in exceptional cases, for special and sufficient reasons to be recorded in writing be waived, where there is a difficulty in observing exactly the requirements of this sub-rule and those requirements can be waived without injustice to the person charged.

(2) No subordinate officer who is called upon to produce his defence as to charges which form the subject matter of an enquiry against him, shall be allowed to engage counsel:

Provided that if the charge or charges are likely to result in the dismissal of a subordinate officer such officer may, with the sanction of the enquiring officer, be represented by counsel:

Provided further that if in an enquiry, counsel is engaged on behalf of Government, a subordinate officer against whom the charges are being enquired into, shall be entitled to engage counsel.

(3) At any time after hearing the evidence in support of the charge, the Superintendent may, if he is of the opinion that a prima facie case has been made out, suspend the accused officer from his office.

(4) In any case in which time is given to the accused person to prepare his defence, the Superintendent shall furnish the accused person with a written order to file a written statement of defence within the time allowed to him.

(5) If the accused person is a Deputy, Senior, Assistant or Assistant Superintendent, or European Warder, the Superintendent shall, after complying with provisions noted above, submit the record for the orders of the Inspector-General, and in any other case, he shall pass final orders either acquitting or convicting and punishing the accused person.

(6) When any subordinate officer is dismissed, he shall, without undue delay, be supplied with a copy of the final orders passed, but not of the record of proceedings.

(7) (a) No subordinate officer shall be dismissed, removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him, unless such punishment is imposed on the ground of conduct which has led to his conviction on a criminal charge, or, unless the authority empowered to impose such punishment is satisfied, for reasons to be recorded in writing, that to allow an opportunity as aforesaid is not reasonably practicable in the particular case.

(b) In the case of dismissal or removal of Head Warders and Warders by the orders of a Superintendent other than a Superintendent of a Headquarters Jail, the confirmation of the order by the latter is necessary.

12. Punjab Government No. 12713 Jails, dated 25th April, 1924. - A subordinate officer should be put upon his formal defence on a reputation for a dishonesty recorded by a succession of his superiors. Departmental punishment may properly be

awarded unless the official thus charged can give such an explanation of his bad reputation as may avoid the conclusion that he has been habitually corrupt even though no specific instance of corruption be proved against him. Cases of this kind in the Jail Department should be dealt with by a tribunal consisting of a Financial Commissioner, the Commissioner and the Inspector-General of Prisons. The charge will take the form of a statement reciting the opinion of the officers who have recorded that the accused has a reputation for dishonesty and calling upon him to show cause why he should not be removed from the service or otherwise be subjected to departmental discipline by reason of such reputation.

Note - In the report on the character and qualifications of Jail Establishment (P. J., Form No. 55 on page 461 of the Jail Manual) the Superintendent shall state specifically in respect of each official including head warder and warders that he has or has not a good reputation for honesty.

13. Punjab Government circular No. 13-582 of 4th June, 1894. - When service charges involving complicated questions have been brought against any subordinate officer above the rank of a warder, it is open to the Superintendent to submit an application to Government through the Inspector-General for the purpose of having the Magistrate of district, or if it is this not convenient, another judicial officer, when possibly a European Officer, associated with him in his enquiry into such charges.

14. (1) Every subordinate officer who shall at any time be suspended from his office for any period shall forthwith vacate the quarters (if any) allotted to him at the Jail and quit the jail premises and shall not return thereto until the period of his suspension has expired.

(2) Every subordinate officer who shall at any time be permanently removed or dismissed from his office shall forth with vacate the quarters (if any), allotted to him at the Jail and quit the jail premises and, in case of default, may, if the Superintendent shall so direct, be forthwith removed therefrom by any officer authorised by the Superintendent in the behalf.

(3) Any subordinate officer who is suspended from office by Superintendent pending a reference to and the order of the Inspector-General, may in the discretion of the Superintendent, either permitted to continue to occupy the quarters (if any) allotted to him at the jail or be required to vacate the same and quit the jail premises.

(4) No subordinate officer who has been removed or dismissed from his office, and no subordinate officer who has been suspended from office shall at any time during the period for which he has been so suspended, without the sanction of the Superintendent, be permitted on any pretext to enter the jail.

Note - The descriptive roll (Form No. 190 on page 461 of the Jail Manual) of every order punished with dismissal shall be circulated to all Superintendents of Headquarters Jails for information and record.

15. Subject to any special directions laid down by Government in regard to the punishment of a particular class of subordinate officers, the final authority in regard to punishment shall be as shown below :-

Authority for

Establishment	Removal or dismissal	Reduction stoppage of increment	Others punishment
1. Deputy Superintendent	Government	Inspector-General	Inspector-General
2. Senior Assistant Superintendent	Government	Inspector-General	Inspector-General
3. Assistant Superintendent	Government	Inspector-General	Inspector-General

4. European Warders	Government	Inspector-General	Superintendent
5. Head Warders	Superintendent	Superintendent	Superintendent
6. Warders (male and female)	Superintendent	Superintendent	Superintendent
7. Gate keeper and matrons	Superintendent	Superintendent	Superintendent

Appeal and Revision

16. (1) Subject to the provisions of section 241 of the Government of India Act, 1935, and of these rules, a subordinate officer shall be entitled to appeal as hereinafter provided to the next superior authority against an order (not being an order of the Government) -

- (a) imposing upon him any of the penalties specified in rules;
- (b) discharging him in accordance with the terms of his contract if he has been engaged on a contract for a definite or an indefinite period and has rendered under either form of contract continuous service for a period exceeding five years at the time when his services are terminated;
- (c) reducing or withholding the maximum pension including an additional pension admissible to him under the rules governing pensions.
- (d) altering or interpreting to his disadvantage a rule by which his conditions of service are regulated;
- (e) terminating his appointment otherwise than upon reaching the age fixed for superannuation.

(2) A subordinate officer, who was serving His Majesty in a civil capacity in India immediately before the 1st April, 1937, shall be entitled to the rights specified in clauses (a) and (b) of sub-section (3), of section 241, Government of India Act, 1935. Any appeal from an order of Government which is competent under the sub-rule shall lie to the Governor exercising his individual judgment.

(3) After an appeal or the second appeal provided in clause 6, if any, has been rejected, the subordinate officer concerned may apply for revision to the Government.

Provided that the power of revision shall be exercised only -

- (a) If the appellate authority is one other than Government; and
- (b) only on the ground of material irregularity in the proceedings of the enquiring or appellate authority on the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the petitioner or could not be produced by him when the orders were made against him or on account of some mistake or error apparent on the face of the record :

Provided further that Government may at any time revise any order passed by it in exercise of its appellate powers under these rules.

(4.) (i) In the case of an appeal against an order imposing any penalty specified in rules 3, the appellate authority shall consider -

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