

THE TAMIL NADU CIVIL SERVICES (DISCIPLINARY PROCEEDINGS TRIBUNAL) RULES, 1955

(Corrected up to 15th November, 2007)

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THE TAMIL NADU CIVIL SERVICES (DISCIPLINARY PROCEEDINGS TRIBUNAL) RULES, 1955

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, and of all other powers hereunto enabling, and in supersession of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1948, published with Public (Services) Department Notification No.143, dated the 20th October 1948, at pages 1153 and 1154 of Part I of the Fort St. George Gazette, dated the 30th November 1948, as subsequently amended, the Governor of Tamil Nadu hereby makes the following rules:-

1. (a) These rules may be called the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955.

(b) They shall come into force on the 1st January 1955.

(c) They shall apply to -

(i) all officers under the rule-making control of the State Government other than those referred to in Article 314 of the Constitution of India; and

(ii) all officers of the Municipal Corporations.

2. In these rules -

(a) "Corruption" shall have the same meaning as the words, "Criminal misconduct by a public servant" defined in clauses (a), (b), (c), (d) and (e) of sub-section (1) of Section 13 of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988).

(b) "Government" means the Government of Tamil Nadu.

(c) "Tribunal" means a Tribunal for Disciplinary Proceedings, constituted under rule 3.

(d) "Head of the Department" means Head of a State Government Department or Commissioner of a Municipal Corporation, as the case may be.

(e) "Government Servants" include servants of the Municipal Corporations also.

3.(1) The Government may constitute as many Tribunals for Disciplinary Proceedings as may be necessary for the purpose of these rules.

(2) Each Tribunal shall consist of one person only who shall be a judicial officer of the rank of District Judge or the Commissioner for Disciplinary Proceedings or the Deputy Commissioner for Disciplinary Proceedings.

(3) Each Tribunal shall enquire into such cases as may be referred or transferred to it by the Government under these rules and advise the Government in such cases.

4. (1) The Government shall, subject to the provisions of rule 5, refer the following cases to the Tribunal, namely:-

(a) Cases relating to Officers of the State Services in respect of matters involving corruption on the part of such Officers; and

(b) All appeals or petitions to the Government against orders passed on charges of corruption and all disciplinary cases in which the Government propose to revise original orders passed on such charges;

Provided that it shall not be necessary to consult the Tribunal -

(i) in any case in which the Tribunal has, at any previous stage, given advice in regard to the order to be passed and no fresh question has thereafter arisen for determination ; or

(ii) where the Government propose to pass orders rejecting such appeal or petition.

(2) The Government may, subject to the provisions of rule 5, also refer to the Tribunal any other case or class of cases which they consider should be dealt with by the Tribunal and the Government, in exercising the power conferred by this sub-rule, shall have regard to the nature and gravity of the charge, the grade or rank of the officer charged and the organisational strength of the department concerned in handling cases involving interpretation of rules regulating conditions of service of Government servants.

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule(2), cases arising in the Judicial Department shall not be referred to the Tribunal.

(4) The Executive authority of a local authority may, with the sanction of the Government and shall, if so required by the Government, refer to the Tribunal cases of servants of the local authority when they are involved in charges of corruption jointly with Government servants whose cases are referred to the Tribunal under this rule. The cases so referred shall be enquired into by the Tribunal in accordance with the rules relating to appointment and punishment of officers and servants of the local authority.

(5) The Tamil Nadu Public Service Commission may, without reference to the Government, directly refer to the Tribunal cases relating to the Secretary (except when he is a member of the Indian Administrative Service) or a Joint Secretary or a Deputy Secretary or an Under Secretary to that Commission or a member of the staff of that Commission in respect of matters involving corruption or corruption combined with other charges on the part of the officers aforesaid and members of the staff of the Commission and the Tribunal shall conduct the inquiry in accordance with rule 7 of Annexure-II or, as the case may be, rule 4A of Annexure-V to the Tamil Nadu Public Service Commission Regulations, 1954.

5. (a) In every case referred to in clause (a) of sub-rule (1) and sub-rule (2) of rule 4, on completion of investigation, the Directorate of Vigilance and Anti-Corruption or any other Branch of the Police or other departmental authority concerned, shall forward to the Government all the records of the case;

Provided that the Directorate of Vigilance and Anti-Corruption shall forward its records to the Government through the Vigilance Commissioner, Chennai.

Explanation.- For the purpose of this clause investigation includes investigation made under the General Law or any special enactment.

(b) (i) Notwithstanding anything contained in rule 4, the Government shall after consulting the head of the department concerned, if necessary, decide whether the case shall be tried in a Court of law or by the Tribunal or by the departmental authority concerned.

(ii) In exercising the power conferred by clause (i), the Government shall have regard to -

- (a) the nature and gravity of the charge;
- (b) the grade or rank of the officer charged; and
- (c) any other circumstances relevant to the case.

(c) If the Government decide that the case shall be tried by the Tribunal, they shall send the records to the Tribunal.

(d) In any case where the head of the department is not consulted, he shall be informed of the action that is being taken.

(e) When the Tribunal is seized of the case, the staff of the Directorate of Vigilance and Anti-Corruption and of the Police and concerned departments shall help the Tribunal in securing the necessary documents, in the production of witnesses and in such other ways as the Tribunal may desire.

(f) The Prosecutor for Disciplinary Proceedings or such other person as the Government may appoint in respect of any particular case shall conduct enquiries on behalf of Government in disciplinary cases before the Tribunal and the accused officer concerned shall be allowed to be represented by counsel.

(g) Notwithstanding anything contained in sub-rule (f), it shall be in the discretion of the Tribunal concerned to allow the accused officer concerned to be represented by counsel.

6. (a) The Tribunal may, in its discretion, co-opt an assessor to assist it. The assessor shall be an officer of the department to which the Government servant charged belongs, having a rank higher than that of the Government servant charged. In no case shall the rank of an assessor be below that of an Officer of the State service or of a district head of the department concerned.

(b) For the purposes of sub-rule (a), in any case where more than one Government servant is charged, the assessor shall be an officer above the rank of the highest Government servant charged.

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

(b) The proceedings of the Tribunal shall be in-camera.

8. (a)(i) Notwithstanding anything contained in rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the following procedure shall be adopted by the Tribunal in conducting enquiries in cases of corruption and also in cases of corruption combined with other charges. As soon as the records relating to allegations of corruption or of corruption combined with other charges against a Government servant are received, the Tribunal shall frame appropriate charges, communicate them to the person charged together with list of witnesses likely to be examined in respect of each of the charges, copies of the complaints made by the complainants, copies of statements taken from the witnesses which form the basis on which the Tribunal has framed the charge or charges against him and with information as to the date and place of enquiry. At the enquiry, oral and documentary evidence shall be first adduced by the prosecution and person charged shall be entitled to cross-examine the prosecution witnesses and to explain any documents produced by the prosecution.

The person charged shall thereafter, within the time allowed by the Tribunal, file a written statement of his defence along with a list of witnesses whom he wishes to examine, stating the points on which he proposes to examine each of them,

provided that he need not so specify the points for examination in his own case, when he wishes to examine himself as well. The oral and documentary evidence on his side shall then be adduced. After the enquiry is completed, the Tribunal shall hear the Prosecutor for Disciplinary Proceedings and the person charged or permit them to file the written briefs of their respective cases, if they so desire. A copy of the written brief, if submitted by the Prosecutor for Disciplinary Proceedings, shall be served on the person charged, before he is required to submit his reply written brief. The Tribunal shall, as far as possible, observe the basic rules of evidence relating to the examination of witnesses and the marking of documents.

(ii) For sufficient reasons to be recorded in writing, the Tribunal shall have power to refuse to call a witness on either side, or to summon, and examine any further witnesses, or to call for, and exhibit any further documents. The proceedings of the Tribunal shall contain a sufficient record of the evidence.

(b) Where the officer concerned has absconded or where it is for other reasons impracticable to communicate with him or where he does not take part in an enquiry, the enquiry shall still proceed.

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

(d) The provisions of the Tamil Nadu Civil Services (Discipline and Appeal) Rules shall apply -

(i) in regard to the procedure to be followed in cases other than those of corruption; and

(ii) in regard to any other matter for which no specific provision has been made in these rules.

8A. The Government may, by order in writing, withdraw any case referred to a Tribunal under these rules and pending before that Tribunal and transfer such cases to another Tribunal for enquiry and the Tribunal to which the case is so transferred may, subject to special directions in the order of transfer, proceed either denovo or from the stage at which the case was so transferred.

8B. Government may, by an order in writing, withdraw at any stage any case referred to a Tribunal under these rules and pending before that Tribunal. After such withdrawal the Government shall pursue further action in respect of State Service Officers and shall entrust the cases of Subordinate Service Officers to the Heads of Departments concerned for further action. The Government, or the Head of Department, as the case may be, may proceed with further action either denovo or from the stage at which the case was so withdrawn from the Tribunal, and pass final orders.

9. After the enquiry has been completed, the Tribunal shall send its findings to the Government to the effect whether the charges against the person charged

are proved or not. Where the charges are proved, the penalty to be imposed on the person charged shall be decided by the Government or the Head of the Department, as the case may be.

9A. On receipt of the findings of the Tribunal the Government may consult the Head of the Department on such findings if such consultation is deemed necessary, before arriving at a provisional conclusion in regard to the penalty to be imposed on the person charged.

10. Notwithstanding anything contained in the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the following procedure shall be adopted in regard to the passing of the final orders in cases enquired into by the Tribunal, namely :-

(a) In cases other than those of the employees of the Municipal Corporations enquired into by the Tribunal, the Government shall be the authority competent to impose a penalty in cases relating to -

(i) Officers of the State Service;

(ii) Officers of the Subordinate Service, whose cases are referred to the Tribunal along with cases relating to Officers of the State Service because the cases are inter-connected or because officers are jointly involved;

(iii) Officers of the Subordinate Service who belong to different departments but are jointly involved, or whose cases are inter-connected; and

(iv) Officers of the Subordinate Service in whose cases, the Government on examination of the report of the Tribunal, decide to disagree with the findings of the Tribunal.

On receipt of the findings of the Tribunal, if the whole or part of the charges are held proved, a copy of the report shall be communicated to the delinquent officer for making further representation, if any, within a reasonable time, not exceeding one month. Any representation received in this behalf within the period shall be taken into consideration before making any order imposing the penalty, provided that such representation shall be based on the evidence adduced during the Tribunal enquiry only;

Provided that in every case where it is necessary to consult the Tamil Nadu Public Service Commission, the Government shall consult the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty:

Provided further that if it is a case submitted to the Government by the Head of the Department for passing final orders with reference to clause (b), and it is found that the Head of Department has taken some action, following the procedure as per rules only upto a certain stage, then it is sufficient if the Government proceed with further action beyond the said stage.

(b) In cases relating to officers of the Subordinate Service enquired into, by the Tribunal, excepting those referred to in sub-clauses (ii), (iii) and (iv) of clause (a), the report of the Tribunal, along with the records shall, on receipt by the Government, be transmitted to the Head of Department concerned for passing final orders. If the Head of Department on consideration of such report proposes to impose any of the penalties referred to in rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the Head of the Department shall follow the entire procedure referred to in clause (a) wherever necessary ;

Provided that if, for sufficient reasons, the Head of Department disagrees with the whole or any part of the findings of the Tribunal, he shall state his reasons for such disagreement and shall submit the case to the Government for passing final orders. Thereupon, the procedure specified in clause (a) shall apply:

Provided further that the Government shall not send the report of the Tribunal relating to officers of the Subordinate Service to the Heads of Department for disposal where Government alone are competent to impose any penalty on them.

(bb) While passing final orders, the Government or the Head of Department, as the case may be, shall also pass orders regarding the manner of disposal of the material objects marked during the enquiry. After the appeal time is over, the officers concerned shall accordingly dispose of material objects.

(c) The authorities competent to impose a penalty in respect of the officers of the Municipal Corporations shall be as indicated below:

Classes of Officers.	Authority competent to impose a penalty.
(i) Corporation of Chennai: Classes I(A), I(B) & II	Government.
<u>Other Municipal Corporations:</u> Classes I & II.	Government.
(ii) Employees of Classes III and IV referred to the Tribunal along with the Officers mentioned under (i) above.	Government.
(iii) Officers holding unclassified posts.	Government.
(iv) Employees of Classes III and IV.	Commissioner of the Municipal Corporation concerned.

When passing final orders, the Government shall follow the procedure prescribed in clause (a) and the Commissioner shall follow the procedure prescribed in clause (b).

11. The advice of the Tribunal shall ordinarily be accepted. However, the Government or the Commissioners of Municipal Corporations may, for sufficient

reasons, reject or deviate from, the advice given by the Tribunal. In cases where the Government or the Commissioners of Municipal Corporations, have rejected or deviated from, the advice of the Tribunal, the reasons for such rejection or deviation, as the case may be, shall be communicated to the Tribunal by the Government or Commissioners of Municipal Corporations.

12. In cases where the acquittal of the officers concerned is proposed on the findings of the Tribunal, the Government or the Head of the Department, as the case may be, shall supply to the officer concerned a copy of the report of the Tribunal along with the final orders passed by them.