



ABSTRACT

Personnel – Tamil Nadu Civil Services (Discipline and Appeal) Rules – Amendments to rules 9(c) (1) (ii), 11,12,13,20(3), 20(4) and Appendix IV – Issued

PERSONNEL AND ADMINISTRATIVE REFORMS (N) DEPARTMENT

G.O. (Ms.) No. 19

Dated: 11.02.2008
Sarvajith, Thai 28,
Thiruvalluvar Andu, 2039

READ THE FOLLOWING:-

1. G.O.Ms.No.1532, Public (Services) Department, dated.7.5.1955.
2. G.O.Ms.No.66, Personnel and Administrative Reforms (Per.N) Department, dated 10.3.94.
3. G.O.Ms.No.29, Personnel and Administrative Reforms (N) Department, dated 29.1.1996.
4. G.O.Ms.No.227, Personnel and Administrative Reforms (N) Department, dated 13.12.2000.
5. G.O.Ms.No.27, Personnel and Administrative Reforms (N) Department, dated.26.3.2003.

ORDER:

The Government are the appointing authority for the various categories of posts included in the State Services unless other appointing authorities have been prescribed in Special Rules or Adhoc Rules. Over the years, due to increase in volume of work in the Secretariat Departments, for a large number of lower categories of posts included in the State Services, the Heads of Departments or other lower authorities have been prescribed as appointing authorities in the Special Rules or Adhoc Rules. Correspondingly, the powers to impose penalties and suspension have not been delegated to the appointing authorities. However, as per rule 12(2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the Heads of departments may impose certain minor penalties and also frame charges under rule 17(b) of the said Rules on all members of State Services other than such members who are immediately below such Heads of Departments and they shall remit the case to Government for final orders. In view of the non- obstante clause contained in rule 12(2) of the said Rules, the provisions of rule 11 and Appendix IV of the said Rules have no effect and becomes redundant. Besides the above, powers to impose suspension under rule 17(e) on certain categories of State Service Officers have been delegated to certain Heads of Departments / lower authorities in rule 13 of the said Rules.

(P.T.O)

2. Certain Departments have been pressing for,-

- (i) delegation of powers to appointing authorities below the Government to impose minor and major penalties on the members of the State Services; and
- (ii) delegation of powers to authorities like District Collectors to frame charges on the members of State Services working directly under them even though they are not competent to impose penalties on them.

3. The Government have examined the matter carefully. Article 311 (1) of the Constitution of India inter-alia provides that no person who is a member of Civil Service of a State or holds a civil post under a State shall be dismissed or removed by an authority subordinate to that by which he was appointed. As such, there is no bar for the appointing authorities to impose minor and major penalties and suspension. Further, the Supreme Court of India in its order dated 1.12.1994 in Civil Appeal Nos. 8561-62 of 1994 have also observed that initiation of inquiry by an authority subordinate to the appointing authority is unobjectionable. Therefore, it is considered to delegate the powers to impose minor and major penalties and also suspension under rule 17 (e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules to the appointing authorities concerned in respect of those members of the State Services for which the Government are not the appointing authority. It is also considered that if delegation of powers are given to the appointing authorities to impose minor and major penalties and suspension under rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules on members of State Services and also all officers directly higher to the delinquent officers to frame charges and conduct the inquiry into them, it may lead to quick disposal of disciplinary cases as they are only in better position to assess the nature of irregularities committed by the delinquent officers. The said delegation of powers may also relieve the Heads of Departments and Government from unnecessary burden of work at their level and this will save time and the Heads of Departments may be entrusted with more responsibilities.

4. The Government have, therefore, decided, -

- (i) to delegate the powers to impose minor and major penalties on all members of the State Services and the powers to suspend them under rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, to the appointing authorities ; and
- (ii) to delegate the powers to frame charges under rule 17(b) or to issue show-cause notice under rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules to all authorities who are immediately above the members of the State Services even though they are not competent to impose penalties on them.

5. Accordingly, the Government pass the following orders:-

- (i) All the appointing authorities for the posts included in the State Services (wherever the Government are not the appointing authority) may impose minor and major penalties on the members of State Services and they may suspend such members under rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. However, where such members of State Services were originally appointed by the Government, they shall remit the papers to Government for passing final orders in the cases of disciplinary proceedings instituted under rule 17(b) of the said Rules, after following all the procedures upto the stage of completion of inquiry to satisfy the

requirement in Article 311 (1) of the Constitution of India. The said appointing authorities are to exercise the above powers subject to the provisions in rule 9 A of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

- (ii) All authorities directly higher to the members holding the posts included in the State Services may frame charges against such members of State Services under rule 17(b) or issue show cause notice under rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, subject to provisions in rule 9 A of the said Rules, even if they are not the competent authority to impose the penalty and they may conduct the inquiry themselves or request the competent authority to appoint an inquiry officer to conduct the inquiry. They shall remit the papers to the competent authority for passing final orders, after the case is processed upto the level of completion of inquiry or after the receipt of explanation to show cause notice, as the case may be.

6. In the light of the orders in paragraph 5 above, the Government have also decided to amend rules 9(c)(1)(ii), 12, 13, 20(3), 20(4) and Appendix IV and to omit rule 11 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

7. The following Notification will be published in the Tamil Nadu Government Gazette:

NOTIFICATION.

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendments to the Tamil Nadu Civil Services (Discipline and Appeal) Rules (in Volume I of the Tamil Nadu Services Manual, 1987).

2. The amendments hereby made shall come into force on the 11th February, 2008.

AMENDMENTS.

In the said Rules,-

(1) in rule 9, in sub-rule (c), in clause (1), in sub-clause (ii), for the expression "rule 11", the expression "rule 12" shall be substituted;

(2) rule 11 shall be omitted;

(3) in rule 12, -

- (i) in sub-rule (1), after the second proviso, the following proviso shall be added, namely:-

"Provided also that the High Court of Judicature at Madras may impose on members of the Tamil Nadu State Judicial Service any of the penalties specified in items (i), (iii), (iv), (v) and (ix) in rule 8.";

- (ii) for sub-rule (2), the following sub-rule shall be substituted, namely:-

"(2) Notwithstanding anything contained in these rules, the appointing authority or any authority administratively higher to the appointing authority may impose the penalties specified in items (i),(iii) to (viii) and (ix) of rule 8 on members of the State Services:

Provided that where the members of the State Services have been appointed by the Government or by any authority administratively higher than the appointing authority, the penalties mentioned in item (iii) in so far as it relates to withholding of promotion and items (iv), (vi), (vii) and (viii) in rule 8 shall be imposed only by the Government or by such higher authority:

Provided further that where the State Government are the appointing authority for members holding the posts included in the State Services, the Heads of Departments concerned may impose any of the penalties specified in item (i) and item (iii) in so far as it relates to withholding of increments and items (v) and (ix) in rule 8 on those members other than such members who are immediately below such Heads of Departments:

Provided also that all authorities directly higher to the members holding the posts included in the State Services may frame charges against such members of the State Services under rule 17(b) or issue show cause notice under rule 17(a) even if they are not the competent authority to impose the penalty and they may conduct the inquiry themselves or request the competent authority to appoint an inquiry officer to conduct the inquiry. They shall remit the papers to the competent authority for passing final orders, after the case is processed upto the level of completion of inquiry or after receipt of explanation to show cause notice, as the case may be:

Provided also that where the appointing authority or the authority administratively higher to the appointing authority have passed orders of suspension under rule 17(e) on the members of the State Services, they may exercise the power to impose the penalty specified in item (ix) in rule 8 on such members.";

(4) in rule 13, after item (9) and the corresponding entry thereto, the following item and entry shall be inserted, namely:-

"(10) Members of State Appointing
Services, where the appointing authority.";
authority is other than State
Government.

(5) in rule 20, for sub-rules (3) and (4), the following sub-rule shall be substituted, namely:-

"(3) Where an authority other than the State Government, by virtue of sub-rule (2) of rule 12, has passed orders imposing a penalty on a member of the State Service, such member shall be entitled to appeal to the Head of Department, if the orders were passed by an authority subordinate to the Head of Department or to the Government, if the orders were passed by the Head of Department.";

(6) for APPENDIX IV and the entries thereto, the following shall be substituted, namely:-

"APPENDIX IV.

(Referred to in rule 12)

Class of Member of the State Services (Lowest category of State Service officers).	The authority which may impose the penalty of		
	Censure	Withholding of increments	Recovery referred to in rule 8 (v)
(1)	(2)	(3)	(4)
AGRICULTURE DEPARTMENT.			
1. (i) Assistant Director of Agriculture.	Concerned Joint Director of Agriculture or Deputy Director of Agriculture, as the case may be.	--	--
(ii) Agricultural officers in the Tamil Nadu Agricultural Extension Service.	Assistant Director of Agriculture in-charge of a Taluk or Deputy Director of Agriculture or Joint Director of Agriculture in-charge of the Region, as the case may be, and Additional Director of Agriculture (Personnel Management) in Head Office.	Assistant Director of Agriculture in-charge of a Taluk or Deputy Director of Agriculture or Joint Director of Agriculture in-charge of the Region, as the case may be, and Additional Director of Agriculture (Personnel Management) in Head Office.	Assistant Director of Agriculture in-charge of a Taluk or Deputy Director of Agriculture or Joint Director of Agriculture in-charge of the Region, as the case may be, and Additional Director of Agriculture (Personnel Management) in Head Office.

AGRICULTURAL ENGINEERING DEPARTMENT.

2. Assistant Executive
Executive Engineer
Engineer (Agricultural
(Agricultural Engineering).
Engineering).

JUDICIAL DEPARTMENT.

3. Deputy Administrator
General and Official
Trustee,
Chennai
- Judges of the High Court.
- Judges of the High Court.
- Judges of the High Court.

(BY ORDER OF THE GOVERNOR)

L. K. TRIPATHY,
CHIEF SECRETARY TO GOVERNMENT.

To

The Works Manager,
Government Central Press, Chennai-79. (For publication of the Notification in the Tamil Nadu Government Gazette) (3 copies)

All Secretaries to Government, Chennai-9

All Departments of Secretariat, Chennai-9

The Registrar, High Court, Chennai-104

All Heads of Departments (Including District Collectors and District Judges)

Personnel and Administrative Reforms, (LI, LII and LIII) Department, Chennai - 9
(5 copies each)

The Secretary,

Tamil Nadu Public Service Commission, Chennai-2

The Tamil Nadu Vigilance Commission, Chennai-9

Law (P & A.R /Sty.) Department, Chennai-9

Agriculture Department, Chennai-9.

Home Department, Chennai - 9.

Copy to:

The Secretary to Hon'ble Chief Minister, Chennai-9

The Private Secretary to Chief Secretary to Government, Chennai-9.

The Private Secretary to Special Commissioner & Secretary to Government, Personnel and Administrative Reforms (Trg) Department, Chennai-9.

The Private Secretary to Special Commissioner & Secretary to Government, Personnel and Administrative Reforms Department, Chennai-9.

All Officers in Personnel and Administrative Reforms Department, Chennai-9

All Sections in Personnel and Administrative Reforms Department, Chennai-9

Personnel and Administrative Reforms (AR-II) Department, Chennai - 9.

S.F/S.C.