

<sup>1</sup>[**THE UTTAR PRADESH SUBORDINATE COURTS STAFF  
(PUNISHMENT AND APPEALS) RULES, 1976**]

**1. Short title and commencement** – (1) These rules may be called the Uttar Pradesh Subordinate Courts Staff (Punishment and Appeals) Rules, 1976.

(2) These rules shall come into force at once.

**NOTE** – These rules have been framed by the Governor in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, read with Rules, 54 of the Civil Service (Classification Control and Appeal) Rules, to regulate matters relating to punishment and appeals of the staff of the Subordinate Courts under the Administrative Control of Uttarakhand High Court)

**2. Definitions** – In these rules, unless the context otherwise requires –

(a) “High Court” means the High Court of Judicature at Uttarakhand, and

(b) “Subordinate Court” means as Civil or Criminal Court, under the administrative control of the High Court.

**3. Application of these rules** – These rules shall apply to the ministerial and Class IV staff of all the subordinate courts, under the administrative control of the High Court.

**4. Punishments** – (1) The following penalties may, for reasons to be recorded in writing, be imposed by a District Judge on the ministerial or Class IV employees of the Subordinate Courts of the judgship:

(a) censure;

(b) fine of an amount not exceeding one months’ pay;

(c) stoppage at an efficiency bar;

(d) withholding of increments;

(e) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders;

(f) reduction to a lower post, time scale or grade, or to a lower stage in a time scale or graded scale;

(g) removal from the service of the State which does not disqualify for future employment; and

(h) dismissal from service of the State which ordinarily disqualifies for future employment;

Provided that the penalty specified in clause (a) or clause (b) may be imposed also by the Presiding Officer of a subordinate court on a member of the Staff attached to his Court;

Provided also that the penalty specified in clause (b) shall not be imposed on any person other than a Class IV employee.

**5. Procedure in respect of major punishments** – (1) Without prejudice to the provisions of the Public Servants Inquiries Act, 1850, no order (other than an order based on facts which had led to his conviction in a criminal court or by a

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court marital) of dismissal, removal or reduction in rank (which includes reduction to lower post or time-scale, or to a lower stage in a time-scale but excludes the reversion to a lower post of a person who is officiating in a higher post) shall be passed on any person unless he had been informed in writing of the grounds on which it is proposed to take action and had 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. The charge or charges shall be so clear and definite as to give sufficient indication to the charged Government servant of the allegations against him. 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, or if the authority concerned so directs an oral inquiry shall be held in respect of such of the allegation as are not admitted. As that inquiry such oral evidence will be heard as the inquiring officer considers necessary. **The person charged shall be entitled to cross-examine the witnesses to give evidence in person and to have such witnesses called as he may wish, provided that the officer conducting the inquiry may for sufficient reasons to be recorded in writing, refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the grounds thereof.** The officer conducting the inquiry may also separately from these proceedings, make his own recommendations regarding the punishments to be imposed on the Government servant charged.

**Explanation I** – The procedure laid down in this sub-rule shall not apply where the person concerned has absconded, or where it is, for any other reason to be recorded in writing, impracticable to communicate with him. All or any of the provisions of this sub-rule may for sufficient reasons to be recorded in writing be waived, where there is difficulty in observing exactly the requirements of this sub-rule and those requirements can in the opinion of the Enquiring officer be waived without injustice to the person charged.

**Explanation II** – This sub-rule shall also not apply where it is proposed to terminate the employment of either a temporary Government servant or of a probationer whether during or at the end of the period of probation. In such cases a simple notice of termination, which in the case of a temporary Government servant, must conform to the conditions of this service, will be sufficient.

- (2) Where the punishing authority itself inquires into any charge or appoint an enquiring officer for holding an inquiry into such charge, the punishing authority, if it considers it necessary to do so, may by an order, appoint a Government servant or a legal practitioner, to be known a “Presenting Officer” to present on its behalf the case in support of the charge.
- (3) The Government servant may take the assistance of any other government servant to present the case on his behalf, but not engage a legal practitioner for the purpose unless the presenting officer appointed by the punishing authority is a legal practitioner or the punishing authority having regard to the circumstance of the case, so permits.
- (4) After the inquiry against a Government servant has been completed and after the punishing authority has arrived at provisional conclusions in regard to the penalty to be imposed, the Government servant charged shall, if the penalty proposed is dismissal, removal or reduction in rank,

be supplied with a copy of the report of the enquiring officer prepared under sub-rule (1) together with the recommendation if any, in regard to punishment, made by the officer conducting the inquiry and be give a notice stating the penalty proposed to be imposed on him an calling upon him to submit a particular date which affords him reasonable time, such representation as he may be to make on the proposed penalty, provided that such representation shall be based on the evidence adduced during the inquiry:

Provided that, if for sufficient reasons, the punishing authority disagrees with any part or whole of the report of the enquiring officer above mentioned, the point or points of such disagreement together with a brief statements in the grounds there of shall also be communicated to the Government servant charged.

**6. Procedure in respect of minor punishments – (1)** In all cases where a punishing authority imposed the penalty of –

- (a) withholding increments in the time scale at stage where there is no efficiency bar, or
- (b) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders,

Formal proceedings embodying the charge or charges, the explanation of the person concerned and the reasons for the punishment shall be recorded.

Provided that it shall not be necessary to record such proceedings in cases where a Government servant's increment in the time-scale of his pay, is stopped due to his integrity remaining uncertified.

- (2) It shall not be necessary to frame formal charges against the Government servant concerned or to call for his explanation where a punishing authority imposed the penalty of –
  - (a) censure,
  - (b) fine, or
  - (c) stopped at an efficiency, bar

**7. Appeals – (1)** A person against whom an order imposing a penalty specified in clause (a) or clause (b) of sub-rule (1) of Rule 4 has been passed by the presiding officer of a subordinate court, other than the Court of District Judge, may file an appeal to the District Judge.

- (2) A person against whom an order:
  - (a) imposing a penalty specified in any of the clauses (a) to (h) of sub-rule (1) of Rule 4 has been passed by a District Judge; or
  - (b) of enhancement of punishment has been made by a District Judge in appeal filed under sub-rule (1) of this rule; may file an appeal to the High Court.
- (3) The period during which an appeal may be filed shall be thirty days in the case of an appeal filed under sub-rule (1), and ninety days in the case of an appeal filed under sub-rule (2). The period of limitation shall count from the date on which the appellant is informed of the order appealed against. The time taken in obtaining the copy of the order appealed against shall be excluded in computing the period of limitation.

- (4) The appellate authority shall consider –
- (a) Whether the facts on which the order was passed have been established,
  - (b) whether the facts established afford sufficient grounds for taking action; and
  - (c) whether the penalty is excessive, adequate or inadequate;
- And after such consideration, the appellate authority shall pass such orders as appear to it just and equitable having regard to all the circumstances of the case.
- (5) Every memorandum of appeal shall contain all material facts, statement and arguments relied upon by the appellant, shall not contain disrespectful or improper language and shall be complete in itself.
- (6) An appeal may be withheld by the District Judge if –
- (a) it is an appeal in a case in which no appeal lies under these rules; or
  - (b) it does not comply with the requirement of these rules; or
  - (c) it is barred by time and no cause explaining the delay is stated in the memorandum of appeal; or
  - (d) it is repetition of the previous appeal and no new facts or circumstances have been stated which afford good ground for a reconsideration of the case:
- Provided that where any cause for delay in filling the appeal is stated in the memorandum of appeal, the District Judge shall not withhold it on the ground that the cause stated is not reasonable.
- (7) Where an appeal is withheld, the appellant shall be informed of the facts and reasons therefor:-
- Provided that an appeal withheld on account of failure to comply with the requirements of these rules may be resubmitted within one month of the date on which the appellant is informed of the withholding of the appeal and is resubmitted in a form, which complies with the requirements of these rules, it shall not be withheld.
- (8) No appeal shall lie against the withholding of an appeal by the District Judge.
- (9) A list of appeal withheld under sub-rule (6) with the reasons for withholding the same be forwarded quarterly to the appellate authority.
- (10) The appellate authority may call for the record of an appeal withheld by a District Judge and may pass such orders thereon as it considers just and proper.
- 8. Repeal** – (1) The U.P. Subordinate Civil Court Official Punishment and Appeal Rules, 1948 are hereby rescinded.
- (2) Notwithstanding such rescission, no person shall be deprived of any right of appeal in respect of any order passed before these rules came into force which he would have had if these rule had not been made.
  - (3) Any appeal pending from before the commencement of these rules or preferred thereafter under sub-rule (2) before the State Government,

shall after such commencement be dealt with and disposed of by the High Court in accordance with these rules, and such appeals pending before, or preferred to, the State Government shall be transferred to the High Court.

- (4) Any appeal pending from before the commencement of these rules or preferred thereafter under sub-rule (2) before the District Judge shall after such commencement be dealt with and disposed of by the District Judge in accordance with these rules.