

Application for gratuity.

Date of application.
 Name of applicant.
 Last appointment.
 Class of gratuity.
 Amount of gratuity sanctioned.
 Date of commencement.
 Date of sanction.

Commissioner.

(G.O. Ms. No. 275, R.D. and L.A., dated 6 February 1965.)

(G.O. Ms. No. 293, R.D. & L.A., dated 22nd February 1969.)

(G.O. Ms. No. 2719, R.D. & L.A., dated 5th December 1973.)

43. RULE RELATING TO THE APPOINTMENT AND QUALIFICATIONS OF VETERINARY SURGEONS :

No person shall be appointed as a veterinary surgeon under a panchayat union council except in consultation with the Director of Animal Husbandry and unless such person has not attained the age of 32 years and possesses the qualifications other than the one relating to age for the time being in force, for appointment to the Madras Animal Husbandry Subordinate Services—Class I—Veterinary Assistant Surgeons.

(G.O. Ms. No. 276, R.D. and L.A., dated 6th February 1965.)

44. MADRAS PANCHAYAT UNION ESTABLISHMENT (APPOINTMENT AND PUNISHMENT) RULES.

1. *Short title*—These rules may be called the Madras Panchayat Union Establishment (Appointment and Punishment) Rules, 1965

2. *Application*.—These rules shall apply to holders of all posts under the Panchayat Union Council (other than Commissioner) whether permanent, officiating or temporary excluding those which are paid from contingencies and whose maximum pay does not exceed fifty rupees

3. *Appointment of Medical Officers, Health Assistants, etc.*— No person shall be appointed (a) to be a Medical Officer in an Ayurvedic, Unani, Siddha or Homeopathic Dispensary or in any other medical institution under the administrative control of a panchayat union council or to be a reserve Medical Officer in the service of a panchayat union council except in consultation with the Director of Medical Services :

Provided that during the period of National Emergency, such appointments may be made in consultation with the District Medical Officer concerned.

(b) to be a Health Assistant under a panchayat union council except in consultation with the District Health Officer ;

(e) to be a pharmacist, Maternity Assistant, Nurse and Nursing orderly (ward attendant) in the medical establishment under a panchayat union council except in consultation with the District Medical Officer ;

(d) to be a Woman Medical Officer, a Health Visitor or a Maternity Assistant for maternity and child welfare work in Health establishment under a panchayat union council except in consultation with the Director of Public Health, provided that temporary appointments for a period not exceeding three months may be made in consultation with the District Health Officer concerned, the Director of Public Health being consulted, if the appointment is continued beyond a period of three months.

V. *Filling up of temporary vacancies from reserve staff.*— Where a panchayat union council maintains a reserve staff of Medical Officers, Nurse, Pharmacists, Maternity Assistants or Health Assistants, persons from such reserve staff, if available, shall be appointed to fill up non-permanent vacancies in the respective categories of appointments.

5. *Retention or reappointment of a person convicted of an offence involving moral turpitude.*— No officer or servant of a panchayat union council who is convicted of an offence involving moral turpitude shall be retained in service and no person so convicted shall be appointed to any post in its service except with the special sanction of the Government.

6. *Pecuniary loss to be made good.*— When an officer or servant of a panchayat union council is found guilty of any negligence, fraud or breach of rules or orders, in consequence of which pecuniary loss has been caused to the panchayat union council, the Commissioner may in addition to any other punishment which may be imposed in respect of such acts, order that the whole or a portion of the loss shall be made good by such officer or servant.

7. *Suspension*.—(1) An officer or servant of a panchayat union council may be placed under suspension from service by the Commissioner for a period not exceeding three months where—

(i) an enquiry into grave charge against him is contemplated, or is pending, or ;

(ii) a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interests :

Provided that in exceptional cases where the enquiry cannot be completed within three months from the date of suspension, the officer or servant may be suspended for a further period not exceeding three months with the previous sanction of the appropriate appellate authority;

Provided further that the sanction of the Government shall be obtained for suspending an officer or servant beyond six months.

(2) An employee who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours shall be deemed to have been suspended under this rule.

(3) During the period of suspension, such officer or servant shall be paid a subsistence allowance at such rates as the Commissioner may direct, subject to the maxima and minima laid down in the Fundamental Rules.

(4) Where a penalty of dismissal, or removal from service imposed upon an officer or servant of a Panchayat Union Council under 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, or removal and shall remain in force until further orders.

(5) Where a penalty of dismissal, or removal from service imposed upon an officer or servant of a panchayat union council 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, decided to hold a further inquiry against him on the allegations on which the penalty of dismissal, or removal was originally imposed, such officer or servant shall be deemed to have been placed under suspension by the Commissioner from the date of the original order of dismissal, or removal and shall continue to remain under suspension until further orders.

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

8. *Suspension or dismissal of teachers in certain cases.*—Where the Training School-Leaving Certificate of a teacher in a panchayat union school is suspended by the Divisional Inspector of Schools or by the Director of Public Instruction, Madras, or is cancelled by the latter, the Commissioner shall suspend such teacher during the period for which his certificate is so suspended or dismiss him as the case may require. The provisions of rule 9 shall not apply to the suspension or dismissal of a teacher under this rule. During the period of suspension under this rule, the teacher shall *not be entitled to any allowance.*

9. *Procedure for imposing penalties.*—(1) In every case where it is proposed to impose on an officer or servant of a Panchayat Union Council, the penalties of censure, fine or with-holding of increment or promotion or recovery of the whole or a portion of any pecuniary loss caused to the panchayat union council by negligence, fraud or breach of rules or orders, he shall be given a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before the order imposing the penalty is passed :

Provided that where it is not practicable to impose the penalty of withholding of increments, recovery may be made from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld.

Explanation.—In the case of stoppage of increment with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld may be recovered :

Provided that the penalty of fine shall be imposed only on a last grade servant of a panchayat union council.

(2) (a) In every case where it is proposed to impose on an officer or servant of a panchayat union council, the penalties of reduction to a lower rank in the seniority list or to a lower post or time-scale- or to a lower stage in a time-scale, suspension not being one under rule 7, removal or dismissal, the grounds on which it is proposed to take action shall be reduced to 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 on 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 an oral enquiry or only to be heard in person. An oral enquiry shall be held if such an enquiry is desired by the person charged or is directed by the authority concerned. At that 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, to give evidence in person and to have such witness called as he may wish, provided that the officer conducting the enquiry may, for special and sufficient reason to be recorded in writing, refuse to call a witness. After the enquiry has been completed, the person charged shall be entitled to put in, if he so desires, any further written statement of his defence. If no enquiry is held and if he had desired to be heard in person, a personal hearing shall be given to him. The proceedings shall contain a sufficient record of the evidence and a statement of the findings and the grounds thereof.

NOTE.—Mention about the quantum of punishment proposed to be imposed on an officer or servant of the panchayat union council shall not be made in the charge memorandum itself.

(b) After the enquiry referred to in clause (a) has been completed, the Commissioner shall record his findings on each charge and decide whether the charges have been proved or not. If it is held that the charges have been proved, then he shall arrive at a provisional conclusion in regard to the penalty to be imposed. The person charged shall thereupon be supplied with a copy of the report of the enquiring authority and be called upon to show cause, within a reasonable time not ordinarily exceeding one month, against the particular penalty proposed to be imposed. Any representation in this behalf submitted by the person charged shall be taken into consideration before final orders are passed, provided that such representation shall be based only on the evidence adduced during the enquiry :

Provided that before imposing any penalty the Commissioner shall consult the Chairman of the Panchayat Union Council and in case of divergence of views between them, the commissioner shall refer the matter to the Divisional Development Officer concerned whose decision shall be final :

Provided further that none of the punishment mentioned in this sub-rule shall be imposed on any member of the technical staff of the

establishment specified in column (1) of the Table below except in consultation with the officer mentioned in the corresponding entry in column (2) thereof :

THE TABLE.

<i>Establishment.</i>	<i>Officer.</i>
(1)	(2)
Medical establishment	District Medical Officer.
Engineering establishment	Divisional Engineer (Highways and Rural Works).
Health establishment	District Health Officer.
Educational establishment	District Educational Officer.
Water Works or Drainage establishment	Sanitary Engineer to Government.

(3) The requirements of sub-rule(1) shall not apply where it is proposed to impose on an officer or servant any of the penalties specified in section 61 of the Madras Panchayats Act, 1958 on the basis of facts which have led to his conviction in a criminal court or by a court-martial or where the officer concerned has absconded or where it is for other reasons to be recorded in writing impracticable to communicate with him.

(4) The provision of sub-rule (2) shall not apply where the Joint Development Commissioner is satisfied that in the interest of the security of the State it is not expedient to follow the procedure prescribed in that sub-rule.

(5) All or any of the provisions of sub-rule (1) or (2) may, in exceptional cases, for special and sufficient reasons to be recorded in writing and with the sanction of the Joint Development Commissioner be waived where there is difficulty in observing exactly the requirements of the sub-rule and those requirements can be waived without injustice to the person charged.

Explanation I.—The discharge—

(a) of a person appointed on probation before the expiry or at the end of the prescribed or extended period of probation, or

(b) of a person engaged under contract, in accordance with the terms of his contract, or

(c) of a person appointed otherwise than under contract to hold a temporary appointment on the expiration of the period of the appointment does not amount to removal or dismissal within the meaning of this rule.

Explanation II.—The discharge or reversion to a lower post of any person officiating in any post if made in accordance with such general or special rules or orders as the Government may issue in that behalf, does not amount to removal or dismissal or to reduction within the meaning of this rule.

Explanation III.—The removal of a person from the service of the Panchayat Union Council shall not disqualify him from future employment unless specifically debarred from future employment either at the time of removal or subsequently. The dismissal of a person from the service of the Panchayat Union Council shall disqualify him from future employment.

10. *Maintenance of records.*—(1) The authority imposing any penalty under these rules shall maintain a record showing,—

(i) the allegations upon which action was taken against the person,

(ii) the charges framed.

(iii) the person's representation, if any and the evidence taken if any; and

(iv) the findings and the grounds thereof, if any.

(2) All orders of punishment shall also state the grounds on which they are based and shall be communicated in writing to the person against whom they are passed.

11. *Appeals.*—(1) (a) Every officer or servant of a Panchayat Union Council shall be entitled to appeal, as hereinafter provided from an order passed by the Commissioner imposing upon him any one or more of the penalties other than the following namely :—

(i) censure ;

(ii) a fine not exceeding five rupees, or a recovery of any sum not exceeding five rupees under rule 6 ,

(iii) suspension pending enquiry under rule 7 , or suspension or dismissal under rule 8.

(b) An appeal shall also lie against all orders of discharge or reversion to a lower post of a person appointed on probation :

Provided that the discharge or reversion of any person shall not be deemed to be an order imposing a penalty within the meaning of this sub-rule and no appeal shall lie in cases falling under Explanations I and II to rule 9 (5).

(2) An appeal under sub-rule (1) shall lie—

(a) in the case of an order passed by the Commissioner in consultation with the Divisional Development Officer as provided for in rule 9 (2) (b) to the District Collector and

(b) in all other cases to the Divisional Development Officer.

(3) The appellate authority shall consider—

(i) whether the facts on which the order was based have been established,

(ii) whether the facts established afford sufficient grounds for taking action and

(iii) whether the penalty is excessive, adequate or inadequate, and after such consideration, shall pass such order as it thinks proper.

(b) Any error or defect in the procedure followed in imposing a penalty may be disregarded by the appellate authority if such authority considers, for reasons to be recorded in writing, that the error or defect was not material and has neither caused injustice to the person concerned nor affected the decision of the case.

12. *Appeal to be preferred separately and in one's own name.*—Every officer or servant of a Panchayat Union Council preferring an appeal shall do so separately and in his own name.

13. *Time-limit for preferring appeal.*—No appeal shall be entertained unless it is preferred within two months from the date on which the appellant received the order appealed against :

Provided that the appellate authority may entertain an appeal after the expiration of such period if it is satisfied that there was reasonable cause for the delay.

14. *Cancellation or modification of punishments.*—The Commissioner shall not cancel or modify any order of punishment, whether passed by himself or by any of his predecessors in office without the previous sanction of the appropriate appellate authority referred to in sub-rule (2) of rule 11.

15. (1) *Procedure for preferring appeals.*—Every appeal shall contain all material statements and arguments relied on by the appellant, shall not contain any disrespectful or improper language and shall be complete in itself. Every such appeal shall be addressed to the authority to whom it is preferred and shall be submitted through the head of the office to which the appellant belong or belonged and through the authority from whose order the appeal is preferred. A copy of the appeal may, however, be sent direct to the appellate authority.

(2) The Commissioner shall place the appeal before the Appointments Committee constituted under section 53 (1) (a) of the Madras Panchayats Act, 1958, obtain the recommendations of the said committee thereon, and forward the same to the appellate authority along with the appeal.

16. *Withholding of appeals.*—An appeal may be withheld, by an authority not lower in rank than the authority from whose order it is preferred if—

(1) it is an appeal in a case in which under these rules no appeal lies, or

(2) it does not comply with the provisions of rule 15 (1); or

(3) it is not preferred within the time-limit prescribed in rule 13 and no reasonable cause is shown for the delay; or

(4) it is a repetition of previous appeal and is made to the same appellate authority, by which such appeal has been decided, and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case; or

(5) it is addressed to an authority to which no appeal lies under these rules;

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and reasons for it:

Provided further that an appeal withheld under clause (2) or clause (5) may be resubmitted at any time within one month of the date on which the appellant has been informed of the withholding of the appeal; and if resubmitted to the appropriate appellate authority in a form which complies with the provision of rule 15, it shall not be withheld.

17. *Appeal against withholding of appeal.*—No appeal shall lie against the withholding of an appeal by a competent authority.

18. *Procedure for forwarding appeals.*—(1) Every appeal which is not withheld under these rules be forwarded to the appellate authority by the authority from whose order the appeal is preferred with an expression of opinion.

(2) A list of appeals withheld under rule 16 with the reasons for withholding them shall be forwarded quarterly by the withholding authority to the appellate authority.

(3) An appellate authority may call for any appeal admissible under these rules, which has been withheld by a subordinate authority and pass such orders thereon as it thinks fit.

19. *Approval or sanction to be accorded in writing.*—(1) Whenever under these rules, the approval or sanction of or consultation with any authority is required, such approval or sanction shall be accorded in writing, and such consultation shall be in writing.

(2) If the advice of the authority required to be consulted is not accepted by the Commissioner, the Commissioner shall record his reasons therefor in writing and communicate a copy of the same to the authority required to be consulted and to the Government.

20. *Reference of corruption cases to Tribunal for Disciplinary Proceedings.*—(1) Notwithstanding anything contained in these rules, the Commissioner may, with the sanction of the State Government, or shall, if so required by the State Government, either in any individual case or in any class of cases, refer to the Tribunal for Disciplinary Proceedings, under intimation to Government in Public (Services) Department cases relating to officers and servants of Panchayat Union Council who are involved jointly with Government servants in cases of corruption in the discharge of their official duties if the cases of such Government servants are referred to the Tribunal.

(2) As soon as the records relating to the allegations or corruption against an officer or servant are received, the Tribunal shall frame appropriate charges, communicate them to the officer or servant concerned together with information as to the date of enquiry into the charges and a list of witnesses likely to be examined in respect of each of the charges. The Tribunal shall, immediately before each witness is examined by the prosecution, furnish the person charged, a copy of any statement taken from the witness which forms the basis on which the Tribunal has framed the charge or charges against him. At the enquiry, oral evidence shall be heard and the person charged shall be entitled to cross examine the witnesses, to give evidence in person and to have such witness called, as he may wish, provided that the Tribunal may, for special and sufficient reasons to be recorded in writing, refuse to call a witness. After the enquiry has been completed, the person charged shall be entitled to put in, if he so desires, a written statement of his defence or argue the case in person or through a pleader. The proceedings shall contain a sufficient record of the evidence and a statement of the findings and the grounds thereof.

(3) After the enquiry has been completed the Tribunal shall send its findings and recommendations to the Commissioner. After the Commissioner has arrived at a provisional conclusion in regard to the penalty to be imposed, the person charged shall be supplied with a copy of the report of the Tribunal (excluding the recommendations if any, in regard to punishment made by it), and he shall be called upon to show cause within a reasonable time, not ordinarily exceeding one month, against the particular penalty to be inflicted, provided that if for sufficient reasons, the Commissioner disagrees with the whole or any part of the Tribunal's findings, the point or points of such disagreement together with a brief statement of the grounds thereof shall also be communicated to him. Any representation in this behalf submitted by the person charged shall be taken into consideration by the Commissioner before final orders are passed.

(4) Where the person 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.

(5) All or any of the provisions of sub-rules (2) and (3) may, in exceptional cases, and for special and sufficient reasons to be recorded in writing, be waived where there is difficulty in observing the requirements of those sub-rules and the requirements can be waived without injustice to the person charged.

(6) The Commissioner shall ordinarily accept the advice of the Tribunal. If the Commissioner considers that the advice of the Tribunal should be rejected or deviated from the reasons for such rejection or deviation shall be submitted to the Government who shall in consultation with the Tribunal pass orders.

21. *Appeal against orders passed under rule 20.*—(1) Against any order of the Commissioner imposing a penalty after following the procedure prescribed in rule 20, an appeal shall lie to the State Government.

(2) The Tribunal for Disciplinary Proceedings shall be consulted before orders are passed on any appeal preferred under sub-rule (1) :

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 no fresh question has thereafter arisen for determination ; or

(ii) where the State Government propose to pass orders rejecting the appeal.

22. *Powers of revision*—Notwithstanding anything contained in these rules, the Collector may call for the records relating to an enquiry into the conduct of any officer or servant of a Panchayat Union Council which has been completed and pass such orders as may deemed fit. An appeal shall lie to the Director of Rural Development against an order passed under this sub-rule by the Collector if the order impose as punishment where the Commissioner has not imposed a punishment, or if the order enhances the punishment imposed by the Commissioner.

(G.O. Ms. No. 277, R.D. and L.A., dated 6th February 1965.)

(G.O. Ms. No. 2719, R.D. and L.A., dated 5th December 1973.)

(G.O. Ms. No. 1528, R.D. and L.A., dated 25th June 1974.)