

SOUTH BENGAL STATE TRANSPORT CORPORATION

Dr. B. C. Roy Avenue; Durgapur – 713201.

O R D E R

=====

29th August. 1987.

The Draft Service Regulations for the Employees of SBSTC since formulated by the Corporation and subsequently ratified by the SBSTC Board has been approved by the Govt. of West Bengal, Transport Department, under G.O. No. 7954-WT/12B-27/84 dtd.18.5.87 and the SBSTC Board in its 65th Meeting held on 12.8.87 decided to give effect mutatis-mutandis to the said Service Regulations for the Employees of the Corporation with effect from 12th AUGUST. 1987.

It is hereby ordered that the Service Regulations for the Employees of SBSTC as decided by the Board be enforced on and from 12.8.'87 and the Employees of the Corporation will be guided by the said Service Regulations from the said date.

Sd/- P.S.Kathiresan
Managing Director
Durgapur State Transport Corporation

Memo No. : 4480 (12) - SBSTC/1E-186/87-88 Dtd 31.8.87

Copy forwarded for information and necessary action to: -

- | | |
|------------------------|---------------------------------|
| 1. Accounts Sec. | 2. Admn. Section |
| 3. Purchase Sec. | 4. Depot/Traffic |
| 5. Garage Sec. | 6. Labour Officer |
| 7. Cash Section | 8. Medical Unit |
| 9. Security Sec. | 10. Store Sec. |
| 11. SAE –cum-Caretaker | 12. GENERAL NOTICE BOARD/SBSTC. |

All Sectional Heads are hereby requested to please arrange for wide circulation of the same amongst the Employees concerned.

Managing Director
South Bengal State Transport Corporation

SOUTH BENGAL STATE TRANSPORT CORPORATION
DURGAPUR – 713201.

NOTIFICATION

Dated, the1987

In exercise of the power conferred by sub section (1) , read with clause (c) of sub section (2) of sec 45 of the Road Transport Corporations Act. 1950 (64 of 1950), and with the previous sanction of the State Government, the Durgapur State Transport Corporation (here in after referred to as the Corporation) hereby makes the following regulations regulating the conditions of appointment and service and the scales of pay of officers and servants of the Corporation other than the General Manager/Managing Director and the Chief Accounts Officer :-

R E G U L A T I O N S

CHAPTER - I

GENERAL

1. **SHORT TITLE** :

- (1) These regulations may be called the Durgapur State Transport Corporation Employees' Service Regulations.
- (2) They shall come into force at once.

2. **APPLICATION** :

These regulations shall apply to all employees of the Corporation excepting –

- (a) The General Manager/Managing Director ,
- (b) The Chief Accounts Officer ,
- (c) Persons who are in the service of the Government of West Bengal and working under the Corporation on deputation,
- (d) Casual and Badli (Daily Wage) personnel ,
- (e) Apprentices , and
- (f) Persons earning daily wages,

Provided that all or any of these regulations shall apply to persons earning daily wages if it is expressly provided to that effect elsewhere in these regulations.

CONT'D.....P/2

3. **DEFINITIONS :**

In these regulations, unless there is anything repugnant in the subject of context,-

(a) “the Act “means the Road Transport Corporations Act, 1950(64 of 1950)

(b) “apprentice “means a person undergoing training under the Corporation either with or without any stipend of allowance for such training .

(c) “average pay” means in the case of an employee who has been in the service of the Corporation for a period exceeding twelve months, the average monthly pay earned by him during the twelve complete months immediately preceding the month in which the event occurs necessitating the calculation of the average pay.

Provided that in the case of earned leave for a period not exceeding Fifteen days, the average pay shall be the last pay drawn by the employees.

(d) “Corporation” means the **South Bengal State Transport Corporation** established by the State Government under section 3 of the Act.

(e) “employee“ included any person employed by the State Government in connection with the State Transport undertaking and continuing in office as an employee of the Corporation immediately after the establishment there of.

(f) “Holiday” means a day declared as such by the Corporation for employees generally, or for specified employees or class of employees.

(g) “month” means a calendar month.

NOTE: In calculating a period expressed in terms of months and days complete Calendar months irrespective of the number of days in each month should first be Calculated and the odd number of days calculated subsequently.

(h) "overtime wages" means the extra wages payable to an employee, other than a member of the clerical staff, in respect of overtime work at such rates as may be prescribed under any law or sanctioned by the Corporation from time to time.

(i) "disciplinary authority" in relation to the imposition of a penalty on an employee of the SBSTC means the authority competent under these rules to impose on him that penalty.

4. **WORDS AND EXPRESSIONS NOT DEFINED :**

Words and expressions used but not defined in these regulations have the definitions and meanings respectively assigned to them in the

(i) West Bengal Service Rules, Part I and Part II.

(ii) West Bengal Services (Classification, Control and Appeal) Rules, 1971,
and

(iii) West Bengal Services (Duties, Rights and Obligations of the Govt. employees) Rules, 1980, as amended.

5. **COMPUTATION OF AGE :**

(1) For the purpose of the regulation stage of an employee shall be computed from the date of his birth, evidence regarding which shall be produced by the employee on, or within three months from the date of appointment.

(2) When the year of birth of an employee is known but the exact date of his birth is not known, the 1st July of the year of birth shall be treated as his date of birth, and when the year and the month of birth are known but the exact date of his birth is not known, the 16th day of the month of birth shall be treated as his date of birth.

(3) When an employee is required to retire, revert or cease to be on leave, as the case may be, on attaining a specified age the day on which he attains that age shall be reckoned as a non-working day, and he shall retire, revert or cease to be on leave as the case may be, on and from that date.

CHAPTER - II
RECRUITMENT

6. **QUALIFICATIONS FOR RECRUITMENT :**

Qualification for recruitment in respect of all posts shall be laid down by the Corporation with the previous approval of the State Government.

7. **APPOINTING AUTHORITY :**

(1) Appointment to all posts the minimum pay of which is Rs.250/- per month of more shall be made by the General Manager/Managing Director on behalf of the Corporation on the recommendation of the Selection Board to be constituted by the Board.

(2)Appointment to all posts other than those mentioned in sub rule (1) above shall be made by such authority and subject to such conditions as the Corporation may determine.

8. **SELECTION BOARD :**

- (1) There shall be a Selection Board consisting of not less than three and not more than five members including a representative of the State Government One of whom shall be its Chairman. The member of the Selection Board Including the Chairman except the representative of the State Government, shall be selected and appointed by the Corporation from amongst its Board members and if a member of the Selection Board ceases to be a member of the S.B.S.T.C. corporation Board, his membership of the Selection Board shall automatically may cease.
- (2) The Selection Board shall ordinarily be consulted in making appointments to posts of Officers category under the Corporation.
Provided that it shall not be necessary to consult the Selection Board in filling up posts carrying a basic pay not exceeding Rs.50/- per month. Appointment to such posts shall be made in accordance with the procedure as may be prescribed by the Corporation.
- (3) The life of the Selection Board shall be for a period of 3 years.

(4) In the case of recruitment to all posts determined the Corporation as Technical posts, irrespective of the scale of pay the recruitment shall be made On the basis of selection made by the Selection Board with the assistance of One or more experts of the required technical line to be nominated by the Corporation for the said purpose.

(5)The Selection Board may co-opt one or more members to assist it in making selection of candidates for any particular post.

(6) If there is a vacancy among the members of the Selection Board on accounts of death or continued absence of any member or due to any other cause, the Corporation may appoint another member in his place for the expired portion of the term of his office with the previous approval of the state Government.

(7) All questions at a meeting of the Selection Board shall be decided by majority of votes of the members present and voting and in the case of a tie of votes, the Chairman of the Selection Board or in his absence any other person presiding shall have a second or casting vote.

9. **TERM OF OFFICE OF THE NON-OFFICIAL MEMBER OF THE SELECTION BOARD :**

The term of office of a non-official member of the Selection Board shall be such as may be determined by the Corporation.

10. **ADVERTISEMENT OF VACANCIES :**

All vacancies under the Corporation shall be filled up through Employment Exchange and only in cases of non-availability of suitable candidate from the Employment Exchange the vacancies shall be advertised and filled up by direct recruitment :Provided that – (1) the appointing authority may decide that any particular vacancy may be filled up by promotion.

11. **PROMOTION :**

(1) Promotion shall be based seniority-cum-merit but where two candidates are of equal merit , preference shall be given to seniority in service.

(2)In filling up a vacancy in any post by promotion, the claim of all employees of the Corporation, holding the categories of posts which are declared to be feeder posts, shall be considered.

(3) The Corporation shall prescribe the different categories of posts which shall be treated as feeder posts for promotion to a particular class of post and the length of service which shall make an employee eligible for such promotion.

12. AGE OF RECRUITMENT :

(1) Except as otherwise provided in sub - regulations (2) and(3), no person whose age exceeds thirty-five years shall be admitted into the service of the Corporation.

(2) The Corporation may, in special cases, condone an excess in age over the limits laid down in sub-regulations (1).

13. AGE OF SUPERANNUATION:

(1) Except as may be provided in any contract, an employee shall retire from the service of the Corporation with effect from the afternoon of the last day of the month in which he attains the age of fifty-eight years. Provided that an employee whose date of birth is the first day of a month shall retire from service with effect from the afternoon of the last day of the preceding month on attaining the age of fifty eight years.

(2) An employee may, however , be retained in-service beyond the age of Superannuation on such terms as the Corporation may deem proper, if such retention is in the interest of the Corporation. An employee shall not, however, be retained in service beyond the age of sixty years.

14. GENERAL CONDITIONS OF SERVICE :

(1)A person selected for appointment shall be required to undergo medical Examination by a Medical Officer appointed by the Corporation and he shall not be appointed without a certificate of fitness from such Medical Officer.

(2) The standard of physical fitness for different categories of its employees shall be prescribed by the Corporation.

(3) At any time during his/her service an employee may be required by the appointing authority to submit himself/herself for medical examination by a Medical Board to be appointed by the Corporation again and his service may be Terminated if he/she is found to be below the standard of physical fitness required for his work.

- (4) Service in the Corporation shall be non-pensionable however this will not effect family pension scheme as applicable.

Provided that in the case of any Government servant in pensionable service under the State Government placed at the disposal on deputation to the Corporation, the Corporation shall be liable to pay such pension and other contributions as may be determined by the State Government and which may be necessary to secure the employee's lien in his parent department under the State Govt.

15. VERIFICATION OF ANTECEDENTS :

A candidate shall ordinarily be appointed only after verification of his character and antecedents. In exceptional cases and in the interest of the Corporation a candidate may be appointed temporarily pending such verification subject to the condition that if the report of such verification is found unsatisfactory, the appointment shall stand terminated and the decision of the appointing authority in this regard shall be final.

16. PROBATION :

Unless otherwise provided in any individual contract all employees except employees on officiating appointments, shall be on probation for a period not exceeding one year which may be extended up to two years at the discretion of the appointing authority. During the period of probation the service of an employee may be terminated with 48 hours' notice and without assigning any reason.

17. PERMANANCY:

An employee who has successfully completed the period of probation shall be appointed on a permanent basis by the Corporation subject to fulfilment of usual conditions for such permanency.

18. RESIGANATION :

An employee may resign from the service of the Corporation on giving one month's notice. The Corporation may accept the resignation with immediate effect or any other date before expiry of the notice period in special case.

19. TERMINATION OF SERVICE :

The appointing authority may, by order, terminate the service of a Permanent or temporary employee after servicing necessary notice in this regard.

Provided that no order to termination shall be passed against a permanent employee except after an enquiry duly conducted and after the said employee has been informed of the reason for such termination and give a reasonable opportunity of being heard in the matter.

20. PAY, ALLOWANCES, HONORARIUM, ETC. :

(1) The Corporation shall fix scales of pay for its employees, regard being had to the Pay Admissible in comparable services under the State Govt. and the State Transport Corporations of the Government of West Bengal.

(2) The Corporation shall fix dearness allowance, house rent allowance and such other allowances, as it deems necessary at the rates admissible to employees of the State Government.

21. INITIAL PAY :

The initial pay of an employee shall ordinarily be fixed at the minimum of the time scale, but the Corporation may sanction a higher initial pay after having due regard to the age qualifications and experience of the employee.

22. REWARDS, HONORARIUM, ETC. :

The Corporation may sanction reward honorarium and allowances as incentive for good work in consideration of special arduousness or devotion to duty required in special circumstances strictly in accordance with the rules issued by the State Government from time to time.

23. TRAVELLING ALLOWANCES :

Unless otherwise provided by the Corporation, travelling allowance shall be admissible to the employees of the Corporation at the rates and subject to the conditions which are applicable to employees of the State Government of comparable status in terms of pay scale.

24. SPECIAL PROVISIONS :

In respect of matters for which no specific provision has been made in these regulations, the provisions of the West Bengal Service Rules, 1971 as amended from time to time shall apply, in so far as they are not inconsistent with any of the provisions of the Act or the Rules made there under.

25. **CONDUCT AND DISCIPLINE :**

- (1) An employee of the Corporation shall at all times maintain a very high standard of integrity and impartiality and shall not be-have in a manner which is improper or derogatory to the prestige of the Corporation. Riotous or disorder by behaviour during working hours at the establishment or any act subversive of discipline shall be treated as misconduct.
- (2) An employee of the Corporation shall faithfully/regularly perform the duty or the obligation imposed on him under any law or under the authority of the Corporation, or by any order or direction issued by an officer of the Corporation in the interest of the Corporation.
- (3) An employee of the Corporation shall not involve himself in theft, fraud or Dishonesty in connection with the corporation's business or property.
- (4) An employee of the Corporation shall be regular in attendance and shall devote himself to his/her duties with due diligence and care. He/she shall not remain absent or due diligence and care. He/she shall not remain absent or abstain from duty except under proper authority. Habitual absence without leave or absence without leave for more than 10 days and habitual late attendance shall be treated as misconduct.
- (5) An employee of the corporation shall behave in an orderly and peaceful manner and shall not use any abusive and filthy language or create any disturbance inside the corporation premises or while travelling in any vehicle belonging to the Corporation. No employee of the corporation shall disturb the work of another Employee of the corporation.
- (6) consumption of intoxication drink and drugs – An employee shall-
- (i) Strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being.
 - (ii) Not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug.
 - (iii) Refrain himself from consuming any intoxicating drink or drug in a public place.
 - (iv) Not appear in a public place in state of intoxication.

(7) No employee of the corporation shall do anything which may cause financial or material loss to the corporation or damages to its properties. Every employee of the corporation shall take all reasonable steps to prevent any such loss or damage and shall take proper care of any property of the corporation placed in his charge. No employee shall engage himself in gambling, money lending or borrowing within the office premises during working hours for purpose not sanctioned by the management.

(8) prohibition of sexual harassment of working women.

(i) No employee shall indulge in any act of sexual harassment of any women at her work place.

(ii) Every employee who is in-charge of a work place shall take appropriate steps to prevent sexual harassment to any women at such work place.

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or implication) as:-

a) Physical contact and advances;

b) A demand or request for sexual favours.

c) Sexual coloured remarks.

d) Showing pornography

e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

(9) Every corporation employee shall enjoy full democratic right except being a member of any political party.

26. **PRIVATE TRADE OR EMPLOYMENT:**

(1) No employee of the Corporation shall, engage in any trade or business or undertake any employment other than his duties under the Corporation or carry on directly or indirectly any business or undertaking or use his position as an employee of the Corporation to help such business or undertaken.

(2) An employee of the Corporation, May, after taking prior approval of the Corporation, undertake honorary work of a social or charitable nature or work of literary artistic or scientific character, provided that this avocation will not in any way interfere with official duty. Further the Corporation may, in its discretion at any time, forbid him to undertake, or require him to abandon, any such work, if, in its opinion, it is undesirable or likely to occupy so much of his time as may interfere with his official duties.

27. **CANVASSING OF NON-OFFICAL OR OTHER OUTSIDE INFLUENCE** :

No employee of the Corporation shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Corporation.

28. **UNAUTHORISED COMMUNICATION OF INFORMATION** :

No employee of the Corporation shall, except in accordance with any general or special order of the Corporation or in the performance in good faith of the duties assigned to him, communicate directly or indirectly to any outsider or to the press any document or information which has come into his possession in the course of his duties or has been prepared or collected by him whether from the Corporation or otherwise.

29. **CRITICISM ON THE POLICY OR ACTION OF THE CORPORATION** :

No employee of the Corporation shall, in any radio broadcast or in any documents published anonymously or in his own name or in the name or in the name of any other person or in any communication to the press or in any public utterances, make any statement which amounts to adverse criticism of the Corporation.

30. **PARTICIPATION IN ILLEGAL DEMONSTRATION OR ILLEGAL STRIKE** :

No employee of the Corporation shall resort to any form illegal demonstration or illegal strike.

31. **BIGAMOUS MARRIAGES** :

Provision contained in rule 5(4) of the West Bengal Services (Duties, Rights and obligations of the Govt. employees) Rules, 1980, should be followed.

32. **ACCEPTANCE OF EMPLOYMENT DURING LEAVE** :

An employee of the Corporation on leave shall not take any service or accept any employment during the period of his leave.

33. **MOVABLE, IMMOVABLE AND VALUABLE PROPERTY** :

1. No employee whether connected in his official capacity with the disposal of any kind of property, movable or immovable or not connected at a sale of the property of the Corporation shall either himself or through any "benamdar" acquire or attempt to acquire any interest in the property sold or shall permit any member of his family to do so.

[12]

No employee shall, except with the previous knowledge of the appointing authority, Acquire or dispose of any immovable property by lease, mortgage, purchase, sale gift or otherwise, name of any member of his family nor shall he permit any member of his family to do so. Enter into any transaction concerning any movable property exceeding one thousand rupees in values, whether by way of purchase sale or otherwise, nor shall he permit any member of his family to do so.

Provided that, in either case, any such transaction conducted otherwise than through a regular or reputed dealer shall require the previous sanction of the appointing authority. Allow himself or any member of his family to be benamdar for the acquisition of any kind of property, movable or immovable, by some other person.

NOTE: The movable or immovable properties owned by the members of the family which are either acquired by them from out of their own funds or inherited by them will not come under this provisions.

34. GIFTS:

l) Save as otherwise provided in this rule, no employee shall except with the previous sanction of the appointing authority accept either directly or indirectly on his own behalf or on behalf of any other person or permit any member of his family so to accept from any person any gift of more than 200 (two) hundred rupee.

NOTE: Gifts in conformity with religious or social customs shall not be taken in to account.

35. SUSPENSION :

(1) The appointing authority or any authority to which it is subordinate or any authority empowered by the appointing authority in that behalf may place an employee under suspension.

(a) Where a disciplinary proceeding or departmental enquiry against him is contemplated or is pending for gross misconduct.

(b) Where a case against him in respect of any criminal offence is under investigation or trial.

Provided that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

[13]

(2) An employee against whom a proceeding has been commenced on a criminal charge but who is not actually detained in custody (e.g., a person released on bail) may be placed under suspension under clause (b) by an order made by any of the authorities mentioned in that sub-rule. If the criminal charge is related to the official position of the employee or involves any moral turpitude on his part, suspension shall be ordered under this sub-rule, unless there are exceptional reasons for not adopting such a course.

(3) An employee who is detained in custody for a period exceeding 48 hours under any law providing for preventive detention or as a result of a proceeding either on a criminal charge or otherwise, may be suspended, by an order of the appointing authority, with effect from the date of his detention and shall remain under suspension until further orders. An employee who is undergoing a sentence of imprisonment shall also be dealt with in the same manner pending a decision on the disciplinary action to be taken against him.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed on an employee under suspension or (b) a disciplinary proceeding pending against an employee 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 directions, the order of his suspension shall be deemed to have continued in force –

(i) in the case where the penalty of dismissal, Removal or compulsory retirement from service had been imposed, on and from the date of the order imposing such penalty, and

(ii) in the case where the disciplinary proceeding was pending, on and from the date of the order placing the employee under suspension, and in either case, the order of suspension shall remain in force until further orders.

(5) Where a penalty of dismissal, removal or compulsory retirement from service imposed on an employee under suspension or a disciplinary proceeding pending against an employee under suspension is set aside or declared or rendered void in consequence of or by a decision of a court of law and the appointing authority on a consideration of the circumstances of the case decides to hold a further inquiry against the employee on the allegations on which the penalty was originally imposed or the disciplinary proceeding was originally started, the employee shall be deemed to have been placed under suspension by the appointing authority or any other authority empowered by the appointing authority to place the employee under suspension, with effect from the date on which the order imposing the penalty or dismissal, removal or compulsory retirement from service was made or where the disciplinary proceeding was pending, from the date on which the employee was

CONT'D.....P/14

[14]

originally placed under suspension. An order of the suspension made or deemed to have been made under this sub-rule shall continue to be in force until it is modified or revoked by the appointing authority competent to do so. An employee who is placed under suspension or be deemed to be under suspension in the circumstances mentioned in this rule shall, irrespective of the circumstances which lead to or result in the suspension, be entitled to subsistence allowance during the period of suspension, and to pay allowances, on reinstatement, in respect of the period of suspension.

Provided that in a case where an employee of the Corporation is detained in custody under any law providing for preventive detention, the subsistence allowance admissible under this rule shall be reduced by the amount of allowance, if any paid to the detainee under the relevant laws or rules for the time being in force.

36. PENALTIES :

The following penalties may, for good and sufficient reasons and as here in after provided be imposed upon an employee of the corporation namely : -

Minor penalties

- 1) Censure.
- 2) With-holding of promotions.
- 3) Recovery from his pay of the whole or part of any pecuniary loss caused to the Corporation by negligence or breach of orders.
- 4) Reduction to a lower stage in the time scale of pay by one stage for a period not exceeding three years, without cumulative effect;
- 5) Withholding of increment of pay;

Major penalties

- 6) Reduction to a lower stage in the time scale of pay for a specified period with further direction as to whether or not the employee will earn increments during the period of reduction and weather on the expiry of such period the reduction will or will not have the effect of postponing future increment of pay;
- 7) Reduction to a lower time scale of pay, grade or post which shall ordinarily be a bar to promotion of the employee to the time scale of pay, grade or post from which he was reduced, with or without further direction regarding conditions of restoration to the grade or post from which the employee was reduced and his seniority or pay on such restoration to that grade or post;

CONT'D.....P/15

- 8) Compulsory retirement.
- 9) Removal from the service of the corporation which does not disqualify from the employment.
- 10) Dismissal from service of the corporation which shall ordinarily be a disqualification for future employment.

Explanation-I :1) The discharge of a person appointed on probation , during the period of probation; appointed otherwise than under contract to hold a temporary appointment, on the expiration of the period of the appointment. Engaged under contract, in accordance with the terms of his contract.
Does not amount to removal or dismissal within the meaning of this regulation

- Explanation-II :**1) A written warning given without any disciplinary proceedings, admonition or reprimand for offence of occasional and minor nature does not amount to imposition of the penalty of “Censure” and may not go into the confidential character Roll, if maintained.
- 2) Failure on the part of an employee to intimate to his official superiors the facts of his arrest as suppression of material information and will render him liable to disciplinary action on that ground alone, apart from the action that may be called for on the outcome of the police case against him.

37. AUTHORITY TO IMPOSE PENALTIES :

The appointing authority of any particular post or an authority which is not subordinate to such appointing authority may, if so authorised by the Corporation, impose any penalty specified in regulation 36 upon the employees of the Corporation.

Provided that subject to the condition that no employee may be removed or dismissed by an authority subordinate to that by which he was appointed, the corporation may be authorise its officers to impose such penalties as may be specified by the corporation, upon employees subordinate to such punishing authority.

38. PROCEDURE FOR IMPOSING PENALTIES :

- (1) No order imposing any of the penalties specified in the rule shall be passed on an employee of the corporation (other than order based on facts which had led to his conviction, in a criminal court) except after an inquiry held in the manner provided this rule and 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

[16]

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 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 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 disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of any misconduct or misbehaviour, it may appoint an authority to enquire into the truth, where the disciplinary authority appoints an inquiring authority for holding an inquiry into such charge, it may by an order appoint an employee or a legal practitioner to be known as the presenting officer to Present on its behalf the case in support of the articles of charges. At that inquiry oral evidence shall be heard as to such of the allegations as he has not admitted, and the person charged shall be entitled to cross examine the witness to give evidence in person and to have such witnesses called, as he may wish , provided that the officer conducting the enquiry may , for special and sufficient reasons to be recorded in writing refuse to call a witness. On the date fixed for the enquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by , on behalf of the disciplinary authority. The witnesses shall be examined by, or on behalf of disciplinary authority. The witnesses shall be examined by or on behalf of the presenting officer and may be cross examined by or on behalf of the employee. The presenting officer shall be entitled to re-examine the witness on any point, on which they have been cross examined, but not any new matter, without the leave, of the enquiring authority. The enquiring authority may also put such question to the witnesses as it thinks fit. A copy of the statement of defence shall be given to the presenting officer, if any appointed. The evidence on behalf of the employee shall then be produced. The employee may examine himself in his own behalf if he so prefers. The witnesses produced by the employee shall then be examined and shall be liable to cross examination, re-examination and examination by the enquiring authority according to the provisions applicable to witness for the disciplinary authority. The enquiring authority may, after the completion of production of evidence hear the presenting officer, if any appointed and the employee, or permit them to file written briefs of their respective cases, if they so desire.

If the employee, to whom a copy of the article of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provision, the enquiring authority may hold the inquiry ex-parte.

[17]

After the completion of the inquiry a report shall be prepared. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the grounds there of.

Explanation: - if the opinion of the inquiring authority, the proceedings of the inquiry establish any article of charge different from the original articles of charge, it may record its findings on such article of charge .

Provided that the findings on such article of charge shall not be recorded unless the employee has either admitted the facts on which such article of charge is based or has had reasonable opportunity of defending himself against such article of charge.

This regulation shall not apply where the employee concerned has absconded , or where it is for other reasons impracticable to communicate with him. All or any of the provision of this regulation may in exception of cases, for special and sufficient reasons to be recorded in writing be waived, where there is difficulty in observing exactly the requirements of the regulation and those requirements can be waived without injustice to the person concerned.

- 38 (2) No order imposing any penalty specified in regulation 36 shall be passed on any employee of the corporation unless he has been given an adequate opportunity of making any representation that he may desire to make and such representation, if any has been taken into consideration before the order is passed.
- 38 (3) Any act of sexual harassment of women employee is unbecoming and amounts to misconduct. Appropriate disciplinary action should be initiated in such cases against the delinquent employee in accordance with the rules by making a complaint with the appropriate authority. It should be ensure that the victims or witness are not victimised or discriminated against while dealing with complaints of sexual harassment.
- 38 (4) The disciplinary authority shall in all cases for the purpose of enquiry an enquiring authority and forward to it-
- (a) A copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour.
 - (b) A copy of the statement of witness, if any
 - (c) Evidence proving the delivery of the document referred to sub-regulation (2) of the employee.
- (5) The employee shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charge and the statement of imputations of misconduct or misbehaviour as the enquiring authority may, by a notice in writing specify in this behalf or within such further time not exceeding ten days, as the inquiring authority may allow.

[18]

(6) If the employee who has not admitted any of the articles of charge in his written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the employee thereon . The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the employee pleads guilty. The inquiring authority shall, if the employee fails to appear within the specified time or refuses or omits to plead or claims to be tried require the disciplinary authority or his representative to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a later date not exceeding 30 days, after recording an order that the employee may for the purpose of preparing his defence –

(a) Inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-regulation (2).

(b) Submit a list of witnesses to be examined on his behalf.

(c) Give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow asking for the discovery or production of any documents which are in the possession of Corporation but not mentioned in the list mentioned in sub-regulation (2).

(7) The inquiring authority shall, on receipt of the notice for the discovery or production of documents forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the document by such date as may be specified in such requisition. Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

(8) On receipt of the requisition referred to in sub-regulation (7) every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority.

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the Corporation's interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall , on being so informed , communicate the information to the employee and withdraw the requisition made by it for the production or discovery of such documents.

CONT'D.....P/19

[19]

(9) After the completion of the enquiry, a report shall be prepared and it shall contain

- (a) The articles of charge and the statement of imputations of misconduct or misbehaviour.
- (b) The defence of the Corporation employee in respect of each article of charge.
- (c) An assessment of the evidence in respect of each article of charge.
- (d) The finding on each article of charge and the reasons therefor.

(10) The disciplinary authority shall consider the record the enquiry and record its findings on each charge.

(11) If the disciplinary authority having regard to its findings on the charges, is of opinion that any of the penalties specified in regulation 36 should be imposed, it shall pass appropriate orders on the case.

39. APPEALS :

(1) An appeal shall lie from any order passed by an authority, imposing any of the penalties mentioned in regulation 36 to such authority as the corporation may appoint.

(2) No appeal shall lie from any order imposing any of such penalties passed by the Chairman.

(3) The appellate authority shall consider –

- a) Whether the facts on which the order is based have been established.
- b) Whether the facts established afford sufficient ground for taking action, and
- c) Whether the penalty is excessive, adequate or in adequate and shall thereafter pass such order as it thinks proper.

(4) Every appeal preferred under this regulation shall contain all material statements and arguments relied on by the appellant but 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 the appeal is preferred and shall be submitted through the appropriate official channel.

(5) An appeal may be disallowed if :-

- (a) it does not comply with the provisions of this regulations, or
- (b) it is not preferred within Ninety days from the date on which the appelliant was informed of the order appealed against and no reasonable cause is shown for the delay, and

(c) It is a repetition of a 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 affords grounds for a reconsideration of the case.

Provided that an appeal disallowed on the ground mentioned in clause (a) may be re-submitted within one month from the date on which the appeal has been disallowed after removal of the defects.

(6) Except under very special circumstances to the satisfaction and to be accepted by the Corporation no lawyer will be allowed to appear either before the authority who conducts and enquiry or any authority to whom an appeal may be made.

(7) The employee may, however, avail himself of the assistance by any other employee of the Corporation, as co-employee in the enquiry for which no proper permission is required to be taken from the Corporation or any other authority subordinate to the Corporation.

40. **REVIEW AND REVISION** :

Not with standing anything contained in the foregoing provisions, the Corporation may, of its own motion or otherwise , review an order made by itself or revise an order made by an authority subordinate to it and make such order in the case as it deems fit.

Provided that an order enhancing a penalty shall not be passed unless the employee concerned has been given an opportunity of making any representation which he may wish to make against such enhanced penalty.

41. **TERMINATION OF EMPLOYMENT** :

The service of an employee of the Corporation is liable to termination on his conviction of an offence involving moral turpitude or on his becoming insolvent.

===== ***** =====