

INTRODUCTION

Broad Classification of Central Services

1. All India Services
2. Group “A” Services
3. Group “B” Services
4. Group “C” Services
5. Group “D” Services

AP State

1. The State Services
2. The State Subordinate Services

SUSPENSION

A public servant may be placed under suspension

1. When the disciplinary proceedings is contemplated or is pending against him.
2. If the public servant engaged himself in activities prejudicial to the interest of the security of State;
3. Where a case in respect of a criminal offence, is under investigation, inquiry or trial against a public servant.

DEEMED TO HAVE BEEN SUSPENDED

A public servant shall be deemed to have been placed under suspension

1. w.e.f. the date of detention in custody in a criminal charge or otherwise for a period exceeding 48 hours
2. w.e.f. the date of conviction in the event of a term of imprisonment exceeding 48 hours and is not forthwith dismissed, removed or compulsorily retired consequent to such conviction.

3. Distinction between Minor Penalty & Major Penalty

PENALTIES : MINOR & MAJOR

1. CENSURE
2. Withholding promotion for a specified period
3. Recovery of whole or part of pecuniary loss caused by negligence or breach of order
4. Withholding increment without cumulative effect on pension/for a specified period of THREE years
5. Withholding increments for a specified period with further direction on the postponement of future increments. (Central only)
6. Suspension under Rule 8 APCS to the extent necessary (State only)

Major Penalties

1. Reduction to lower stage in scale of pay for a specified period with further direction whether this will or will not postpone future increments
2. Reduction to a lower time scale of pay grade post , service with or without restoration to the grade, with or without loss of seniority
3. Compulsory Retirement
4. Removal from Service
5. Dismissal from Service

Art. 311 Protection

1. No person shall dismissed or removed by an authority subordinate to that by which he was appointed.
2. No person shall be dismissed or removed or reduced in rank except after an inquiry in which (i) public servant is informed of the charge & (ii) the public servant is given a reasonable opportunity of being heard in respect of the charges

Art. 311 Not to Apply

This shall NOT apply

- (1) in case of conviction on a criminal charge
- (2) in case it is reasonably not practicable to hold such inquiry for reasons to be recorded by Competent Authority
- (3) where President or Governor is satisfied that in the interest of security of State it is not expedient to hold such inquiry.

PROCEDURE FOR THE IMPOSITION OF MAJOR PENALTIES

1. Issuance of charge-memo consisting of
 - Anx I : Articles of charges
 - Anx II : Imputation of charges
 - Anx III : List of Documents by which articles of charges will be proved
 - Anx IV : List of Witnesses by whom articles of charges will be proved
2. Statement of Defence.
3. Appointment of Inquiry Officer

4. Preliminary Hearing
5. Regular Hearing
6. Briefs Of Prosecution & Defence
7. Inquiry Report consisting of
 - (i) articles of charges & imputations of charges
 - (ii) defence article-wise
 - (iii) assessment of evidence article-wise
 - (iv) findings on each article & reasons therefor
8. Action Taken Report: Dissent Note, if any
Personal Hearing at ATR, Penalty Order
9. Appeal, (Mandatory) 10. Revision (Optional)

NATURAL JUSTICE & FAIR PLAY

- 1. What is Natural Justice?

None shall be condemned unheard.

One shall not be a judge in his own case.

- 2. What is fair play?

Those whom I guard I don't love.

Those whom I kill I don't hate.

W. B. Yeats, a Nobel laureate.

Unbiased Conduct “without fear or favour”.

CITATIONS

1. Preponderance of Probability
2. Doctrine of Proportionality
3. Challappan v DPO, SR, Palghat.
4. Tulsiram Patel v State of MP
5. Pawan Kumar vs State of Haryana
6. G M Tank v State of Gujarath
7. Capt. M. Phal v Bharath Gold Mines Ltd Kolar