

OFFICE MEMORANDUM

Subject: Central Civil Services (Classification, Control and Appeal) Rules, 1965- Advice of the Union Public Service Commission (UPSC) to be communicated to the delinquent Government servant - Amendment - regarding

The Hon'ble Supreme Court in its judgment on 16.03.2011, while dismissing the Civil Appeal No. 5341 of 2006 in the matter of Union of India & Ors. v/s S. K. Kapoor, had held that it is a settled principle of natural justice that if any material is to be relied upon in departmental proceedings, a copy of the same must be supplied in advance to the charge sheeted employee so that he may have a chance to rebut the same. The Hon'ble Court also observed that there may be a case where the report of the Union Public Service Commission (UPSC) is not relied upon by the disciplinary authority and in that case it is certainly not necessary to supply a copy of the same to the concerned employee. However, if it is relied upon, then a copy of the same must be supplied in advance to the concerned employee, otherwise, there will be violation of the principles of natural justice.

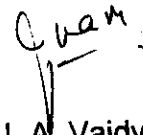
2. The matter was examined in consultation with Department of Legal Affairs and it was decided that in compliance of the above judgement, a copy of the advice of UPSC, if consulted, may be provided to the Charged Officer, before a final decision is taken in disciplinary proceedings. As the UPSC are also consulted in the processes relating to Appeal and Review, it was decided to also extend the benefit of supply of the advice to these cases as well.

3. The rules 15, 16, 17, 19, 27, 29 and 29-A of the Central Civil Service (Classification, Control and Appeal) Rules, 1965, have since been amended vide G.S.R. No. 769(E) dated 31.10.2014. A copy of the Gazette Notification is enclosed. The Notification is also available on the website of this Department at <http://persmin.nic.in/DOPT.asp> under OM & Orders -> Establishment -> CCS (CCA Rules). There is no change in the procedure upto the stage of consultations with UPSC. The amendment provides that a copy of UPSC advice is to be supplied to the Government servant and his representation, if any, on such advice is to be considered by the Disciplinary/ Appellate/ Revisionary/ Reviewing Authority, as the case may be, before passing the final order.

4. In brief, in the disciplinary cases, where the UPSC are to be consulted, the following procedure should be adopted:

- a) The Disciplinary Authority shall forward or cause to be forwarded to UPSC for its advice:

- (i) a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge; and
 - (ii) comments on the representation of the Government servant on the Inquiry report and disagreement note, if any, with all the case records of the inquiry proceedings.
- b) On receipt of the UPSC advice, the Disciplinary Authority shall forward or cause to be forwarded a copy of the advice to the Government servant who shall be required to submit, if he so desires, his written representation/ submission to the Disciplinary Authority within fifteen days. The Disciplinary Authority shall consider such representation and take action as prescribed in sub-rules (4), (5) and (6) of Rule 15 of CCS (CCA) Rules, 1965.
5. Similarly, in matters relating to Appeal/ Revision/ Review, a copy of the UPSC advice, if consulted, may be supplied to the Government servant and his representation, if any, thereon may be considered by the Appellate/ Revisionary/ Reviewing Authority before passing final orders.
6. All Ministries/ Departments/Offices are requested to bring the revised guidelines to the notice of all concerned authorities under their control.
7. Hindi version will follow.


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To

1. The Secretaries of all Ministries/ Departments
2. President's Secretariat, New Delhi.
3. Vice-President's Secretariat, New Delhi.
4. The Prime Minister's Office, New Delhi.
5. Cabinet Secretariat, New Delhi.
6. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi.
7. The Registrar General, the Supreme Court of India, New Delhi.
8. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi.
9. The Comptroller and Auditor General of India, New Delhi.
10. The Secretary, Union Public Service Commission, New Delhi.
11. The Secretary, Staff Selection Commission, New Delhi.
12. The Chief Vigilance Officers of the all Ministries/ Departments
13. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
14. National Commission for Scheduled Castes, New Delhi.
15. National Commission for Scheduled Tribes, New Delhi.
16. National Commission for OBCs, New Delhi.
17. The Secretary, National Council (JCM), 13, Feroze Shah Road, New Delhi.
18. Establishment Officer & A.S.
19. NIC (DOP&T) for placing this Office Memorandum on the Website.



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

अधिसूचना

नई दिल्ली, 31 अक्टूबर, 2014

सा.का.नि. 769(अ).—संविधान के अनुच्छेद 309 के परंतुक एवं अनुच्छेद 148 के खंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारतीय लेखा परीक्षा और लेखा विभाग में कार्यरत व्यक्तियों के संबंध में भारत के नियंत्रक एवं महालेखापरीक्षक के साथ परामर्श करने के पश्चात, राष्ट्रपति, केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) नियमावली, 1965 में और संशोधन करने के लिए एतद्वारा निम्नलिखित नियम बनाते हैं, नामतः—

1. (1) इन नियमों को केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) (द्वितीय संशोधन) नियमावली, 2014 कहा जाएगा।
(2) ये सरकारी राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।
2. केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) नियमावली, 1965 में (इसके बाद इन्हें उक्त नियम कहा जाएगा),-

(क) नियम 15 में, उप-नियम 2क, 3 और 4 के लिए निम्नलिखित उप-नियम प्रतिस्थापित किए जाएंगे, नामतः :-

“(3) (क) अनुशासनिक प्राधिकारी ऐसे प्रत्येक मामले में, जिसमें आयोग से परामर्श करना आवश्यक है, आयोग को उसकी सलाह के लिए भेजेगा अथवा भिजवाएगा:

- 1) आरोप के किसी ब्यौरे पर जांच प्राधिकारी के निष्कर्षों से असहमति, यदि कोई हो, के स्वयं के अनंतिम कारणों सहित जांच प्राधिकारी की रिपोर्ट की एक प्रति; और
- 2) जांच रिपोर्ट पर सरकारी सेवक के अभ्यावेदन पर अनुशासनिक प्राधिकारी की टिप्पणियां और असहमति टिप्पणी, यदि कोई हो, तथा जांच कार्यवाही के सभी केस-रिकार्ड।

(ख) अनुशासनिक प्राधिकारी खंड (क) के अंतर्गत प्राप्त आयोग की सलाह की एक प्रति सरकारी सेवक को भेजेगा अथवा भिजवाएगा, जिससे यह अपेक्षित होगा कि यदि वह चाहे तो आयोग की सलाह पर अपना लिखित अभ्यावेदन अथवा प्रस्तुतीकरण पंद्रह दिनों के भीतर अनुशासनिक प्राधिकारी को प्रस्तुत करें।

टिप्पणी: मूल नियम, भारत के राजपत्र में दिनांक 20 नवंबर, 1965 की अधिसूचना सं. 7/2/63 म्था.(क) के तहत प्रकाशित किए गए थे और निम्नलिखित अधिसूचना संख्याओं के तहत मंशोधित किए गए थे:-

1.	का.आ.1149, दिनांक 13 अप्रैल, 1966 ;
2.	का.आ.1596, दिनांक 04 जून, 1966 ;
3.	का.आ. 2007, दिनांक 09 जुलाई, 1966 ;
4.	का.आ. 2648, दिनांक 02 सितम्बर, 1966 ;
5.	का.आ. 2854, दिनांक 01 अक्टूबर, 1966 ;
6.	का.आ.1282, दिनांक 15 अप्रैल, 1967 ;
7.	का.आ.1457, दिनांक अप्रैल 29, 1967 ;
8.	का.आ. 3253, दिनांक 16 सितम्बर, 1967 ;
9.	का.आ. 3530, दिनांक 07 अक्टूबर, 1967 ;
10.	का.आ. 4151, दिनांक 25 नवम्बर, 1967 ;
11.	का.आ. 321, दिनांक 09 मार्च, 1968 ;
12.	का.आ.1441, दिनांक 27 अप्रैल, 1968 ;
13.	का.आ.1870, दिनांक 01 जून, 1968 ;
14.	का.आ. 3423, दिनांक 28 सितम्बर, 1968 ;
15.	का.आ. 5008, दिनांक 27 दिसम्बर, 1969 ;
16.	का.आ. 397, दिनांक 07 फरवरी, 1970 ;
17.	का.आ. 35217, दिनांक 25 सितम्बर, 1971 ;
18.	का.आ. 249, दिनांक 01 जनवरी, 1972 ;
19.	का.आ. 990, दिनांक 22 अप्रैल, 1972 ;
20.	का.आ. 1600, दिनांक 01 जुलाई, 1972 ;
21.	का.आ. 2789, दिनांक 14 अक्टूबर, 1972 ;
22.	का.आ. 929, दिनांक 31 मार्च, 1972 ;
23.	का.आ. 1648, दिनांक 06 जुलाई, 1974 ;
24.	का.आ. 2742, दिनांक 31 जुलाई, 1976 ;
25.	का.आ. 4664, दिनांक 11 दिसम्बर, 1976 ;
26.	का.आ. 3062, दिनांक 8 अक्टूबर, 1977 ;
27.	का.आ. 3573, दिनांक 26 नवम्बर, 1977 ;
28.	का.आ. 3574, दिनांक 26 नवम्बर, 1977 ;
29.	का.आ. 3671, दिनांक 03 दिसम्बर, 1977 ;
30.	का.आ. 2464, दिनांक 02 सितम्बर, 1978 ;
31.	का.आ. 2465, दिनांक 02 सितम्बर, 1978 ;
32.	का.आ. 920,, दिनांक 17 फरवरी, 1979 ;
33.	का.आ. 1769 दिनांक 05 जुलाई, 1980 ;
34.	का.आ.264, दिनांक 29 जनवरी, 1981 ;
35.	का.आ. 2126, दिनांक 08 अगस्त, 1981 ;
36.	का.आ. 2203, दिनांक 22 अगस्त, 1981 ;
37.	का.आ. 2512, दिनांक 03 अक्टूबर, 1981 ;
38.	का.आ. 168, दिनांक 23 जनवरी, 1982 ;
39.	का.आ. 1535, दिनांक 12 मई, 1984 ;
40.	अधि.सं.11012/15/84(क).म्था-, दिनांक 05 जुलाई, 1985

41.	अधि.सं.11012/05/85म्था.-, (क) दिनांक 29 जुलाई, 1985 ;
42.	अधि.सं.11012/06/85म्था.-,(क) दिनांक अगस्त 06, 1985 ;
43.	का.आ. 5637, दिनांक 21 दिसम्बर, 1985 ;
44.	का.आ. 5743, दिनांक 28 दिसम्बर, 1985 ;
45.	का.आ. 4089, दिनांक 13 दिसम्बर, 1986 ;
46.	अधि.सं.11012/24/85म्था.-,(क) दिनांक 26 नवम्बर, 1986 ;
47.	का.आ. 830, दिनांक 28 मार्च, 1987 ;
48.	का.आ. 831, दिनांक 28 मार्च, 1987 ;
49.	का.आ.1591, दिनांक 27 जून, 1987 ;
50.	का.आ.1825, दिनांक 18 जुलाई, 1987 ;
51.	का.आ. 3060, दिनांक 15 अक्टूबर, 1988 ;
52.	का.आ. 3061, दिनांक 16 अक्टूबर, 1988 ;
53.	का.आ. 2207, दिनांक 16 सितम्बर, 1989 ;
54.	का.आ.1084, दिनांक 28 लअप्रै, 1990 ;
55.	का.आ. 2208, दिनांक 25 अगस्त, 1990 ;
56.	का.आ. 1481, दिनांक 13 जून, 1992 ;
57.	सा.का.नि. 289, दिनांक 20 जून, 1992 ;
58.	सा.का.नि. 589, दिनांक 26 दिसम्बर, 1992 ;
59.	सा.का.नि. 499, दिनांक 08 अक्टूबर, 1994 ;
60.	सा.का.नि. 276, दिनांक 10 जून, 1995 ;
61.	सा.का.नि. 17, दिनांक 20 फरवरी, 1996 ;
62.	सा.का.नि. 125, दिनांक 16 मार्च, 1996 ;
63.	सा.का.नि. 417, दिनांक 05 अक्टूबर, 1996 ;
64.	सा.का.नि. 337, दिनांक 02 सितंबर, 2000 ;
65.	सा.का.नि. 420, दिनांक 28 अक्टूबर, 2000 ;
66.	सा.का.नि. 211, दिनांक 14 अप्रैल, 2001 ;
67.	सा.का.नि. 60, दिनांक 13 फरवरी, 2002 ;
68.	सा.का.नि. 2, दिनांक 03 जनवरी, 2004 ;
69.	सा.का.नि. 113, दिनांक 10 अप्रैल, 2004 ;
70.	सा.का.नि. 225, दिनांक 10 जुलाई, 2004 ;
71.	सा.का.नि. 287, दिनांक 28 अगस्त, 2004 ;
72.	सा.का.नि.1, दिनांक 20 दिसंबर, 2004 ;
73.	सा.का.नि. 49, दिनांक 29 मार्च, 2008 ;
74.	सा.का.नि. 12, दिनांक 07 फरवरी, 2009 ;
75.	का.आ. 946, दिनांक 09 अप्रैल, 2009 ;
76.	का.आ. 1762 (अ), दिनांक 16 जुलाई, 2009 ; और
77.	सा.का.नि. 55 (अ), दिनांक 02 फरवरी, और 2010
78.	का.आ. 2079(अ), दिनांक 01 जनवरी, 2014

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 31st October, 2014

G.S.R. 769(E).— In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965 namely:—

1. (1) These rules may be called the Central Civil Services (Classification, Control and Appeal) (Second Amendment) Rules, 2014.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
 2. In the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as the said rules), —
 - (a) in rule 15, for sub-rules 2A, 3 and 4, the following sub-rules shall be substituted, namely: —
 - “(3) (a) In every case where it is necessary to consult the Commission, the Disciplinary Authority shall forward or cause to be forwarded to the Commission for its advice:
 - (i) a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge; and
 - (ii) comments of Disciplinary Authority on the representation of the Government servant on the Inquiry report and disagreement note, if any and all the case records of the inquiry proceedings.
 - (b) The Disciplinary Authority shall forward or cause to be forwarded a copy of the advice of the Commission received under clause (a) to the Government servant, who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, on the advice of the Commission.
 - (4) The Disciplinary Authority shall consider the representation under sub-rule (2) and/ or clause (b) of sub-rule (3), if any, submitted by the Government servant and record its findings before proceeding further in the matter as specified in sub-rules (5) and (6).
 - (5) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 11 should be imposed on the Government servant, it shall, notwithstanding anything contained in rule 16, make an order imposing such penalty.
 - (6) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in clauses (v) to (ix) of rule 11 should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed.”;
 - (b) in rule 16, —
 - (i) in sub-rule (1),-
 - (A) for the words, brackets and figure “sub-rule (3)”, the words, brackets and figure “sub-rule (5)” shall be substituted ;
 - (B) for clauses (d) and (e), the following clauses shall be substituted; namely: —

“(d) consulting the Commission where such consultation is necessary. The Disciplinary Authority shall forward or cause to be forwarded a copy of the advice of the Commission to the Government servant, who shall be required to submit, if he so desires, his written representation or submission on the advice of the Commission, to the Disciplinary Authority within fifteen days; and

(e) recording a finding on each imputation or misconduct or misbehavior.”
 - (ii) in sub-rule (2) for clauses (vi) and (vii), the following clauses shall be substituted;

“(vi) representation, if any, of the Government servant on the advice of the Commission;

(vii) the findings on each imputation of misconduct or misbehaviour; and

(viii) the orders on the case together with the reasons therefor.”;
- (c) In rule 17, the words “and also a copy of the advice, if any, given by the Commission.” shall be deleted;
- (d) In rule 19, in the second proviso, after the words “where such consultation is necessary”, the words “and the Government servant has been given an opportunity of representing against the advice of the Commission,” shall be added;