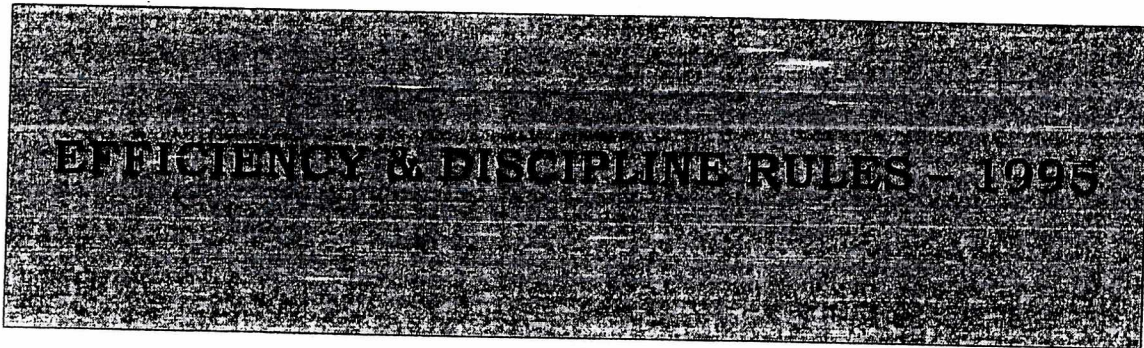


NATIONAL HIGHWAY AUTHORITY



NATIONAL HIGHWAY AUTHORITY
EFFICIENCY AND DISCIPLINE RULES, 1995

S.R.O. 72 (KE)/95 :

In exercise of the power conferred by Sections 14 and 31 of National Highway Authority Act 1991, the Federal Government hereby make following rules, namely "National Highway Authority Efficiency and Discipline Rules 1995."

SHORT TITLE, EXTENT AND APPLICATION:

1. (1) These Rules will be called the National Highway Authority Employees (Efficiency and Discipline) Rules, 1995
- (2) Without prejudice to Section 13 of National Highway Authority Act, 1991 they shall come into force with immediate effect and shall apply to all employees of the National Highway Authority.

DEFINITION:

2. In these rules, unless there is any thing repugnant to the context otherwise, the following definitions shall apply:-

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|--------------------------|--|
| (a) "Accused" | Means NHA employee against whom action is taken under these rules. |
| (b) "Authority" | Means the Authority to impose any penalty under these rules. For the purpose of the rules following shall be the Authority:- |
| For BPS-20 and above | President National Highway Council. |
| For BPS-16 to 19 | Chairman NHA. |
| For BPS-11 to 15 | Member (Admn) |
| For BPS-1 to 10 | GM (Provinces)/Director (Admn) |
| (c) "Authorised Officer" | Means an officer authorised by the authority to perform functions of authorised officer under these rules or if no officer is so authorised, by the authority. |

- (d) "Misconduct" Means conduct prejudicial to good order or service discipline or contrary to conduct rules prescribed in National Highway Authority Service Rules 1995, for the time being in force or unbecoming of an officer and gentleman and includes any act on the part of NHA employee to bring or attempt to bring political or other outside influence directly or indirectly to bear on the NHA or any officer in respect of any matter relating to the appointment, promotion, transfer, punishment retirement or other conditions of service of a NHA employee:
- (e) "Penalty" Means a penalty which may be imposed under these rules.

GROUNDS FOR PENALTY:

3. The Authority may impose one or more penalties where an employee of the NHA, in the opinion of the Authority:
- (a) is inefficient or has ceased to be efficient; or
- (b) is guilty of misconduct;
- (c) is corrupt, or may reasonably be considered corrupt because:
- (i) He is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or
- (ii) He has assumed a style of living beyond his ostensible means; or
- (iii) He has persistent reputation of being corrupt;
- (d) is engaged, or is reasonably suspected of being engaged in subversive activities or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosures of official secrets to any unauthorised person, and his retention in service is therefore, prejudicial to national security or to the good name and working of NHA.

PENALTIES:

4. (1) The following are the minor and major penalties, namely:
- (a) Minor Penalties:
- (i) Censure.
- (ii) withholding, for a specified period promotion or increment(s), otherwise than for unfitness for promotion or financial advancement in accordance with the rules or orders pertaining to the service or post.
- (iii) Recovery from pay of the whole or any part of any pecuniary loss caused to the NHA by negligence or breach of orders.
- (b) Major Penalties:
- (i) Reduction to a lower post or time scale or to a lower stage in a time scale but it will not be lower than initial scale.
- (ii) Compulsory retirement.
- (iii) Removal from service, and
- (iv) Dismissal from service.
- (2) Removal from service does not but dismissal from service does, disqualify for future employment.
- (3) In these rules removal or dismissal from service does not include the discharge of a person:-
- (a) Appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him: or
- (b) Appointed, otherwise than under a contract, to hold a temporary appointment, on the expiry of the period of appointment: or
- (c) Engaged under a contract in accordance with the terms of the contract.

INQUIRY PROCEDURE:

5. The following procedure shall be observed when an employee of NHA is proceeded against under these rules:-
- (a) In case where an employee is accused of subversion, corruption or misconduct, the authorised officer may require him to proceed on

leave or, with the approval of the authority suspend him, provided that any continuation of such leave or suspension shall require approval of the authority after every three months.

- (b) The authorised officer shall decide whether in the light of facts of the case or in the interest of justice, an inquiry should be conducted through an Inquiry Officer or Inquiry Committee. If he so decides, the procedure indicated in Rule 6 shall apply.
- (c) If the authorised officer decides that it is not necessary to have an Inquiry conducted through an Inquiry Officer or Inquiry Committee, he shall:-
- (i) by order in writing inform the accused of the action proposed to be taken in regard to him and the grounds of the action: and
 - (ii) give him a reasonable opportunity of showing cause against that action:
Provided that no such opportunity shall be given where the authority is satisfied that in the interest of the security of Pakistan or any part thereof it is not expedient to give such opportunity.
- (d) On receipt of the report of the Inquiry Officer or Inquiry Committee, or where no such officer or Committee is Appointed, on receipt of the explanation of the accused if any, the authorised officer shall determine whether the charge has been proved. If it so proposed to impose a minor penalty he shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority alongwith the charge and statement of allegations served on the accused, the explanation of the accused, the findings of the Inquiry Officer or Inquiry Committee, if appointed and his own recommendations regarding the penalty to be imposed. The authority shall pass such orders as it may deem proper.

PROCEDURE TO BE OBSERVED BY THE INQUIRY OFFICER AND INQUIRY COMMITTEE.

- 6 Where an Inquiry Officer or Inquiry Committee is appointed, the authorised officer shall:-
- (a) Frame a charge sheet and communicate it to the accused together with a statement of allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration.
 - (b) Require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in a written defence and to state at the same time whether he desires to be heard in person.
 - (c) The Inquiry Officer or the Committee, as the case may be shall enquire into the charges and may examine such oral or documentary evidence in support of the charges or in defence of the accused as may be considered necessary and the accused shall be entitled to cross examine the witnesses against him.
 - (d) The Inquiry Officer or the Committee, as the case may be shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing. However, every adjournment, with reasons therefor shall be reported forthwith to the authorised officer. Normally no adjournment shall be for more than a week.
 - (e) Where Inquiry Officer or the Committee as the case may be is satisfied that the accused is hampering, or attempting to hamper, the progress of the inquiry he or it shall administer a warning and if thereafter he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he or it thinks best suited to do substantial justice.
 - (f) The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorised officer, submit his or its findings and the grounds thereof to the authorised officer.

POWERS OF INQUIRY OFFICER AND INQUIRY COMMITTEE.

7. For the purpose of an inquiry under these rules the Inquiry Officer and Inquiry Committee shall have the powers of:-
- (a) summoning and enforcing the attendance of any person and examining him on oath.
 - (b) requiring the discovery and production of documents;
 - (c) receiving evidence on affidavits;
 - (d) issuing commissions for the examination of witness or documents.

REVISION:

8. The authority may call for the record of any case pending before or disposed off by the authorised officer and pass such orders in relation thereto as it may deem fit.

RULE-5 NOT TO APPLY IN CERTAIN CASES.

9. Nothing in rule-5 shall apply to a case:
- (a) where the accused is dismissed or removed from service or reduced in rank, on the ground of misconduct which has led to a sentence of fine or of imprisonment; or
 - (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

ACTION IN RESPECT OF NHA EMPLOYEE REQUIRED TO PROCEED ON LEAVE.

10. If an employee proceeding on leave in pursuance of an order under sub-rule (a) of rule-5 is not dismissed, removed from service, reduced in rank or compulsorily retired he shall be required to rejoin duty and the period of such leave shall be treated as duty on full pay.

PROCEDURE OF INQUIRY AGAINST OFFICERS LENT TO OTHER ORGANIZATION:

11. (1) Where the services of an employee to whom these rules apply are lent to an organization, in this rule referred to as the borrowing authority, shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules;

Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be,

- (2) If, in the light of the findings in the proceedings taken against the NHA employee in terms of sub-rule (1) the borrowing authority is of opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules.

12. Entitlement to the payment of subsistence grant to an employee under suspension shall be governed by the rules and orders of the Federal Government on the subject.

APPEALS:

13. (1) An employee on whom a penalty is imposed shall have right of appeal within 30 days of the receipt of order:

(a) If the penalty is imposed by the National Highway Council no appeal shall lie except a review petition to the Council.

(b) If the penalty is imposed by an authority other than the NHC to the authority next above the authorised officer.

Provided that the person authorised to hear the appeal shall be higher in rank than the authority imposing the penalty:

- (2) Every person preferring an appeal shall do so separately and in his own name.

- (3) Every appeal preferred under these rules should contain all material, statements and arguments relied on by the appellant, but shall contain no disrespectful or improper language, and shall be complete in itself. Every such appeal shall be submitted through the head of the office to which the applicant belongs or belonged and through the authority from whose order the appeal is preferred.
- (4) An appeal may be withheld by an authority not lower than the authority from whose order it is preferred if :-
- (a) It is an appeal in a case in which under these rules no appeal lies:- or
 - (b) It does not comply with provision of sub-rules 3; or
 - (c) It is not preferred within 30 days after the date on which appellant was informed of the order appealed against and no reasonable cause is shown for the delay:- or
 - (d) It is repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided.
 - (e) 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 the reasons for it; Provided further that an appeal withheld on account of failure to comply with the provisions of sub-rule (4) 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 in form which complies with these provisions, shall not be withheld.
- (5) No appeal shall lie against the withholding of an appeal by a competent authority.
- (6) Every appeal which is not withheld under these rules shall be forwarded to the appellate authority by the authority from whose order the appeal is preferred.
- (7) A list of appeals withheld under sub-rule (4) with reasons for withholding them shall be forwarded quarterly by the withholding authority to the appellate authority.

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

APPEARANCE OF COUNSEL

14. No party to any proceeding under these rules before the authority, the authorised officer, and inquiry officer or any inquiry committee shall be represented by an advocate.

[No. 4(1)/93-Roads. Vol. I]

GHULAM YAZDANI
Joint Secretary.