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PART II

Statutory Notifications containing Rules and Orders issued by all Ministries and Divisions of the Government of Pakistan and their Attached and Subordinate Offices and the Supreme Court of Pakistan

GOVERNMENT OF PAKISTAN

MINISTRY OF PRIVATISATION

[PRIVATISATION COMMISSION]

NOTIFICATIONS

Islamabad, the 3rd December, 2019

S.R.O. 67 (KE)/2020:

In exercise of the powers conferred by regulation 41 of the Privatisation Commission Ordinance, 2000 (LII of 2000), the Privatisation Commission is pleased to make the following Regulations:

1. Short title and commencement.- (1) these regulations may be cited as the Privatisation Commission Employees (Discipline) Regulations 2019.

(2) They shall come into force at once.

2. Definitions.- (1) In these regulations:

- (a) 'accused' means an employee against whom disciplinary action is initiated under the regulations;
- (b) 'appellate authority' means the authority next above the competent authority;
- (c) 'Board' mean the Board of the Commission;
- (d) 'Charge' means written allegations against the accused;

- (e) 'Commission' mean the Privatisation Commission established under section 3 of Privatisation Commission Ordinance, 2000 (LII of 2000);
- (f) 'competent authority' means the appointing authority of an accused;
- (g) 'employee' means an employee of the Commission and includes a consultant;
- (h) 'inquiry committee' means a committee of two or more officers appointed by the competent authority under the regulations;
- (i) 'inquiry officer' means an officer appointed by the competent authority under the regulations; and
- (j) 'misconduct' includes;
 - (i) abuse or misuse of authority;
 - (ii) corruption or inefficiency;
 - (iii) conduct prejudicial to good order or service discipline;
 - (iv) conduct unbecoming of an employee and a gentleman;
 - (v) involvement or participation for gain, directly or indirectly, in a transaction by abuse or misuse of position as employee in the performance of official duties;
 - (vi) unauthorized disclosure of a confidential information;
 - (vii) an act to bring or attempt to bring outside influence on the Chairman, Secretary, a member or competent authority in a matter relating to any condition of service;
 - (viii) absence from duty without leave of absence;
 - (ix) acquittal by a Court as a result of compounding of an offense involving moral turpitude or affecting human body; or
 - (x) conviction and imprisonment for an offense by a Court;

(2) An expression used in the regulations but not define shall mean the same as in the Privatisation Commission Ordinance, 2000 (LII of 2000).

3. Proceedings against an employee.- The competent authority may initiate proceedings against an employee under the regulations if the employee commits misconduct.

4. Penalties.- (1) The competent authority may, by an order in writing, impose one or more of the following penalties on the accused:

- (a) censure;
- (b) withholding of increment or increments, for a specific period, subject to a maximum of five years;

- (c) withholding of promotion for a specific period, subject to a maximum of five years;
- (d) reduction to a lower post and pay scale from the substantive or regular post for a specific period subject to a maximum of five years;
- (e) compulsory retirement;
- (f) removal from service; and
- (g) dismissal from service;

(2) If an employee is dismissed from service of the Commission under the regulations, the employee shall become disqualified for any future employment under the Commission;

5. Initiation of proceedings.- (1) The competent authority may, initiate proceedings against an employee:

- (a) by dispensing with the inquiry, issuing a show cause notice and proceeding under the regulations; or
- (b) appointing an inquiry officer or an inquiry committee to conduct an inquiry into a charge against the accused;

(2) The competent authority may dispense with the inquiry by issuing a show cause notice to the accused and providing the accused an opportunity of hearing where:

- (a) the case can be decided on the basis of documents and no oral statement is required to prove a fact;
- (b) the employee is convicted of an offense and awarded punishment of imprisonment; or
- (c) the employee is or has been absent from duty without written approval of leave for more than a month;

(3) The competent authority shall sign an order of inquiry or the show cause notice:

6. Suspension.- (1) If the disciplinary proceedings are initiated against an employee, the competent authority may place the accused under suspension for a period of ninety days or for a further period of thirty days at a time.

(2) If the competent authority fails to extend the period of suspension, the employee shall stand reinstated in the service.

(3) The competent authority may, at any time, withdraw the order of suspension and reinstate the employee.

(4) The order of suspension shall remain in field till:

- (a) it is withdrawn by the competent authority;
- (b) period of suspension has expired and the competent authority did not extend it; or
- (c) a final order on disciplinary proceedings is passed by the competent authority;

7. Procedure where inquiry is dispensed with.-If the competent authority dispenses the inquiry against the accused, the competent authority shall.

- (a) inform the accused in writing of the grounds for proceeding against the accused clearly specifying the charge and the penalty or penalties proposed to be imposed;
- (b) give the accused an opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether the charge is proved against the accused or not;
- (d) afford an opportunity of personal hearing before passing a final order;
- (e) exonerate the accused if it is determined that the charge is not been proved against the accused; and
- (f) impose one or more penalties mentioned in regulation 4, by an order in writing, if the charge is proved against the accused;

8. Action in case of conviction or plea bargain.-If an employee is convicted by a Court or has entered into plea bargain with any authority in an investigation or prosecution for an offense of corruption, the competent authority shall:

- (a) dismiss, remove or compulsory retire the employee, where the employee is convicted of charges of corruption or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily; or

- (b) proceed against the employee under regulation 7 where the employee has been convicted and imprisoned of charges other than corruption.

9. Procedure for inquiry.-(1) If the competent authority decides to hold an inquiry against the accused, the competent authority shall:

- (a) appointment of an inquiry officer or an inquiry committee;
- (b) specify the charge or charges against the accused and, in case of joint inquiry, apportionment of responsibility amongst the accused;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written reply to the inquiry officer or the inquiry committee within seven days of the date of receipt of the order or within such extended period as the competent authority may determine;

(2) The competent authority shall not appoint the inquiry officer or the convener of inquiry committee unless the officer or convener is senior to the accused and, in case of joint inquiry, to the senior most accused.

(3) The competent authority shall send the record of the case and list of witnesses, if any, to the inquiry officer or the inquiry committee with the order of inquiry.

10. Procedure by inquiry officer or inquiry committee.-(1) On receipt of reply of the accused or on expiry of the stipulated period if no reply is received from the accused, the inquiry officer or the inquiry committee shall inquire into the charge or charges and may examine oral or documentary evidence in support of the charge or in defense of the accused.

(2) If a witness is produced by one party, the inquiry officer or the inquiry committee shall allow the other party to cross examine the witness.

(3) If the accused fails to furnish the reply within the stipulated or extended period or fails to appear in or join inquiry, the inquiry officer or the inquiry committee shall proceed with the inquiry.

(4) The inquiry officer of the inquiry committee shall hear the case from day to day and shall not adjourn the hearing except for reasons to be recorded in writing in which case, it shall not be of more than seven days.

(5) The inquiry officer or the inquiry committee shall, within sixty days of the initiation of inquiry, submit report to the competent authority containing clear findings as to whether the charge or charges have been proved or not and

specific recommendations regarding exoneration or, imposition of penalty or penalties.

(6) If the inquiry cannot be completed within sixty days, the inquiry officer or the inquiry committee shall, for reasons to be recorded in writing, seek extension for specific period from the competent authority.

11. Powers of the inquiry officer or inquiry committee.—For the purpose of an inquiry under these regulations, the inquiry officer and the inquiry committee may exercise the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following:

- (a) summoning and enforcing the attendance of any person and examining him on oath.
- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

12. Duties of the departmental representative.—The departmental representative shall:

- (a) render full assistance to the inquiry officer or the inquiry committee during the proceedings through personal presence on each date of hearing;
- (b) cross-examine the witnesses produced by the accused and with permission of the inquiry officer or inquiry Committee, a hostile witness; and
- (c) rebut the grounds of defense offered by the accused.

13. Order of the competent authority.— (1) On receipt of the report from the inquiry officer or inquiry Committee, the competent authority shall examine the report and the relevant case material.

(2) If the charge or charges have not been proved, the competent authority shall exonerate the accused from the charge or charges.

(3) If the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused.

- (a) informing the accused of the proved charges and the penalty or penalties proposed to be imposed by the inquiry officer or inquiry Committee;

- (b) giving the accused seven days to show cause against the imposition of penalty or penalties;
- (c) indicating the date of personal hearing in case of the accused opts to be heard personally; and
- (d) providing a copy of the inquiry report to the accused;

(4) The competent authority shall direct the departmental representative to appear, with the relevant record, on the date of hearing..

(5) After affording an opportunity of personal hearing to the accused, the competent authority may:

- (a) exonerate the accused; or
- (b) impose one or more of the penalties specified in regulation 4.

(6) If a charge of grave corruption is proved against an accused, the competent authority shall impose the penalty of dismissal.

(7) If a charge of absence from duty for a period of more than one year is proved against the accused, the competent authority shall impose the penalty of compulsory retirement or removal or dismissal from service upon the accused.

(8) If the inquiry proceedings are not conducted according to these regulations or the facts of the case are ignored in the proceedings, the competent authority may, after recording reasons in writing, remand the inquiry to the inquiry officer or the inquiry committee to rectify the deficiency within the time specified by the competent authority.

14. Decision of competent authority.- After affording an opportunity of personal hearing to the accused, the competent authority may briefly include the following in the decision :

- (a) inquiry report;
- (b) defense offered by the accused;
- (c) defense offered by the accused during the personal hearing; and
- (d) views of the departmental representative;

15. Procedure of inquiry against employee on deputation.- If the services of an employee is transferred or lent on deputation to any other organization, the competent authority may, on transfer back or surrender of the employee and report of the borrowing organization.

- (a) suspend the employee; and
- (b) initiate proceedings against the employee under these regulation.

16. Departmental appeal.- (1) If the competent authority imposed a penalty on an accused, the accused may, within twenty days from the date of communication of the order, prefer departmental appeal directly to the appellate authority.

(2) The appellate authority shall call for the record of the case and on consideration of the appeal by an order in writing:

- (a) uphold the order of penalty and reject the appeal;
- (b) *set aside* the order and exonerate the accused;
- (c) modify the order and reduce or enhance the penalty; or
- (d) *set aside* the order of penalty and remand the case to the competent authority;

(3) If the appellate authority proposes to enhance the penalty, the appellate authority shall:

- (a) inform the accused of the action proposed to be taken against the accused and the grounds of such action; and
- (b) give the accused an opportunity to show cause against the action and afford an opportunity of personal hearing;

(4) If the Chairman is the competent authority in a case, the Board shall be appellate authority in such case but, while hearing appeal against the order of the Chairman, the Chairman shall not take part in the proceedings of the Board.

17. Revision.- (1) If the Board is not the appellate authority in any case, the Board may, within ninety days of the order of exoneration or imposition of a penalty passed by the competent authority or the order of appellate authority, call for the record of the case.

(2) On examining the record of the case, the Board may:

- (a) uphold the order of the competent authority or the appellate authority;
- (b) *set aside* the order and direct the competent authority to hold inquiry afresh;
- (c) impose of enhance a penalty or penalties; or

- (d) direct the appellate authority to decide the appeal within the time specified by the Board in case the appeal is pending decision.

(3) The Board shall not pass an order prejudicial to the accused unless the accused is provided an opportunity to show cause against the proposed action and an opportunity of personal hearing.

18. **Appearance of Counsel.**- In the domestic inquiry or proceedings under these regulations, the accused shall not engage an advocate or special attorney.

[No. 7(27)Admn/PC/2018]

SHAHZAD ASIF,
Deputy Secretary (Admin).