CHAPTER VII

PUNISHMENT AND APPEALS

The Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1950 are applicable to all persons in the whole-time civil employ of the Forest Department (other than a person employed only occasionally or subject to discharge at less than one month's notice) except—

(a) persons who are on deputation from the Government of India or from the States; or

(b) persons in respect of whose conditions of service, pay and allowances, pension, discipline and conduct or any of them, special provision has been made by agreement, either entered into before these rules or thereafter; provided that in respect of any matters not covered by the provisions special to them their service of their post these rules shall apply.

(c) persons employed in industrial organisations of Government; or

(d) the Judges of the High Court of Judicature of Rajasthan; or

(e) the officers and servants of the said High Court who will be governed by rules made under clause 2 of article 299 read with article 238 of the Constitution of India; or

(f) the Chairman and Members of the Rajasthan Public Service Commission, who will be governed by regulations made under article 318 of the Constitution of India.

(ii). Nothing in these Rules shall operate to deprive any person of any right or privilege to which he is entitled;

(a) by or under any law, or
(b) by the terms of any contract or agreement subsisting between such persons and Government on the date these Rules came into force.

F U N I S H M E N T

Under Rule 15 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1950, the following penalties may for good and sufficient reasons be imposed upon all persons in the service of the Forest Department to whom the said Rules are applicable:

(i) Censure

(ii) Withholding of increments or promotion including the stoppage at an efficiency bar

(iii) Reduction to a lower post or time scale or to a lower stage in the time scale; or in the case of pension to an amount lower than due under the Rules

(iv) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of law, Rules or Orders

(v) Suspension

(vi) Removal from the civil service which does not disqualify for future employment including compulsory retirement before the age of superannuation; and

(vii) Dismissal from the civil service which ordinarily disqualifies from future employment.

E X P L A N A T I O N 1--

The discharge—

(a) of a person appointed on probation during or at the end of the period of probation on grounds arising out of the specific conditions of probation;

(b) of a person otherwise than under contract to hold a temporary appointment on the expiration of the period of appointment;
(c) of a person engaged under contract, in accordance with the terms of his contract; and

(d) of a person in the services of any of the integrating units of Rajasthan, on non-selection or non-absorption for appointment in any of the services of the integrated State of Rajasthan in accordance with the integration rules.

does not amount to removal or dismissal within the meaning of this Rule.

**Explanation 2—**

The discharge of a person appointed on an ad-hoc or provisional basis to any of the posts in the integrated set-up of the Rajasthan Services otherwise than for reasons of non-selection or non-absorption to any such services or posts in accordance with the integration Rules, shall amount to removal or dismissal as the case may be.

**Explanation 3—**

The non-promotion or reduction to a lower post of a person appointed on an ad-hoc or provisional basis on any of the posts in the integrated set up of the Rajasthan Services shall not be deemed to amount to any of the penalties within the meaning of this Rule.

**Explanation 4—**

Non-promotion to a higher post is not a punishment, but withholding of promotion in pursuance of an order passed as a result of departmental enquiry or for specific reasons is.

**Explanation 5—**

Suspension pending enquiry is not a punishment.

The authorities empowered to impose penalties mentioned in Article above are:

(i) In the case of members of the Superior Forest Service, the Government, provided that before imposing the penalties other than Censure, withholding of increments including stoppage
at efficiency bar and suspension pending an enquiry, the Rajasthan Public Service Commission shall be consulted.

(ii) In the case of Members of the Subordinate Forest Service (including Survey Establishment) the Chief Conservator of Forests or the authority specially empowered by him with the approval of Government.

The following powers are delegated by the Chief Conservator of Forests in regard to the imposing of all or any of the penalties mentioned in Article above on the members of the Subordinate Forest Service (including Survey Establishment):

<table>
<thead>
<tr>
<th>Class of Subordinates</th>
<th>Authority</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rangers</td>
<td>Chief Conservator of Forests</td>
<td>Censure</td>
</tr>
<tr>
<td>Rangers, Deputy</td>
<td>Conservator of Forests</td>
<td>Withholding of increments, all the penalties (i) to (vii) mentioned in Rule 15 of Rajasthan Service (C C A) Rules</td>
</tr>
<tr>
<td>Rangers, Foresters, Overseers, Surveyors and Draftsmen</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Head Guards, Nitatedars, Forest Guards and Amins</td>
<td>Divisional Forest Officer</td>
<td>All the penalties (i) to (vii) mentioned in Rule 15 of Raj. Service (C. C. A.) Rules</td>
</tr>
</tbody>
</table>

Note:—When a subordinate is reduced to a lower class or grade, his name shall, as a rule, be placed at top of the list of officers in that class or grade but should the authority ordering the reduction desire in any special case that the officer degraded be placed in any other position in the lower class or grade, the fact should be stated in the order reducing the officer.

(iii) In the case of Ministerial Service and Class IV Services—the Head of Office, as detailed below:—
<table>
<thead>
<tr>
<th>Offices</th>
<th>Head of Office</th>
<th>Next Higher Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Direction</td>
<td>Chief Conservator of Forests</td>
<td>Chief Conservator of Forests</td>
</tr>
<tr>
<td>Circle Offices</td>
<td>Conservator of Forests</td>
<td>Chief Conservator of Forests</td>
</tr>
<tr>
<td>Divisional Offices</td>
<td>Divisional Forest Officer</td>
<td>Conservator of Forests (of the Circle concerned)</td>
</tr>
<tr>
<td>Sub-Divisional Offices</td>
<td>Sub Divisional Forest Officer</td>
<td>Divisional Forest Officer</td>
</tr>
<tr>
<td>Ranges</td>
<td>Range Officer</td>
<td>Divisional Forest Officer</td>
</tr>
<tr>
<td>Foresters' School</td>
<td>Director</td>
<td>Chief Conservator of Forests</td>
</tr>
</tbody>
</table>

CLASS IV SERVICES

<table>
<thead>
<tr>
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<th>Next Higher Authority</th>
</tr>
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<td>Chief Conservator of Forests</td>
</tr>
<tr>
<td>Divisional Offices</td>
<td>Divisional Forest Officer</td>
<td>Conservator of Forests</td>
</tr>
<tr>
<td>Sub Divisional Offices</td>
<td>Sub Divisional Forest Officer</td>
<td>Divisional Forest Officer</td>
</tr>
<tr>
<td>Ranges</td>
<td>Range Officer</td>
<td>Divisional Forest Officer</td>
</tr>
<tr>
<td>Foresters' School</td>
<td>Instructor</td>
<td>Director</td>
</tr>
</tbody>
</table>
The procedure laid down in Rules 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 must always be strictly followed before any order of removal, dismissal or reduction (other than an order based on facts which have led to his conviction in a Criminal Court) is passed on any person in the service of the Forest Department (Appendix XIII).

Charges need not necessarily be framed in relation only to specific incidents or acts of misconduct. When reports received against an officer or a preliminary enquiry show that his personal behaviour has been such as to be unfitting to his position, or that has failed to reach or maintain a reasonable standard of efficiency, he may and should be charged accordingly, and a finding on such a charge may be a valid ground for the infliction of any authorized departmental punishment, which may be considered suitable in the circumstances of the case. It will still be necessary to communicate the charges of misbehaviour or of inefficiency or both, as the case may be, to the officer concerned, but the statement of allegations to be communicated to the officer in support of the charges need not specify particular acts of misconduct. It will be sufficient in the statement to give the gist of the reports on the basis of which behaviour or inefficiency is alleged.

(2) The officer appointed to hold departmental enquiries into the conduct of Government servants must always prepare a separate statement of allegations, on which each charge against the accused is based, for communication to him. This is a mandatory requirement.

(3) The officer appointed to hold an enquiry must set out in categorical terms, whether the accused was asked if he desired to be heard in person and what his reply was. It is very necessary that this should always be recorded.

(4) Government have under G. O. No. F-40 (637) Rev./1'53 dated 9.3.1954, ordered that formalities under Rule 16 (a) of Classification, Control and Appeal Rules should be strictly adhered to. Quite often the proceedings are drawn up not merely in disregard, but apparently in almost total ignorance of the provisions of the Classification, Control and Appeal Rules with the
result that the proceedings have to be quashed. Apart from the fact that these provisions have been deliberately inserted for the protection of the members of the services, the disregard of them provides an officer, who has been punished, with an almost irresistible case for the reversal on appeal of any order passed against him. When there has been defective procedure the only course open to an Appellate or Revising Authority is to order a fresh enquiry. This entails delay which in terminating departmental proceedings is always prejudicial to good discipline.

Under G.O. No. 14340/ F. 43 (65) Appts. (C)/55 dated 30.12.1955, it has been laid down that in a departmental enquiry held under the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1950 no counsel may be engaged on behalf of the prosecution or allowed to appear on behalf of an accused.

The following sequence will be observed in recording the proceedings:

1. Name, rank, grade of officer proceeded against.
2. A copy of the charge-sheet as communicated to him and his plea.
3. Summary of evidence recorded. Detailed Statements and Documentary Evidence should be attached to the proceedings.
4. Defence. Detailed Statements and written defence should be attached to the proceedings.
5. Character and past record of services of the accused.
6. Findings and orders or recommendations for punishments.

Show-Cause Notice

(1) If it is decided to dismiss, remove or reduce the accused officer, it is mandatory to give him a show-cause notice i.e. a second opportunity to explain his conduct before passing final orders of dismissal, removal or reduction. It should be stated in the show-cause notice that as a result of departmental proceedings the officer has been found guilty and it is proposed to dismiss, remove or reduce him; and that he is called upon to show cause why such order should not be passed on him.
(2) The show-cause notice must be accompanied by a copy of the Enquiry Officer's findings.

(3) After getting the accused officer's explanation final orders may be passed.

(4) The instructions regarding show-cause notice and furnishing the accused with a copy of the findings of the Enquiry Officer are contained in G. O. No. F. 10 (14)G/50 dated 14.3.1950 and No. F. 5(67)GA/A/52 dated 12-6-54 and should be kept in view.

In the case of passing of an order of punishment which is appealable, the authority passing the order shall, within a reasonable time, give a certified copy of the order passed to the person against whom the order is passed.

An appeal shall lie to the next higher authority imposing any of the punishments specified in Rule 15 of Rajasthan Service (Classification, Control and Appeal) Rules. When an appeal lies to the Government under this Rule, the decision shall be taken after consultation with the Rajasthan Public Service Commission.

Note:—Chapter IV of Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1950 deals with the proceedings laid down for the disposal of appeals.

According to Section 6 of the Prevention of Corruption Act (Act No. 2 of 1946):—

(1) No court can take cognisance of an offence punishable under Section 161 or 165 of the Indian Penal Code or under Section 2 or Section 6 of the Prevention of Corruption Act, alleged to have been committed by a public servant, without the sanction of:—

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, or some higher authority Central Government.

(b) in the case of a person who is employed in connection with the affairs of and is not removable from his office
save by or with the sanction of the State Government or some higher authority......State Government.

(c) in the case of any other person, the authority competent to remove him from his office.

(2) Where, for any reason whatsoever, any doubt arises whether the previous sanction as required under sub-section (1) should be given by the Central or State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

Criminal Prosecution of a Forest Subordinate by the Department requires the sanction of the Chief Conservator of Forests.

(2) A prosecution should not be instituted unless the misconduct is such that it cannot adequately be dealt with departmentally.

The Law Department's observations in regard to the Criminal prosecution of Government Servants are:

Sanction to prosecute is a matter of importance which constitutes a condition precedent to the institution of prosecution, and the Government or the authorities concerned have absolute discretion to grant or withhold the sanction. Facts in respect of which sanction is given should either be referred to on face of sanction or it must be proved by extraneous evidence that they were placed before the sanctioning authorities (A. I. R. 1948 PC 8 ). Where the aforesaid requirements are not duly complied with the defect cannot be cured under Section 537 Cr. P. C. as a defect in the jurisdiction of a Court can never be cured.


Whenever a Government official is judicially convicted of any offence, a copy of the decision should be sent to the Head of the Department in which he is employed, in order that such action in the case as may be deemed proper may be taken at once.

Copies of judgments convicting Government officials of criminal offences and also of Judgment of acquittal and orders
of discharge is supplied free of charge on the application of the Head of the Department.

In order to prevent dismissed or undesirable subordinates, who have resigned their appointments or who have been removed, from obtaining employment elsewhere, each Conservator shall maintain and send a list of such persons to all other Conservators by the end of July each year. It is not necessary to repeat annually the names of men who are permanently on the list, but a note of all additions to, and removals from, the list shall be sent by each Conservator to each Divisional Forest Officer. The names of discharged persons and of those who have resigned should be kept on the list for five years, while those of dismissed persons should be kept permanently on the lists. The lists are strictly confidential.

The names and other particulars of persons dismissed/removed from service and debarred for future employment under Government should be furnished by the appointing authority concerned to the Superintendent of Police of the District of which the dismissed/removed person is permanent resident, to the Deputy Inspector General of Police, C. I. D., Jaipur and to the Director Intelligence Bureau, Ministry of Home Affairs, New Delhi. If the dismissed/removed person happens to be resident of another State, the corresponding officers of that State should be informed.

(G. O. No. F. 2 (77) GA/A/52 dated the 21st October 1953).

Memorandum of Instructions Regarding Secrecy of Documents

Subject:—Security arrangements regarding the treatment & safeguarding of 'Top Secret' and 'Secret' information & papers in Govt. Offices.

Under Rule 16 of the Rajasthan Govt. Servant's Conduct Rules, Govt. Servants are prohibited from communicating any information acquired by them in the course of their official duties, to anyone, even including other Govt. Servants without authority. Such unauthorised communication is also an offence under the Indian Official Secret Act. Secrecy of Official documentst
cannot be maintained unless all Govt. employees are fully acquainted with the relevant provisions of the Official Secrets Act and imbibe 'Security-mindedness'. Security in Govt. Offices has two aspects—firstly, physical against trespass by strangers, and secondly, securing against the removal of documents resulting in leakage of secret information.

2. In respect of the first, the Head of Offices must take suitable measures to prevent strangers straying into their Offices and visitors coming on business should be shown a separate place to wait. They should not be allowed inside the Office rooms or to have contact with the employees.

3. The following directions are given in respect of the second aspect of the security arrangements:

(i) **Security Gradings:**

So far as confidential matters are concerned, they can be graded in two degrees of secrecy—(a) 'Top Secret' and (b) 'Secret'. The mark 'Top Secret' will be reserved for papers containing information of such a nature as, for reasons of national security, can be disclosed only to persons whose duty makes it essential that they should have knowledge of it. In addition to military and strategic information such papers will include references to matters of high political policy and to the methods of secret intelligence & cyphers. The mark 'Secret' will be used for papers, other than those marked 'Top Secret', which are of such a nature that their disclosure to persons, other than those whose duty is to have knowledge of them, would cause administrative embarrassment or difficulty without being gravely dangerous to the national interest. In addition to 'Top Secret' and 'Secret' the marking 'Private' and 'Personal' are also used. 'Private' means 'not to be placed on any Official file or referred to in Official correspondence'. Such papers should be kept by the recipient so long as they are required and then destroyed. 'Personal' (on a cover) means not to be opened by any one except the Officer named on the cover and to be returned to the sender if the addressee is not available.

(ii) **Treatment of 'Top Secret' papers:**

'Top Secret' papers must at all times and at all stages remain in the personal custody of the Officer responsible for dealing with them. They must invariably be addressed by name to the Officer
for whom they are transmitting officer. 'Top Secret' papers may on receipt be opened only by the Officer to whom they are addressed or by the Officer who is dealing with his work in his absence. All typing work on such matters must be done in the presence of the Officer concerned; where this is not possible, this may be done by a reliable stenographer in the latter's room. In such a case the main file must be retained by the Officer himself, only such papers being removed from the file and given to the stenographer which are essential for the typing work in hand. Carbon papers used for such typing should be destroyed by burning when no longer required. The Officer concerned or a thoroughly reliable subordinate not below the rank of a Superintendent Head Clerk should personally supervise the 'Top Secret' material being cyclostyled and remove all papers and stencils for destruction by burning. The number of copies must be carefully recorded and indentified by number in distribution or despatch list. Spare copies should be strictly limited and kept in the custody of a Superintendent Head Clerk.

(iii) Treatment of 'Secret' Papers:—

Papers marked 'Secret' should as far as possible, be addressed to an officer by name and be opened by the Officer concerned himself or by his substitute.

(iv) Despatch of 'Secret' and Top Secret papers:—

The dealing assistant or clerk must place 'Top Secret' and Secret papers in a closed and sealed inner cover bearing clearly both the address and the security marking. This inner cover may be placed in an outer cover bearing only the usual official address and the rank of the despatching office. For papers sent by hand only a single cover would suffice but the cover should be carefully sealed and marked with the correct name, address and security marking and sent through an assistant or a clerk. When such papers are sent by messenger, they should be closed in double covers. 'Top Secret' papers when sent by post should invariably be registered and sent 'Acknowledgement Due'. Economy labels must not be used on the inner cover containing 'Top Secret' and 'Secret' papers and the inner covers of 'Secret' papers. For sending all 'Top Secret' papers from the Office to the residence of Officers, 'Top Secret' locked Office boxes (whose key is kept in the personal
custody of the Officer) must be used. Similarly, all 'Top Secret' and 'Secret' papers sent from the room to another within the Office must, unless carried by hand by an Officer, be sent in locked office boxes or in sealed covers. In no case and under no circumstances may such papers be carried loose in the hands of Chaprasis or subordinate Govt. Servant.

(v) Care must also be taken to ensure that 'Secret' and 'Top Secret' papers are not left lying about in Officers' and Office rooms where un-authorised persons might obtain access to them. Whenever any Govt. servant dealing with 'Secret' papers leaves his room for any length of time, should lock his papers in a secret box. Similarly no 'Secret' paper or file must be removed from the Secretariat or Offices, except with the permission of the Officer concerned, by Superintendents, Head Clerks, Assistants or Clerks.

4. In order to ensure strict implementation of the above instructions and at the same time to secure the best possible supervision, it is suggested that each Secretary to Government and Heads of Department etc. should nominate one of their officers as Security Officer of his Department/Office who should see that Security arrangements are working properly. Superintendents/Head Clerks should immediately bring to the notice of their Section/Office who offend against security instructions or are guilty of misconduct of such a nature as to give rise to doubts about their reliability from the security point of view. It is the duty of all Government Servants to bring immediately to the notice of their Superior Officers any breach of security regulations in general and in particularly any disclosure of secret information in which they may obtain knowledge.

(G.A.D. Memorandum No. F. 2(177) G. A/A/52 dated 5. 5. 52)