

VIGILANCE MATTERS

- **The West Bengal Services (Duties, Rights and Obligations of Government Employees) Rules—1980** came into effect from 1st June, 1980 in replacement of the West Bengal Government Servants' Conduct Rules 1959.
- The duties, rights and obligations of the Government employees are enjoined in Rules 3, 4 and 5 respectively.
- Any violation or infringement of these rules shall be deemed to be a good and sufficient reason within the meaning of Rule 8 of WBS (CCA) Rules, 1971 for imposing penalties.
- **The West Bengal Services (Classification Control And Appeal) Rules 1971** govern disciplinary action against State Govt. employees and applies to all State Govt. employees except those mentioned under Rule 2(1).

SOME IMPORTANT FEATURES OF THE WBCCA RULES 1971

- **Rule 7(3):** A Govt. employee detained in custody for more than 48 hours under any law providing for preventive detention or as a result of proceedings either on a criminal charge or otherwise **shall be deemed to have been suspended from the date of such imprisonment.**
- A Govt. employee on suspension is entitled to **subsistence allowance** and to pay and allowance on reinstatement under Rule 71 and 72 of W.B.S.R. pt. I respectively.
- **Rule 8** provides for imposition of penalties (eight different types) commensurate with the gravity of the offence committed. Penalties, imposed shall invariably be recorded in the confidential character Roll/ Service Book.

- **Rule 10 (2):** The disciplinary authority shall draw up or cause to be drawn up—

The substance of the imputations of misconduct or misbehavior into definite and distinct **articles of charge**;

ii. A statement of **imputations of misconduct or misbehavior** in support of each article of charge which shall contain—

(a) Statement of relevant facts including any admission or confession made by the Government servant.

(b) A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

- ▶ **Rule 10(3):** The disciplinary authority shall deliver to the Government servant **a copy of the articles of charge and the statement of imputations of misconduct or misbehavior** and ask him to submit to the inquiring authority within such time as may be specified a **written statement of his defence** and to state whether he desires to be heard in person.

- ▶ **Rule 10(4)** The disciplinary authority shall appoint an **inquiring authority**.
- ▶ **Rule 10 (6):** If the Government servant who has not admitted any of the articles of charge in his written statement of defence appears before the inquiring authority, such authority shall ask him **whether he is guilty or has any defence to make** and if he pleads guilty to any of the articles of charge, the **inquiring authority shall record the plea, sign the record and obtain the signature of the Government servant thereon.**
- ▶ **Rule 10 (9) :**After the completion of the enquiry, a report shall be prepared and it shall contain—
 - (a) The **articles of charge** and the statement or imputations of misconduct or misbehaviour;
 - (b) The **defence of the Government servant** in respect of each article of charge;
 - (c) An **assessment of the evidence** in respect of each article of charge;
 - (d) The **finding on each article of charge** and the reasons therefore.

- **Rule 10 (10) (i)** The disciplinary authority shall **consider the report** of the enquiry and record its finding on each charge.

(ii) The disciplinary authority may for reasons to be recorded in writing, **remit the case to the inquiring authority for further inquiry and report**, and the inquiring authority shall, thereupon, proceed to hold further inquiry, as far as possible, according to the provisions laid down in this rule.
- **Rule 10 (11):** If the disciplinary authority, having regard to its finding on the charges is of opinion that any of the penalties specified in clauses **(i) to (iii) of rule 8 should be imposed, it shall pass appropriate orders on the case.**

- **Rule 10 (12):** If the disciplinary authority, having regard to its finding on the charges is of opinion that any of the penalties specified in clauses (iv) to (viii) of rule 8 should be imposed or where the commission recommends, in any of the cases referred to it under sub-rule (11) one or other of the penalties specified in clause (iv) to (viii) of rule 8 and the disciplinary authority agrees with the views, it shall-

(a) **Furnish to the Government servant a copy of the report of the inquiring authority** and a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority; and

(b) **Give him a notice stating the punishment proposed and the grounds-therefore and calling upon him to submit within a specified time such representation** as he may wish to make on the punishment proposed but only on the basis of the evidence adduced during the inquiry.

- **Rule 10 (13):** In every case in which it is necessary to consult the Commission, **the record of the enquiry** together with a copy of the **notice** given under clause (b) of sub-rule (12) and the **representation made in response to such notice**, if any shall be forwarded by the disciplinary authority to the Commission for its advice.
- **Rule 10(14):** On receipt of the advice of the Commission the disciplinary authority shall consider the representation if any made by the Government servant and the advice given by the Commission and determine what penalty, if any, should be imposed on the Government servant and pass appropriate order on the case.
- **Rule 10 (15): In any case in which it is not necessary to consult the Commission,** the disciplinary authority shall consider the representation, if any, made by the Government servant in response to the notice under clause (b) of sub-rule (12) and determine what penalty if any, should be imposed on the Government servant and **pass appropriate orders on the case.**

- Appeal, if any, should be submitted **within 3 months**—but it may be accepted beyond that date, if the appellate authority is satisfied about the reasons of delay.

There is no bar in initiating second departmental proceedings on different graver charges during dependency of first proceedings.