

**EXPORT INSPECTION AGENCY EMPLOYEES**  
**(Classification, Control and Appeal) Rules, 1978**

MINISTRY OF COMMERCE  
New Delhi, the 7<sup>th</sup> January, 1978

S.O. 43- In exercise of the powers conferred by Section 17 of the Export (Quality Control and Inspection Act, 1963 (22 of 1963) the Central Government hereby makes the following rules namely:

**PART I- GENERAL**

A. Short title and Commencement –

1. (1) These rules may be called the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978.
- (2) They shall come into force on the date of their publication in the official Gazette.

B. Definitions

2. In these rules unless the context otherwise requires:

- (a) “Council” means the Export Inspection Council
- (b) “Agency” means the Export Inspection Agency referred to in under sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963
- (c) “Appointing Authority” in relation to an Agency employee means:
  - (i) The Authority empowered to make appointment to the post which the Agency employee for the time being holds; or
  - (ii) The Authority which appointed the Agency employee to such grade or post as the case may be, whichever authority is the highest authority.
- (d) “Agency employee” means
  - (i) a person who is an employee of the Agency and includes any such person on foreign service or whose services are temporarily placed at the disposal of the Central Government, a local or other authority;
  - (ii) any employee who is in the service of the Central Government, State Government, a local or other authority and whose services are temporarily placed at the disposal the Agency.
- (e) “Group” means any of the groups specified in Rule 5;

- (f) “Head of the Department” for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority means the Director of Inspection and Quality Control;
- (g) “Head of the Office” for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority means the authority declared to be the Head of the Office by the Chairman;
- (h) “Chairman” means the Chairman of the Council;
- (i) “Director” means the Director of Inspection and Quality Control and ex-officio Member-Secretary of the Council;
- (j) “Additional Director” means Additional Director of the Council;
- (k) “Joint Director” means Joint Director of the Council, (or Agency)\*;
- (l) “Deputy Chief Executive” means the Deputy Chief Executive of the Agency;
- (m) “Disciplinary Authority” means the authority competent under these rules to impose on an Agency employee any of the penalties specified in Rule 8;
- (n) Words and expressions used but not defined in these rules and defined in the Central Civil Services (Classification, Control and Appeal) Rules, 1965 as amended from time to time, shall have the meanings respectively assigned to them in those rules.

**C. Application**

- 3. Subject to the provisions of Rule 18, these rules shall apply to every Agency employee.

**D. Interpretation**

- 4. If any doubt arises with regard to the meaning of any of these rules, the matter be referred to the Council which shall decide the same.

**Part – II**

**CLASSIFICATION**

- 5. For the purpose of these rules the Agency employees shall be classified into the following four Groups, namely:

Group A – A post carrying a pay or a scale of pay with a maximum of not less than Rs. 4,000/-.

Group B – A post carrying a pay or a scale of pay with a maximum of not less than Rs. 2,900 but less than Rs. 4,000/-.

Group C – A post carrying a pay or a scale of pay with a maximum of over Rs. 1,150 but less than Rs. 2,900/-.

Group D – A post carrying a pay or a scale of pay with a maximum of which is Rs. 1,150/- or less.

Provided that posts created on or after 1<sup>st</sup> January, 1986 as specific additions to existing cadres shall have the same classification posts in the cadre to which they are added.

**Note:** For the purpose of this order:

- (i) “Pay” means the amount drawn monthly by the Agency employee as the Pay (other than special Pay or pay granted in view of his Personal Qualifications), Overseas Pay, Special Pay and Personal Pay and any other emoluments which may be specially classed as pay by the Central Government from time to time.
- (ii) “Pay or Scale of Pay” of a post means the pay or scale of pay prescribed under the Central Civil Services (Revised Pay) Rules, 1986 as applicable to Agency employees from time to time.

### **Part – III**

### **SUSPENSION**

#### **6. Suspension**

- (1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Chairman or the Director by general or special order, may place an Agency employee under suspension:
  - (a) where a disciplinary proceeding against him is contemplated or is pending; or
  - (b) where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or
  - (c) where a case against him in respect of any criminal offence is under investigation, enquiry or trial.
- (2) An Agency employee shall be deemed to have been placed under suspension by an order of Appointing Authority:
  - (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise for a period exceeding forty-eight hours;

- (b) with effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

**Explanation** – The period of forty-eight hours referred to in Clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

- (3) Where a penalty of dismissal, removal or compulsory retirement from services imposed upon an Agency employee under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.
- (4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an Agency employee is set aside or declared/rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decide to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Agency employee shall be deemed to have been placed under suspension by the Appointing Authority, from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.
- (5)
  - (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so;
  - (b) Where an Agency employee is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceedings is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Agency employee shall continue to be under suspension until the termination of all or any of such proceedings;
  - (c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

**Part – IV**

**CONDUCT**

7. The Agency employee shall be governed by the Central Civil Services (Conduct) Rules, 1964 of the Government of India as amended from time to time.

**Part -V**

**PENALTIES & DISCIPLINARY AUTHORITIES**

8. The following penalties may, for good and sufficient reasons as hereinafter provided, be imposed on an Agency employee, namely:

**Minor Penalties**

- (i) Censure;
- (ii) Withholding of his promotion;
- (iii) recovery from his pay of the whole or part of any pecuniary loss caused by him/her to the Agency by negligence or breach of order;
- (iv) Withholding of increments of pay;

**Major Penalties**

- (v) reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the Agency employee will earn increment of pay during the period of such reduction and whether on the expiry of such period, the reduction will or, will not have the effect of postponing the further increments of his pay;
- (vi) reduction to a lower time scale of pay, grade or post which shall ordinarily be a bar to the promotion of the Agency employee to the time scale of pay, grade or post from which he was reduced, with or without further directions regarding conditions of the restoration to that grade or post from which the Agency employee was reduced and the seniority and pay on such restoration to that grade or post;
- (vii) compulsory retirement;
- (viii) removal from service which shall not be a disqualification for future employment under the Agency; and
- (ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Agency.

Provided that, in every case in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (viii) or clause (ix) shall be imposed:

Provided further that in any exceptional case and for special reasons recorded in writing, any other penalty may be imposed.

**Explanation** – The following shall not amount to a penalty within the meaning of this rule, namely:

- (i) withholding of increments of pay of an Agency employee for failure to pass any departmental examination in accordance with rules or orders governing the post which he holds or the terms of his appointment;
- (ii) stoppage of an Agency employee at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- (iii) non-promotion of an Agency employee whether in a substantive or officiating capacity after consideration of his case to a grade or post for promotion to which he is eligible;
- (iv) reversion to a lower service, grade or post of an Agency employee officiating in a higher grade or post on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct;
- (v) reversion to his permanent service, grade or post of an Agency employee appointed on a probation to another grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation;;
- (vi) compulsory retirement of an Agency employee in accordance with the provisions relating to his superannuation or retirement;
- (vii) termination of the services-
  - (a) of an Agency employee appointed on probation during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation; or
  - (b) of a temporary Agency employee in accordance with the rule 16 of the Export Inspection Agency Service Rules; or
  - (c) of an Agency employee under an agreement in accordance with the terms of such agreement.

- (viii) replacement of the service of the Agency employee whose services had been borrowed from a Central Government, State Government or a local or other authority from which the services of such Agency employee had been borrowed:

**“NOTE-** The Agency or its subordinate authorities described under Rule 9 are competent for imposing penalties within the meaning of Rule 8 on an employee of the Agency in respect of misconduct committed before his employment, if the misconduct was of such a nature as has rational connection with his present employment in the Agency and renders him unfit and unsuitable for continuing service”.

### **DISCIPLINARY AUTHORITIES**

- 9.** (1) The Chairman may impose any of the penalties specified in Rule 8 on an [Agency] employee.
- (2) Without prejudice to the provision of sub-rule (1), any of the penalties specified in Rule 8 may be imposed on the [Agency] employee by the authorities specified in the schedule, annexed hereto.
- 10.** (1) The Chairman or any other authority empowered by him by general or special order may:
- (i) Institute disciplinary proceedings against any Agency employee;
- (ii) Direct a Disciplinary Authority to institute disciplinary proceedings against any Agency employee on whom that Disciplinary authority is competent to impose under these rules any of the penalties specified in Rule 8.
- (2) A disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iv) of Rule 8 may institute disciplinary proceedings against any Agency employee for the imposition of any of the penalties specified in clauses (v) to (ix) of Rule 8 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.

### **Part – VI**

#### **PROCEDURE FOR IMPOSING PENALTIES**

- 11.** (1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 8 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and in the manner hereinafter provided.
- (2) Whenever the disciplinary authority is of opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against Agency employee, it may itself inquire or appoint under this rule [a public servant] to inquire into the truth thereof.

**Explanation:** Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

- (3) Where it is proposed to hold an inquiry against an Agency employee under this rule and in the manner hereinafter provided, the disciplinary authority shall draw up or cause to be drawn up –
  - (i) the substance of the imputations of misconduct or misbehavior into definite and distinct articles of charge;
  - (ii) a statement of the imputations of misconduct or misbehavior in support of each article of charge; which shall contain –
    - (a) a statement of all relevant facts including any admission or confession made by the Agency employee;
    - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.
- (4) The disciplinary authority shall deliver or cause to be delivered to the Agency employee a copy of the articles of charge, the statement of the imputations of misconduct or misbehavior and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Agency employee to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.
- (5)
  - (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under sub-rule (2) an inquiring authority for the purpose, and where all the articles of charges have been admitted by the Agency employee in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner hereinafter provided.
  - (b) If no written statement of defence is submitted by the Agency employee, the disciplinary authority may itself inquire into the articles of charge, or may, if it considers it necessary to do so, appoint under sub-rule (2) an inquiring authority for the purpose.
  - (c) Where the disciplinary authority itself inquire into any articles of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a [public servant] or a legal practitioner, to be known as the” Presenting Officer” to present on its behalf the case in support of articles of charge.



- (6) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority –
- (i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehavior;
  - (ii) a copy of the written statement of defence, if any, submitted by the Agency employee;
  - (iii) a copy of the statement of witnesses, if any referred to in sub-rule (3);
  - (iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Agency employee; and
  - (v) a copy of the order appointing the “Presenting Officer”.
- (7) The Agency employee shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him/her of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by a notice in writing, specify in this behalf, or within such further time not exceeding ten days as the inquiring authority may allow.
- (8) The Agency employee may take the assistance of any Government servant posted in any office either at his headquarters or at the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits;

Provided that the Agency employees may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.

**NOTE:** - The Agency employee shall not take the assistance of a Government servant who has three pending disciplinary cases in hand in which he has to give assistance.

- (9) If the Agency employee who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether 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 signature of the Agency employee thereon.
- (10) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the Agency employee pleads guilty.

- (11) The inquiring authority shall, if the Agency employee fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Agency employee may, for the purpose of preparing his defence:
- (i) Inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3);
  - (ii) Submit a list of witnesses to be examined on his behalf;

**NOTE:** - If the Agency employee applies orally or in writing for the supply of copies of statements of witnesses mentioned in the list referred to in sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

- (iii) Give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow for the discovery or production of any documents which are in the possession of Agency but not mentioned in the list referred to in sub-rule (3).

**NOTE:** - The Agency employee shall indicate the relevance of the documents required by him to be discovered or produced by the Agency.

- (12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward, the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition:

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

- (13) On receipt of the requisition referred to in such-rule (12), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recoded by it in writing that the production of all or any of such documents would be against the Agency's interest or public interest or security of the state, it shall inform the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the Agency employee and withdraw the requisition made by it for the production or discovery of such documents.

- (14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Agency employee. The Presenting Officer shall be entitled to re-examine the witness on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it think fit.
- (15) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Agency employee or may itself call for new evidence or recall and re-examine any witness and in such case the Agency employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Agency employee an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the Agency employee to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interest of justice.

**NOTE:** - New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

- (16) When the case for the disciplinary authority is closed the Agency employee shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Agency employee shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.
- (17) The evidence on behalf of the Agency employee shall then be produced. The agency employee may examine himself in his own behalf if he so prefers. The witnesses produced by the Agency employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.
- (18) The inquiring authority may, after the Agency employee closes his case, and shall, if the Agency employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Agency employee to explain any circumstances appearing in the evidence against him.

- (19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed and the Agency employee, or permit them to file written briefs of their respective case, if they so desire.
- (20) If the Agency employee to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provision of this rule, the inquiring authority may hold the inquiry ex-parte.
- (21)
  - (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iv) of Rule 8 but not competent to impose any of the penalties specified in clauses (v) to (ix) of Rule 8, has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in clauses (v) to (ix) of Rule 8 should be imposed on the Agency employee, that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.
  - (b) The disciplinary authority to which the records are so forwarded may act on the evidence on the records or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, recall the witness and examine, cross-examine and re-examine the witness and may impose on the Agency employee such penalty as it may deem fit in accordance with these rules.
- (22) Whenever any inquiry authority, after having heard and recorded the whole or any part of the evidence in an inquiry, ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding inquiry authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore provided.

- (23)
  - (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain:
    - (a) the articles of charge and the statement of the imputations of misconduct or misbehavior;

- (b) the defence of the Agency employee in respect of each article of charge;
- (c) an assessment of the evidence in respect of each article of charge;
- (d) the findings on each article of charge and the reasons therefor.

**Explanation:** If in the opinion of the inquiry authority the proceedings of the inquiry establish any article of charge different from the original articles of charge, it may record its findings on such article of charge.

Provided that the findings on such article of charge shall not be recorded unless the Agency employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

- (ii) The inquiring authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include:
  - (a) the report prepared by it under clause (i);
  - (b) the written statement of defence, if any, submitted by the Agency employee;
  - (c) the oral and documentary evidence produced in the course of the inquiry;
  - (d) written briefs, if any, filed by the Presenting Officer or the Agency employee or both during the course of the inquiry; and
  - (e) The orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

- 12.**
- (1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 11 as far as may be applicable.
  - (2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

- (3) If the disciplinary authority having regard to its finding 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 8 should be imposed on the Agency employee, it shall, notwithstanding anything contained in Rule 13, make an order imposing such penalty.
- (4) 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 8 should be imposed on the Agency employee, it shall make an order imposing such penalty and it shall not be necessary to give the Agency employee any opportunity of making representation on the penalty proposed to be imposed.

Provided that where an enquiry has been held in accordance with the provisions of Rule 11 for any of the penalties specified in clause (v) to (ix) of Rule 8, the Disciplinary Authority, if it is different from the Inquiring Authority, shall before making any final order of imposing such penalty, forward a copy of the inquiry report to the Agency employee concerned giving him an opportunity of making any representation or submission in writing to the Disciplinary Authority.

- 13.** (1) Subject to the provisions to sub-rule (3) of Rule 12, no order imposing on an Agency employee any of the penalties specified in clauses (i) to (iv) of Rule 8 shall be made except after:
  - (a) informing the Agency employee in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;
  - (b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 11 in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;
  - (c) taking the representation if any, submitted by the Agency employee under clause (a) and the record of inquiry, if any held under clause (b) into consideration; and
  - (d) recording a finding on each imputation of misconduct or misbehaviour.
- (1) (A) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Agency employee under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the employee or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rule (3) to (23)

of Rule 11, before making any order imposing on the Agency employee any such penalty.

- (2) The record of the proceedings in such cases shall include:
- (i) a copy of the intimation to the Agency employee of the proposal to take action against him;
  - (ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;
  - (iii) his representation, if any;
  - (iv) the evidence produced during the inquiry;
  - (v) the findings on each imputation of misconduct or misbehaviour; and
  - (vi) the orders on the case together with the reasons therefor.

**14.** Orders made by the disciplinary authority shall be communicated to the Agency employee who shall also be supplied with a copy of the report of the inquiry, if any, held by the disciplinary authority and a copy of its findings on each article of charge, or where the disciplinary authority, is not the inquiring authority, a copy of the report of the inquiring authority and a statement of the findings of the disciplinary authority together with brief reasons for its disagreement, if any, with the findings of the inquiring authority (unless they have already been supplied to him).

**15.** (1) Where the two or more Agency employees are concerned in any case, any authority competent to impose the penalty of dismissal from service on all such Agency employees may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

**Note:-** if the authority competent to impose the penalty of dismissal on such Agency employees are different, an order for taking disciplinary action in a common proceedings may be made by the highest of such authorities with the consent of the others.

- (2) Any such order shall specify:
- (i) the authority which may function as the disciplinary authority for the purpose of such common proceeding;
  - (ii) the penalties specified in Rule 8 which such disciplinary authority shall be competent to impose;

- (iii) whether the procedure laid down in Rule 11 and Rule 12 or Rule 13 shall be followed in the proceeding.

**16.** Notwithstanding anything contained in Rule 11 to Rule 15:

- (i) where any penalty is imposed on an Agency employee on the ground of conduct which has led to his conviction on a criminal charge, or
- (ii) where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or
- (iii) where the Agency or Chairman is satisfied that in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules.

The disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Agency employee may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i).

- 17.** (1) Where the services of an Agency employee are lent to a Central, State Government or an authority subordinate thereto or to a local or other authority (hereinafter in this rule referred to as “the borrowing authority”), the borrowing authority shall have the powers of the Appointing Authority for the purpose of placing him under suspension and of the Disciplinary Authority for the purpose of taking a disciplinary proceeding against him:

Provided that the borrowing authority shall forthwith inform the authority which 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 disciplinary proceeding, as the case may be.

- (2) In the light of the findings in the disciplinary proceeding taken against the Agency employee:
  - (i) If the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of Rule 8 should be imposed on the Agency employee, it may, after consultation with the Disciplinary Authority of the Agency pass such orders on the case as it may deem necessary:

Provided that in the event of a difference of opinion between the borrowing authority and the Disciplinary Authority of the Agency, the services of the Agency employee shall be replaced at the disposal of the Agency.



- (ii) If the borrowing authority is of the opinion that any of the penalties specified in clauses (v) to (ix) of the Rule 8 should be imposed on the Agency employee, it shall replace his services at the disposal of the Agency and transmit to it the proceedings of the inquiry and thereupon the Disciplinary Authority of the Agency may pass such orders thereon as it may deem necessary:

Provided that in passing any such order the Disciplinary Authority shall comply with the provisions of sub-rules (3) and (4) of Rule 12.

**Explanation:** The Disciplinary Authority may make an order under this clause on the record of the inquiry transmitted to it by the borrowing authority or after holding such further inquiry as it may deem necessary.

- 18.**
- (1) Where an order of suspension is made or a disciplinary proceeding is conducted against an Agency employee (whose services have been borrowed from a Central, State Government or a local or other authority) the authority lending his services (hereinafter in this rule referred to as “the lending authority”) shall forthwith be informed of the circumstances leading to the order of the suspension of the Agency employee or of the commencement of the disciplinary proceeding, as the case may be.
  - (2) In the light of the findings in the disciplinary proceeding taken against the Agency employee referred to in sub-rule (1):
    - (i) If the Disciplinary Authority of the Agency is of opinion that any of the penalties specified in clauses (i) to (iv) of Rule 8 should be imposed on him, it may subject to the provisions of sub-rule (3) of Rule 12 and except in regard to a Government servant serving in the Intelligence Bureau upto the rank of Assistant Central Intelligence Officer after consultation with the lending authority, pass such orders on the case as it deems necessary;

Provided that in the event of a difference of opinion between the Disciplinary Authority of the Agency and the lending authority, the services of the Agency employee shall be replaced at the disposal of the lending authority;

- (ii) If the Disciplinary Authority is of opinion that any of the penalties specified in clauses (v) to (ix) of Rule 8 should be imposed on him, it shall replace his services at the disposal of the lending authority and transmit to it proceedings of the inquiry for such action as it deems necessary.

## **PART -VII**

### **APPEALS**

- 19.** Notwithstanding anything contained in this Part, no appeal shall lie against:
- (i) any order made by the Council except for the post carrying pay or scale of pay maximum of which exceeds Rs. 5,000/- in which case the appeal shall be made to the Central Government;
  - (ii) any order of an interlocutory nature or of the nature of a step-in-aid or the final disposal of a disciplinary proceedings, other than an order of suspension;
  - (iii) any order passed by an inquiring authority in the course of an inquiry under Rule 11.
- 20.** Subject to the provisions of Rule 19, an Agency employee may prefer an appeal against all or any of the following orders, namely:
- (i) an order of suspension made or deemed to have been made under Rule 6;
  - (ii) an order imposing any of the penalties specified in Rule 8 whether made by the disciplinary authority, or by any appellate or revising authority;
  - (iii) an order enhancing any penalty, imposed under Rule 8;
  - (iv) an order which
    - (a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of services as regulated by rules or by agreement; or
    - (b) interprets to his disadvantage the provisions of any such rule or agreement;
  - (v) an order:
    - (a) stopping him at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;
    - (b) reverting him while officiating in a higher grade or post to a lower grade or post, otherwise than as a penalty;
    - (bb) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;
    - (c) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;

- (d) determining his pay and allowances:
  - (i) for the period of suspension, or
  - (ii) for the period from the date of his dismissal, removal or compulsory retirement from service, or from the date of his reduction to a lower grade, post, time scale or stage in a time-scale of pay, to the date of his re-instatement or restoration of his grade or post, or
- (e) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower grade, post, time scale of pay or stage in a time scale of pay to the date of his re-instatement or restoration to his service, grade or post, shall be treated as a period spent on duty for any purpose.
- (f) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower grade, post, time scale of pay or stage in a time scale of pay to the date of his re-instatement or restoration to his service, grade or post, shall be treated as a period spent on duty for any purpose.

**Explanation** – In this rule:

- (i) the expression “Agency employee” includes a person who has ceased to be in Agency service.
  - (ii) the expression ‘*pension*’ includes additional pension, gratuity and any other retirement benefit.
- 21.** (1) An Agency employee, including a person who has ceased to be in Agency service, may prefer an appeal against all or any of the orders specified in Rule 20 to the authority specified in the Schedule.
- (2) Notwithstanding anything contained in sub-rule (1):
- (i) an appeal against an order in a common proceeding held under Rule 15 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate;

Provided that where such Authority is subordinate to the Chairman or Director in respect of an Agency employee for whom Chairman or Director is the appellate authority in terms of sub-rule (i), the appeal shall lie to the Chairman or Director, as the case may be.

- (ii) where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate.
  - (3) An Agency employee may prefer an appeal against an order imposing any of the penalties specified in Rule 8 to the Chairman, except for the post carrying pay or scale of pay maximum of which exceeds Rs.5, 000/- in which case the appeal shall be made to the Central Government, where no such appeal lies to him under sub-rule (1) or sub-rule (2), if such penalty is imposed by any authority other than the Chairman on such Agency employee in respect of his activities connected with his work as an office bearer of an association, federation or union participating in the Joint Consultation and Compulsory arbitration Scheme.
- 22.** No appeal preferred under this part shall be entertained unless it is submitted within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:
- Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.
- 23.** (1) Every person preferring an appeal shall do so separately and in his own name.
  - (2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.
  - (3) The authority which made the order appealed against shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay, and without waiting for any direction from the appellate authority.
- 24.** (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 6 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.
  - (2) In the case of an appeal against an order imposing any of the penalties specified in Rule 8 or enhancing any penalty imposed under the said rules, the appellate authority shall consider:
    - (a) Whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the failure of justice;

(b) Whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;

and pass order:-

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that –

(i) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in Clauses (v) to (ix) of Rule 8 and an inquiry under Rule 11 has not already been held in the case, the appellate authority shall, subject to the provisions of Rule 16, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 11 and thereafter, on a consideration of the proceedings of such inquiry make such orders as it may deem fit;

(ii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of Rule 8 and an inquiry under Rule 11 has already been held in the case, the appellate authority shall, make such orders as it may deem fit; and

(iii) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provisions of Rule 13, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in Rule 20, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

**25.** The authority which made the order appealed against shall give effect to the orders passed by the Appellate Authority.

**PART -VIII**

**REVISION AND REVIEW**

- 26.** (1) Notwithstanding anything contained in these rules:
- (i) the Central Government; or
  - (ii) the council; or
  - (iii) the appellate authority, within six months of the date of the order proposed to be revised, may at any time, either on its or his own motion or otherwise call for the records of any inquiry and revise any order made under these rules but from which no appeal has been preferred or from which no appeal is allowed, and may:-
    - (a) confirm, modify or set aside the order; or
    - (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
    - (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or
    - (d) pass such other orders as it may deem fit :

Provided that:-

- (i) no order imposing or enhancing any penalty shall be made by any revising authority unless the Agency employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of Rule 8 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under Rule 11 has not already been held in the case no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 11 subject to the provisions of Rule 16:
- (ii) no power of revision shall be exercised unless
  - the authority which made the order in appeal
  - or
  - the authority to which an appeal would lie, where no appeal has been preferred
  - is subordinate to him.

- (2) No proceeding for revision shall be commenced until after:
    - (i) the expiry of the period of limitation for an appeal; or
    - (ii) the disposal of the appeal where any such appeal has been preferred.
  - (3) An application for revision shall be dealt with in the same manner as if it were an appeal under these rules.
- 27.** The authority who has passed any order may, at any time, either on its own motion or otherwise, review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought, to his notice:

Provided that no order imposing or enhancing any penalty shall be made by the concerned authority unless the employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose any of the major penalties specified in Rule 8 or to enhance the minor penalty imposed by the order sought to be reviewed to any of the major penalties and if any inquiry under Rule 11 has not already been held in the case, no such penalty shall be imposed except after inquiring in the manner laid down in Rule 11, subject to the provisions of Rule 16.

## **PART- IX**

### **MISCELLANEOUS**

- 28.** Every order, notice and other process made or issued under these rules shall be served in person on the Agency employee concerned or communicated to him by registered post.
- 29.** Save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules for anything required to be done under these rules or condone any delay.

## SCHEDULE

**EXPORT INSPECTION AGENCY**

S. No.	Description of post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in Rule 8)		Appellate Authority
			Authority	Penalties	
(1)	(2)	(3)	4	5	(6)
1.	All posts upto the rank of Joint Director	Director	(i) Director  (ii) Additional Director  (iii) Joint Director, Dy. Chief Executive, In-charge of Agency offices	All  (i) to (iv) upto the rank of Dy. Chief Executive  (i) to (iv) upto the rank of Asstt. Director	Chairman  Director  Additional Director



EXTRACT FROM THE GAZETTE OF INDIA PART II, SEC. 3 SUB SEC. (II)

Appearing on Page Nos. 3153-3155

Dated: 21-10-1989

वाणिज्य संचालन

MINISTRY OF COMMERCE

अधिसूचनाएं

नई दिल्ली, 14 अक्टूबर, 1989

आदेश संख्या 3631 केन्द्रीय सरकार, नियमित (क्वैलिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तों के अन्तर्गत, निम्नलिखित निरीक्षण परिषद कर्मचारी (वर्गीकरण, नियंत्रण तथा अपील) नियम, 1978 का और संशोधन करने के लिए निम्नलिखित प्रावधानों का प्रकाशन किया जाता है—

- (1) इन नियमों का संक्षिप्त नाम नियमित निरीक्षण परिषद कर्मचारी (वर्गीकरण, नियंत्रण तथा अपील) संशोधन नियम, 1989 है।
- (2) ये अधिसूचना के प्रकाशन की तारीख को प्रवृत्त होंगे।
- नियमित निरीक्षण परिषद कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1978 की अनुसूची के अंतर्गत पर निम्नलिखित अनुसूची रखी जाएगी।

"अनुसूची"

[नियम 9 (2) देखिये]

नियुक्त अधिकारी प्राधिकारों अतिरिक्त करने के लिए उक्त प्राधिकारी और वे शक्तियां अपील प्राधिकारी अतिरिक्त (नियम 8 में उक्त संख्या के अन्तर्गत नियुक्त होंगे) अतिरिक्त कर सकेंगे।

प्राधिकारी

शक्तियां

(1)	(2)	(3)	(4)	(5)	(6)
1. उक्त नियमों के अंतर्गत कर्मचारी	निदेशक	(1) निदेशक, (2) अपर निदेशक (3) संयुक्त निदेशक	संयुक्त निदेशक के रैंक तक सभी (1) से (4) तक उप निदेशक के रैंक तक सभी (1) से (3) तक	संयुक्त निदेशक के रैंक तक सभी (1) से (4) तक	अध्यक्ष निदेशक अपर निदेशक
2. अपर निदेशक	अध्यक्ष केन्द्रीय सरकारों के अनुमोदन के अधीन रखे हुए	(1) अध्यक्ष (2) निदेशक	अध्यक्ष (1) से (4) तक	अध्यक्ष (1) से (4) तक	केन्द्रीय सरकार अध्यक्ष
3. निदेशक	केन्द्रीय सरकार	(1) केन्द्रीय सरकार (2) अध्यक्ष	सभी (1) से (4) तक	सभी (1) से (4) तक	केन्द्रीय सरकार केन्द्रीय सरकार

नियम 8 में उक्त संख्या के अन्तर्गत नियुक्त होंगे अतिरिक्त कर सकेंगे।  
[सं. 3 (27)/89 ई.आई.ए.ई.सी.]

NOTIFICATIONS

New Delhi, the 14th October, 1989

S.O. 3631 — In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (1963 Act), the Central Government hereby makes the following rules further to amend the Export Inspection Council Employees (Classification, Control and Appeal) Rules, 1978, namely:—  
(1) These rules may be called the Export Inspection Council Employees (Classification, Control and Appeal) Amendment Rules, 1989  
(2) They shall come into force on the date of their publication in the Official Gazette.

SCHEDULE  
See rule 9(2)

Sl. No.	Description of posts	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 8)	Appellate Authority	
(1)	(2)	(3)	(4)	(5)	
1	All posts upto the rank of Joint Director	Director	(i) Director (ii) Additional Director (iii) Joint Director	All (i) to (iv) upto the rank of Joint Director (i) to (iv) upto the rank of Deputy Director	Chairman Director Additional Director
2	Additional Director	Chairman subject to the approval of the Central Government	(i) Chairman (ii) Director	All (i) to (iv)	Central Government Chairman
3	Director	Central Government	(i) Central Government (ii) Chairman	All (i) to (iv)	Central Government Central Government

NOTE The Principal Notification was published by S.O. 42 in the Gazette of India dated 7th January, 1978 and amended by S.O. 1442 dated 5th May, 1979, S.O. 1020 dated 19th April, 1980 and S. O. 556 dated 6th February, 1982.

F.No. 3(27)/89-PI & BPJ

का.सं. 2632 — केन्द्रीय सरकार नियति (क्वालिफिकेशन और निरीक्षण) अधिनियम, 1963 (1963 का 22) को धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नियति निरीक्षण अधिनियम कर्मचारी (कर्मिकरण, नियंत्रण तथा अपील) नियम, 1978 का अंश संशोधन करने के लिए निम्नलिखित नियम बनाया है, अर्थात् :

- (1) इन नियमों का संक्षिप्त नाम नियति निरीक्षण अधिनियम कर्मचारी (कर्मिकरण, नियंत्रण तथा अपील) संशोधन नियम, 1982 है।
- (2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।
- नियति निरीक्षण अधिनियम कर्मचारी (कर्मिकरण, नियंत्रण तथा अपील) नियम, 1978 का अनुसूची के म्याग पर निम्नलिखित अनुसूची रखी जाएगी, अर्थात् :

अनुसूची

[नियम 9 (2) देखिए]

क्रम	पदों का विवरण	नियुक्ति प्राधिकारी	शास्तियां अधिरोपित करने के लिए संशोधन प्राधिकारी और शास्तियां जिन्हें वह (नियम 8 में प्रदत्त शक्तियों के प्रति निर्देशों) अधिरोपित कर सकता है।	अपील का प्राधिकारी	
1	2	3	4	5	
1	संयुक्त निदेशक के रैंक तक सभी पद	निदेशक	(1) निदेशक (2) अपर निदेशक (3) संयुक्त निदेशक	संयुक्त निदेशक के रैंक तक सभी (1) से (4) उपनिदेशक के रैंक तक (1) से (4)	प्रमुख निदेशक अपर निदेशक
2	अपर निदेशक	प्रमुख केन्द्रीय सरकार के अनुसूचन के अधीन रहते हुए।	(1) प्रमुख (2) निदेशक	सभी (1) से (4)	केन्द्रीय सरकार प्रमुख

नियम 9(2) के अन्तर्गत भारत के राजपत्र, तारीख 7 जनवरी, 1978 में का.सं. 43 द्वारा प्रकाशित की गयी थी तथा का.सं. 1442, 5 मई, 1979 का.सं. 2982, 1 नवम्बर, 1978, का.सं. 1019 तारीख 19 अप्रैल, 1980 तथा का.सं. 557 तारीख 5 फरवरी, 1982 द्वारा संशोधित की गयी।

F.No. 3(27)/89-PI & BPJ  
केन्द्रीय सरकार के द्वारा, निदेशक

S.O. 2632:—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules further to amend the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978, namely:—

(1) These rules may be called the Export Inspection Agency Employees (Classification, Control and Appeal) Amendment Rules, 1989

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) In the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978 for the Schedule, the following Schedule shall be substituted, namely:—

**SCHEDULE**

[Sec rule 9(2)]

Sl. No.	Description of posts	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to numbers in rule 8)	Appellate Authority	Authority
(1)	(2)	(3)	(4)	(5)	(6)
	All posts upto the rank of Joint Director	Director	(i) Director (ii) Additional Director (iii) Joint Director	All (i) to (iv) upto the rank of Joint Director (i) to (iv) upto the rank of Deputy Director	Chairman Director Additional Director
	Additional Director	Chairman subject to the approval of Central Government	(i) Chairman (ii) Director	All (i) to (iv)	Central Government Chairman

NOTIFICATION: This Notification was published by S.O. 43 in the Gazette of India dated 7th January, 1978 and amended by S.O. 1443 of S.H. May, 1979, S.O. 2982 of 1st September, 1979, S.O. 1019 dated 19th April, 1980 and S.O. 557 dated 6th February, 1982.

[No. 3(27)89-EI & EP]  
A. K. CHAUDHURI, Director.

MINISTRY OF COMMERCE

अभिसूचना

नई दिल्ली, 31 मई 1993

जा का नि 822 केन्द्रीय सरकार, नियमित (क्वालिफाई नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) को धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नियमित निरीक्षण अधिनियम कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1978 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् —

1. (1) इन नियमों का शीर्षक नाम, नियमित निरीक्षण अधिनियम कर्मचारी (वर्गीकरण, नियंत्रण और अपील) (संशोधन) नियम, 1993 है।

(2) वे राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. नियमित निरीक्षण अधिनियम कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1978 में —

(1) नियम 5 के स्थान पर निम्नलिखित नियम रखा जाएगा, अर्थात् —

5. इन नियमों के प्रयोजन के लिए, कर्मचारियों को निम्नलिखित चार वर्गों में वर्गीकृत किया जाएगा अर्थात् —

समूह "क" : वह पद, जिसका वेतन या वेतनमान का अधिकतम 4000 रु. तक नहीं है।

समूह "ख" : वह पद, जिसका वेतन या वेतनमान का अधिकतम 2900 रु. तक नहीं है किन्तु 4000 रु. से कम है।

समूह "ग" : वह पद, जिसका वेतन या वेतनमान का अधिकतम 1160 रु. से अधिक किन्तु 2900 रु. से कम है।

समूह "घ" : वह पद, जिसका वेतन या वेतनमान का अधिकतम 1160 रु. या उससे कम है।

परन्तु 1 जनवरी, 1986 को या उसके पश्चात् विद्यमान कठोरों में विनिर्दिष्ट परिवर्तन के रूप में तृपण किए गए पदों के कठोरों में वही वर्गीकरण पद होंगे जिन्हें वे छोड़े गए हैं।

टिप्पण — इन नियमों के प्रयोजन के लिए —

(i) "वेतन" से अभिकरण कर्मचारी द्वारा (उसकी वैयक्तिक अहताओं को ध्यान में रखते हुए संकुर किए गए विशेष वेतन या वेतन से भिन्न) वेतन, विशेष वेतन, विशेष वेतन तथा वैयक्तिक वेतन और किसी अन्य उपलब्धियों जो केन्द्रीय सरकार द्वारा समय-समय पर वेतन के रूप में विशेष रूप से स्थापित की जाएं, के रूप में जो तब मानिक रकम अभिप्रेत है।

(ii) किसी पद का वेतन या वेतनमान से समय-समय पर अभिकरण कर्मचारियों को लागू केन्द्रीय सिविल सेवा (पुनरीक्षित वेतन) नियम, 1986 के अर्थात् विहित वेतन या वेतनमान अभिप्रेत है।

(2) नियम 8 में —

(i) बंड (I) से (IV) तक के लिए "छोटी शक्ति" शब्द शीर्षक के रूप में अन्तर्स्थापित किए जाएंगे और बंड (V) से (IX) तक के लिए "बड़ी शक्ति" शब्द शीर्षक के रूप में अन्तर्स्थापित किए जाएंगे।

(ii) बंड (IX) के पश्चात् "व्यवसाय" के पहले निम्नलिखित परन्तुक अन्तर्स्थापित किया जाएगा अर्थात् — परन्तु ऐसे प्रत्येक मामले में, जिसमें किसी व्यक्ति ने किसी पदोन्नति या कर्तव्य करने के लिए प्रार्थना करने के लिए वेतन या वेतनमान के रूप में कोई परिशिष्ट प्रतिप्रश्न करने का आरोप सिद्ध हो जाता है, बंड (VIII) या बंड (IX) में उल्लिखित शक्ति अंतर्स्थापित की जाएगी।

परन्तु यह और कि किसी प्रस्तावार्थी मामले में जोर से विचार कार्यो में जो लेखबंद किए जाएंगे, कोई अन्य शक्ति अन्तर्स्थापित की जा सकती है।

(3) नियम 11 में उपनियम (3) के पश्चात् निम्नलिखित रखा जाएगा अर्थात् —

(8) अभिकरण कर्मचारी, अपनी और की प्रतिप्रश्न करने के लिए अपने मुख्यालय में या उस स्थान में जहां जांच हो रही है, अवास्तविकता में कार्यलय में उपस्थित किताबें, नक्शे, नक्शे, का सहयोग ले सकेंगे, किन्तु इन प्रयोजन के लिए किसी विधि व्यवस्थाओं को तब तक निरूपित नहीं कर सकेंगे, जब तक अनुशासनिक प्राधिकारी द्वारा अनुचित प्रस्तुतीकरण अधिकांश विधि व्यवस्थाओं को या अनुशासनिक प्राधिकारी मामले की परिस्थितियों को ध्यान में रखते हुए एका अनुज्ञा न दे।

किन्तु यदि जांच प्राधिकारी मामले की परिस्थितियों को ध्यान में रखते हुए और ऐसे कार्यों में जो लेखबंद किए जाएंगे, एका अनुज्ञा दे तो अभिकरण किसी अन्य स्थान में तैनात किताबें अन्य कारगरी तैयार को सहयोग ले सकेंगे।

टिप्पण — अभिकरण कर्मचारी, किसी ऐसे कारगरी तैयार को सहयोग नहीं देगा जिसके पद दो अनुशासनिक मामलों सम्बन्धित हैं जिनमें उसे सहायता देनी है।

(4) नियम 12 में उपनियम (4) के पश्चात् निम्नलिखित परन्तुक अन्तर्स्थापित किया जाएगा अर्थात् —

परन्तु जहां कोई जांच नियम 8 के बंड (V) से (IX) तक में विनिर्दिष्ट शक्तियों में से किसी शक्ति के लिए नियम 11 के उपबन्धों के अनुसार की गई है, वहां यदि अनुशासनिक प्राधिकारी, जांच प्राधिकारी के भिन्न है तो, वह एका शक्ति अंतर्स्थापित करने का कोई अनिश्चित आदेश देने से पूर्व संबंधित अभिकरण कर्मचारी का अनुशासनिक प्राधिकारी को लिखित रूप से कोई अनुशासनिक प्राधिकार करने का अवसर दे देते हुए जांच रिपोर्ट को एक प्रति अर्पित करेगा।



कहा जाये कि वह नहीं करे यह है कि नियम 16 के प्रावधानों के अन्तर्गत कक्षा 11 में अधिकारित रीति से जांच करने के अन्तर्गत कोई ऐसा शक्ति अधिरोपित नहीं की जाएगी।

(11) पुनरोद्योग की शक्ति का अर्थ तब तक नहीं किया जाएगा जब तक कि —

(i) वह प्राधिकारी जिसने अपील में आवेदन किया है,

(ii) वह प्राधिकारी, जिसे अपील होगी, कहा जाये कि उसे नहीं करे है,

उसके सम्बन्ध में है।

(2) पुनरोद्योग के लिए कोई कार्यवाही उन तक सीमित नहीं की जाएगी जब तक,

(i) इच्छित के लिए परामर्श-समिति नहीं हो जाए; या

(ii) जहाँ ऐसी कोई समिति की गई है, जहाँ अपील का निपटारा नहीं हो जाए।

(3) पुनरोद्योग के लिए आवेदन का निपटारा उन्हीं रीति से किया जाएगा जैसी कि नियमों के अन्तर्गत निर्धारित है।

(12) नियम 27 के अन्तर्गत निम्नलिखित रखा जाएगा, अर्थात् —

27. ऐसा प्राधिकारी, जिसने कोई आवेदन प्राप्त किया है, किसी भी समय, स्वयंसेवा में या मुख्यतः इन नियमों के अन्तर्गत प्राप्त किसी आवेदन का पुनरावलोकन करने के लिये वह कोई ऐसा नया कक्षा बना सकता है, जो प्रस्तुत नहीं किया जा सका या जो अद्यतन के अन्तर्गत आवेदन के प्रारित करने के लिये उपलब्ध नहीं था और जिसका मानने के अन्तर्गत कोई परामर्श-समिति का प्रभाव है उसकी आधिकारिता में आये है या लगे जाये।

परन्तु संबंधित प्राधिकारी द्वारा किसी शक्ति को अधिरोपित करने या कक्षा का अर्थ तब तक नहीं किया जाएगा जब तक संबंधित कक्षा की प्रस्तावित समिति के विरुद्ध अधिरोपित करने का उचित अन्तर न किया गया हो या जहाँ नियम 8 के अन्तर्गत कक्षा शक्तियों में से किसी शक्ति को अधिरोपित करने का अन्तर्गत आवेदन प्राप्त करने के लिये शक्ति को किसी नवी शक्ति के अन्तर्गत आ सकता है और यदि मामला में नियम 11 के अन्तर्गत पहली कक्षा जांच नहीं की गई है तो नियम 16 के अन्तर्गत ही अन्तर्गत रीति से नियम 11 में अधिकारित रीति से जांच करने के अन्तर्गत के अन्तर्गत कोई भी ऐसी शक्ति अधिरोपित नहीं की जाएगी।

(13) नियम 27 के अन्तर्गत आज 9 तक के शक्ति अधिरोपित किया जाएगा।

संश्लेषण नं० 3(27)/89-ई आई एच ई पी

असाईन क्लर्क, निदेशक

पत्र दिनांक : नया दिल्ली, नया दिल्ली, दिनांक 7 जनवरी, 1978  
 संश्लेषण नं० 1443, दिनांक 5 नवंबर 1979, नया दिल्ली, 1979, दिनांक 19 अक्टूबर, 1982  
 नया दिल्ली, दिनांक 6 जनवरी, 1982 और नया दिल्ली, दिनांक 14 अक्टूबर, 1980 को संश्लेषित किए जाये।

**NOTIFICATION**

New Delhi, the 31st May, 1993

G.S.R. 622.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules to amend the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978.—  
 namely—

1. (1) These rules may be called the Export Inspection Agency Employees (Classification, Control and Appeal) (Amendment) Rules, 1993.

(2) They shall come into force on their publication in the Official Gazette

2. In the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978.—

(1) for the rule 5, the following rule shall be substituted namely:—

5. For the purpose of these rules, the employees shall be classified into the following four groups, namely—

Group A—A post carrying a pay or a scale of pay with a maximum of not less than Rs. 4,000

Group B—A post carrying a pay or scale of pay with a maximum of not less than Rs. 2,900 but less than Rs. 4,000.

Group C—A post carrying a pay or a scale of pay with a maximum of over Rs. 1,150 but less than Rs. 2,900.

Group D—A post carrying a pay or a scale of pay with a maximum of which is Rs. 1,150 or less.

Provided that posts created on or after 1st January, 1986 as specific additions to existing cadres shall have the same classification posts in the cadre to which they are added.

Note—For the purpose of this rule—

(i) "Pay" means the amount drawn monthly by the Agency employee as the Pay (other than special Pay or pay granted in view of his Personal Qualifications), Overseas Pay, Special Pay and Personal Pay and any other emoluments which may be specially classed as pay by the Central Government from time to time.

(ii) "The pay or scale of pay of a post" means the pay or scale of pay prescribed under the Central Civil Services (Revised Pay) Rules, 1986 as applicable to Agency employees from time to time.

(2) In rule 8,—

(a) the words "Minor Penalties" shall be inserted as the heading for clauses (i) to (iv) and the words "Major Penalties" shall be inserted as the heading for clauses (v) to (ix);

(b) after clause (ix) and before "Explanation" the following proviso shall be inserted, namely—

"Provided that in every case in which the charges of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or for bearing to do any official act is established, the penalty mentioned in clause (viii) or clause (ix) shall be imposed."

Provided further that in any exceptional case and for special reasons to be recorded in writing, any other penalty may be imposed";

- (3) in rule 11, for sub-rule (8), the following shall be substituted, namely —

"(8) The Agency employees may take the assistance of any Government servant posted in any office either at his head quarters or at the place where the inquiry is held to defend the case on his behalf but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority having regard to the circumstances of the case, so permits";

Provided that the Agency employees may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.

Note:—"The Agency employees shall not take the assistance of a Government servant who has two pending disciplinary cases in hand in which he has to give assistance."

- (4) in rule 12, after sub-rule (4), the following proviso shall be inserted, namely:—

"Provided that where an enquiry has been held in accordance with the provisions of rule 11 for any of the penalties specified in clause (v) to (ix) of rule 8, the Disciplinary Authority, if it is different from the Inquiring Authority, shall before making any final order of imposing such penalty, forward a copy of the inquiry report to the Agency employee concerned giving him an opportunity of making any representation or submission in writing to the Disciplinary Authority";

- (5) in rule 13, after sub-rule (1), the following shall be inserted, namely:—

"(1A) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Agency employee under clause (a) of that sub-rule to withhold increments in pay and such withholding of increments is likely to affect adversely the amount of pension payable to the employee or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, the inquiry shall be held in the manner laid down in sub-rule (3) to (23) of rule 11, before making any order imposing on the agency employee any such penalty";

- (6) for the rule 16, the following shall be substituted, namely:—

"16 Notwithstanding anything contained in Rule 11 to Rule 15:

(i) where any penalty is imposed on an Agency employee on the ground of conduct which has led to his conviction on a criminal charge, or

(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing is not reasonably practicable to hold an inquiry in the manner provided in these rules, or

(iii) where the Agency or Chairman is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules,

The disciplinary authority may consider the circumstances of the case and make such order thereon if it deems fit:

Provided that the Agency employee may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i)";

- (7) in rule 19, in sub-rule (1), for "Rs. 2,000", the figure "Rs. 5,000" shall be substituted.

(8) in rule 20,

(a) For the sub-clause (ii), the following shall be substituted, namely:—

(ii) an order imposing any of the penalties specified in rule 8 whether made by the disciplinary authority or by any appellate or revising authority";

(b) in clause (v), after sub-clause (b), the following shall be inserted namely:—

"(bb) reducing or with-holding the pension or denying the maximum pension admissible to him under the rules";

(c) in clause (v), after sub-rule (e), the following shall be inserted, namely:—

"(f) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a time-scale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose";

(d) In the Explanation, after clause (i), the following shall be inserted, namely:—

"(ii) the expression 'Pension' includes additional pension, gratuity and any other retirement benefit";

(9) in rule 21,—

(a) in sub-rule (2), after clause (i) the following proviso shall be inserted, namely —

“Provided that whether such Authority is subordinate to the Chairman or Director in respect of Agency employee for whom Chairman or Director is the appellate authority in terms of sub-rule (1), the appeal shall lie to the Chairman or Director, as the case may be”;

(b) in sub-rule (3), for the word and figure “Rs. 2,000” the word and figure “Rs. 5,000” shall be substituted.

(10) after rule 25, for the heading “Part VIII-REVIEW” heading “PART VIII-REVISION AND REVIEW” shall be substituted

(11) for rule 26 the following rule shall be substituted, namely —

26 (1) Notwithstanding anything contained in these rules—

(i) the Central Government ; or

(ii) the Council ; or

(iii) the appellate authority, within six months of the date of the order proposed to be revised, may at any time, either on its or his own motion or otherwise call for the records of any inquiry and revise any order made under these rules but from which no appeal has been preferred or from which no appeal is allowed, and may

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order or impose penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or

(d) pass such other orders as it may deem fit. Provided that —

(i) no order imposing or enhancing any penalty shall be made by any revising authority unless the Agency employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed and, where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of rule 8 to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses and if an enquiry under rule 11 has not already been held in the case no such pen-

alty shall be imposed except after an inquiry in the manner laid down in rule 11 subject to the provisions of rule 16

(ii) no power of revision shall be exercised unless (i) the authority which made the order in appeal or

(ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him

(2) No proceeding for revision shall be commenced until after—

(i) the expiry of the period of limitation for an appeal; or

(ii) the disposal of the appeal where any such appeal has been preferred

(3) An application for revision shall be dealt with in the same manner as if it were an appeal under these rules”;

(12) for the rule 27, the following shall be substituted, namely —

“27 the authority who has passed any order may, at any time, either on its own motion or otherwise, review, any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case has come, or has been brought, to his notice”

Provided that no order imposing or enhancing any penalty shall be made by the concerned authority unless the employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose any of the major penalties specified in rule 8 or to enhance the minor penalty imposed by the order sought to be reviewed to any of the major penalties and if any enquiry under rule 11 has not already been held in the case, no such penalty shall be imposed except after inquiring in the manner laid down in rule 11 subject to the provisions of rule 16”

(13) after rule 27, the heading “Part IX-Miscellaneous” shall be inserted

[F No 3(27)89-EI&EP]  
KUM SUMA SUBBANNA, Director

Footnote : Principal Notification was published by No. S.O. 43 of 7th January, 1978 and amendment by S.O. 1443 of 5th May, 1979 No. S.O. 1019 of 19th April, 1980 and No S.O. 557 of 6th February, 1982. No S.O. 2632 of 14th October, 1989