

UNIVERSITY EMPLOYEES (PUNISHMENT & APPEAL) REGULATIONS

UNIVERSITY EMPLOYEES (PUNISHMENT & APPEAL)REGULATIONS (Regulations under of Section 21(c) of SUPVA, Rohtak,2014)

1. 'Short title' and commencement

1.1 These regulations may be called the University Employees (Punishment & Appeal) Regulations, 2018.

1.2 These regulations shall come into force with immediate effect.

2. Definition

2.1 "Punishing Authority" shall be the appointing authority unless otherwise provided for in these Regulations.

2.2 "Prescribed Authority" shall be Vice-Chancellor in the case of Group-A and B employees and Registrar for Group –C & Group –D employees of the University respectively

2.3 "Chancellor" means the Chancellor of The State University of Performing and Visual Arts, Rohtak

2.4 "University Employee" means any person appointed to any post in connection with the affairs of the University.

2.5 "Appointing Authority "means the authority empowered to make appointments in a cadre.

2.6 ""Appellate Authority" means the authority specified in these regulations.

3. Application

3.1 These regulations shall apply to every University employee, but shall not apply to:-

(a) any member of the All India Services/ Haryana Civil Services;

(b) any person in casual employment;

(c) any person subject to discharge from service on less than one month's notice .

(d) Any employee appointed on deputation from State Government/Boards/Corporation etc.

3.2 If any doubt arises whether these regulations or any of them apply to any person, the matter shall be referred to the Executive Council which shall decide the same.

4. Penalties

4.1 The following penalties may, for good and sufficient reasons and hereinafter provided, be imposed on a University employee namely:-

(A) Minor Penalties:

- (i) Warning with a copy in the personal file (character roll);
- (ii) Censure;
- (iii) Withholding of promotion for a specified period up to one year.
- (iv) Recovery from pay of the whole or part of any pecuniary loss caused to the University by negligence or breach of orders;
- (v) Withholding of increments of pay without cumulative effect.

(B) Major Penalties:

- (i) Withholding of increments of pay with cumulative effect;
- (ii) Withholding of promotion for a specified period more than one year.
- (iii) Reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the University employee will earn increments of pay during the period of such reduction and whether on the expiry of period of reduction his pay is to be restored or not.
- (iv) Reduction to a lower pay structure, post or service for a period more than one year from which he has been promoted which shall ordinarily be a bar to the promotion of the University employee to the pay structure of pay, post or service from which he/ she was reduced, with or without further directions regarding conditions of restoration to the pay structure or post or service from which the University employee was reduced and his/ her seniority and pay on such restoration to that pay structure, post or service;
- (v) Compulsory Retirement.
- (vi) Removal from service which shall not be a disqualification for future employment under the University;
- (vii) Dismissal from service which shall ordinarily be a disqualification for future employment under the University;

Note: The following shall not amount to penalty within the meaning of this regulation, namely:-

- (i) Withholding of increments of pay of an employee for failure to pass departmental examination in accordance with the rules or orders governing the service to which he/ she belongs or post which he/ she holds or the terms of his/ her appointment;
- (ii) Withdrawal or non-grant of ACP pay structure on foregoing promotion.

- (iii) Non-promotion of an employee whether in a substantive or officiating capacity, after consideration of his/ her case, to a service, pay structure or post for promotion to which he/ she is eligible;
- (iv) Reversion of an employee officiating in a higher pay structure service or post to a lower pay structure or post or service on the ground that he/she is considered to be unsuitable for such higher pay structure or post or service on any administrative ground but not connected with his/ her conduct;
- (v) Reversion of an employee appointed on probation to any other service, post or pay structure during or at the end of the period of probation in accordance with the term of his/ her appointment or the rules and orders governing such probation;
- (vi) Suspension pending enquiry;
- (vii) Compulsory retirement of a University employee in accordance with the provisions relating to his/ her superannuation or retirement;
- (viii) Termination of the service;
 - (a) of an employee appointed on probation, during or at the end of the period of probation, in accordance with the term of his/ her appointment or the rules and orders governing such probation; or
 - (b) of a person engaged under a contract in accordance with the terms of the contract; or employed under an agreement in accordance with the terms of such agreement;
 - (c) Of a temporary employee appointed otherwise than under contract, on the expiration of the period of the appointment or on the abolition of the post or before the due time in accordance with the terms of appointment.
 - (d) Retirement on superannuation on attaining the maximum age of retirement.

5. Withholding of payment of emoluments of an employee suspected of embezzlement

5.1 When an employee is suspected of being involved in the embezzlement of money, and is placed under suspension, the authority competent to order his/ her dismissal may direct that unless he/ she furnishes security for the reimbursement of the said money to the satisfaction of his/ her immediate superiors, the payment of any sum due to him/ her by the University on the date of his/ her suspension, shall be deferred until such time as the said authority passes final orders on the charges framed against him/ her.

6. Authority to impose punishment

6.1 Subject to the provisions of clause (1) of Article 311 of the Constitution of India, the authorities competent to impose any of the penalties specified in Regulation 4 upon the persons to whom these regulations apply, shall generally be the appointing authority until and unless specified otherwise in any Ordinance or Regulations.

7. Procedure for imposing major penalties:

7.1 No order of imposing a major penalty shall be passed against an employee unless he/she has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him/ her.

7.2 The grounds on which it is proposed to take such action shall be reduced to the form of definite charge or charges which shall be communicated in writing to the persons charged together with a statement of allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case and he/she shall be required within a reasonable time to state in writing whether he/ she admits the veracity of all or any of the charges, what explanation for defence, if any, he/ she has to offer and whether he/she desires to be heard in person. If the punishing authority is not satisfied with the explanation given by the person charged or there are other reasons to do so shall direct that an enquiry shall be held at which all evidence will be adduced and considered as to such of the charges as are not admitted.

The persons charged shall be entitled to cross examine the witnesses, to give evidence in person and to have such witnesses called, as he/she may wish, provided that the Officer conducting the enquiry may, for reasons to be recorded in writing, refuse to call any witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the grounds thereof provided that—

- (a) it shall not be necessary to frame any additional charge when it is proposed to take action in respect of any statement of allegation made by the person charged in the course of his/ her defence; and
- (b) the provisions of the foregoing sub-regulation shall not apply where any major penalty is proposed to be imposed upon a person on the ground of misconduct which has led to his/ her conviction on a criminal charge; or where an authority empowered to dismiss or remove him/her, or reduce him/ her in rank is satisfied that, for some reasons to be recorded by him/ her in writing, it is not reasonably practicable to give him/ her an opportunity of showing cause

against the action proposed to be taken against him/ her, or wherein the interest of the security of the State it is considered not expedient to give to that person such an opportunity.

7.3 If any question arises whether it is reasonably practical to give to any person an opportunity to defend himself/herself under sub-regulation 7.2 the decision thereon of the punishing authority shall be final.

7.4 (a) Where any person has made a statement on oath, in evidence before any criminal or Civil Court, in any case, in which University employee charged was party and had full opportunity to cross examine such person and where it is intended to prove the same facts as deposed to by such person in any inquiry, it shall not be necessary to call such person to give oral evidence in corroboration of that statement. The certified copy of the statement previously made by him/ her in any such case may be read as part of the evidence:

Provided that the Officer conducting the inquiry may, in the interest of justice order the production of witness in person either for further examination or for further cross-examination by persons charged.

(b) The University employee charged shall not be allowed, except at discretion of the Enquiry Officer, to be exercised in the interest of justice, to call as a witness in his/ her defense any person whose statement has already been recorded and whom he/ she has had opportunity to cross-examine or whose previous statement has been admitted in the manner herein provided.

7.5 Where the punishing authority itself enquires into any charge or charges or appoints an enquiry officer for holding enquiry against a person charged, it may, by an order, appoint a University employee or a legal practitioner to be known as a "Presenting Officer" to present on its behalf the case, in support of the charge or charges. The person against whom a charge is being enquired into, shall be allowed to obtain the assistance of a University employee or a retired University employee if he/ she so desires, in order to produce his/ her defence before the Enquiry Officer. If the charge or charges are likely to result in the dismissal of the person from the service of the University, such person may, with the sanction of the Enquiry Officer, may be allowed to be represented by counsel/Advocate.

Provided that if in any enquiry an Advocate/Counsel is engaged on behalf of any department of University, the person against whom the charge or charges are being enquired into, shall also be entitled to engage counsel/Advocate.

Provided further that the assistance of a particular University employee will be allowed only if the Enquiry Officer is satisfied that he/she is of such rank as is appropriate in the circumstances of the case and that he/ she can be spared by the department concerned for that purpose. Request may be declined if it may inference the enquiry

- 7.6 (i) After the enquiry against a charged person has been completed, the punishing authority shall forward or cause to be forwarded a copy of the enquiry report to the charged person, and where the punishing authority does not agree with the enquiry report or any part thereof, the reasons for such disagreement shall be communicated along with enquiry report, to the charged person who may submit, if he so desires, a written representation to the punishing authority within a period of one month from the date of such communication.
- (ii) The punishing authority shall consider the representation, if any, submitted by the charged person and record its findings before proceeding in regulation 4.

- 7.7 In case an enquiry has been initiated under regulation no. 7 against a University Employee then the minor penalty could be imposed only after completion of the enquiry.

Note:

Any person compulsory retired from service in accordance with the procedure prescribed by this regulation will be granted such compensation, pension, gratuity, or Provident Fund benefits as would have been admissible to him/ her had he/ she been discharged from service due to the abolition of his/ her post without any alternative suitable employment being provided under the rules applicable to his/ her service or post on the date of his/ her retirement.

8. Procedure for imposing minor penalties:

- 8.1 Without prejudice to the provision of regulation 7 no order for imposing a minor penalty shall be passed against a University employee unless he/she has been given an adequate opportunity of making any representation that he/she may desire to make, and such representation has been taken into consideration. Provided that, this condition shall not apply in a case where an order based on facts has led to his/her conviction in a criminal court or an order has been passed superseding him/ her for promotion to a higher post on the grounds of his/ her being unfit for that post on account of the existence of unsatisfactory record:

Provided further that the requirements of this regulation may, for sufficient reasons to be recorded in writing, be waived where it is not practicable to observe them and where they can be waived without injustice to the University employee concerned.

9. Suspension

9.1 The prescribed authority may place an employee under suspension:

- (a) Where disciplinary proceedings against him/ her are contemplated or
- (b) Where a case against him/ her in respect of any criminal offence is under investigation or trial.

Provided that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report for ex-post approval to the appointing authority the circumstances in which the order was made.

9.2 The prescribed authority will have the power to institute disciplinary proceedings against an employee.

9.3 A University employee shall be deemed to have been placed under suspension by an order of the appointing authority:-

- (a) with effect from the date of his/ her detention, if he/ she is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours; and
- (b) with effect from the date of his/ her conviction, if in the event of a conviction for an offence, he/ she is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsory retired consequent to such conviction.

9.4 Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a University employee under suspension is set aside in appeal or on review under these regulations and the case is remitted for further inquiry or action or with any other directions, the order of his/ her 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.

9.5 Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a University Employee is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the punishing authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him/ her on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the University 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.

- 9.6 An order of suspension made or deemed to have been made under this regulation shall continue to remain in force until it is modified or revoked by the authority competent to do so.
- 9.7 Where a University employee is suspended or is deemed to have been suspended whether in connection with any disciplinary proceeding or otherwise, and any other disciplinary proceeding is commenced against him/her during the continuance of the suspension, the authority competent to place him/ her under suspension may, for reason to be recorded by it in writing, direct that the University employee shall continue to be under suspension until the termination of all or any of such proceedings.
- 9.8 An order of suspension made or deemed to have been made under this regulation 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.

10. Right of appeal

- 10.1 Every employee to whom these regulations apply shall be entitled to appeal against an order imposing upon him/ her any of the penalties to the appellate authority as mentioned hereunder:
- (a) Executive Council - In case where punishment has been awarded by the Vice-Chancellor.
 - (b) Vice-Chancellor – In case where punishment has been awarded by the Registrar of the University.
- 10.2 Any employee of the university, who is aggrieved by the decision of the Executive Council or the Vice-Chancellor in respect of any disciplinary action taken against him/ her, may address a memorial to the Chancellor in such manner as may be prescribed and the decision of the Chancellor shall be final.

11. Period of limitations of appeal

- 11.1 No appeal preferred under regulation 10 shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the applicant:

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 preferring the appeal in time.

12. Order which may be passed by appellate authority

12.1 In the case of appeal against an order imposing any penalty specified in regulation 4, the appellate authority shall consider;

- (a) Whether the facts on which the order was based have been established;
- (b) Whether the facts established afford sufficient ground for taking action; and
- (c) Whether the penalty is excessive, adequate or inadequate and after such consideration, shall pass such order as it thinks proper:

Provided that no penalty shall be enhanced unless opportunity is given to the employee concerned to show cause why such penalty should not be enhanced.

12.2 An authority, against whose order an appeal is preferred, shall give effect to any order passed by the appellate authority

13. Second appeal where penalty is increased

13.1 In every case in which an appellate authority increased the penalty inflicted by an authority subordinate to it upon an employee to whom these regulations apply, such employee shall be entitled to submit a second appeal within sixty days to the Executive Council or the Chancellor as the case may be.

14. Right of Revision:-

After an appeal or the second appeal provided in regulation 13 has been rejected an employee may apply for revision to the superior authority on the ground of material irregularity in the proceedings of the appellate authority or on the discovery of new and important matter of evidence which after the exercise of diligence was not within the knowledge of the petitioner or could not be produced by him/her when the orders were passed against him/her or on account of some mistake or error on the face of the record.

15. Manner of presentation of appeal

15.1 Every appeal shall contain material statements and arguments relied upon by the appellant, shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal shall be submitted through the Registrar.

16. Entertainment of appeals

16.1 An appeal may be entertained by the appointing authority, if—

- (a) It is an appeal in a case in which under these regulations, no appeal lies; or

- (b) It does not comply with the provisions of regulation 13; or
- (c) it is an appeal and is not preferred within forty five days after the date on which the appellant was informed of the order appealed against, and no reasonable cause is shown for the delay; or
- (d) It is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances are adduced which afford ground for a reconsideration of the case;

Provided that in every case in which an appeal is withheld, the appellant or applicant shall be informed of the fact and the reasons for it and a copy thereof forwarded to the appellate authority, if any, together with a copy of the appeal so withheld:

Provided further that an appeal withheld on account only of failure to comply with the provisions or regulation 15 may be re-submitted at any time within one month of the date on which the appellant or applicant has been informed of the withholding of the appeal and if re-submitted in a form which complies with those provisions, shall not be withheld.

16.2 Any appellate authority may call for the record of any appeal withheld by an authority subordinate to it, which under these regulations may be made to it and may pass such order thereon as it considers fit.

17. Powers of the Executive Council

Nothing in these regulations shall be deemed to affect the powers of the Executive Council to revise or modify the orders passed by any lower authority.