



BRIHANMUMBAI MUNICIPAL CORPORATION

**Brihanmumbai Municipal Corporation Services
(Discipline And Appeal) Rules, 2015**

(Updated upto 31st May 2019)



INDEX

Rule No.	Contents	Page No.
PART – I – GENERAL		
1	Short title and commencement	.. 1
2	Interpretation	.. 1-4
3	Application	.. 4-5
PART II (A) SUSPENSION		
4(A)	Suspension	.. 6-9
PART – II (B) PRELIMINARY ENQUIRY		
4(B)	Preliminary Enquiry	.. 10
PART III – PENALTIES AND DISCIPLINARY AUTHORITIES		
5	Penalties	.. 11-14
6	Disciplinary Authorities	.. 14
7	Authority to institute proceedings	.. 14-15
PART IV – PROCEDURE FOR IMPOSING PENALTIES		
8	Procedure for imposing Major Penalties (Full Fledged Departmental Enquiry)	.. 16-26
9	Action on the Enquiry Report	.. 26-27
10	Procedure for imposing Minor Penalties (Departmental Enquiry under Summary Procedure)	.. 27-28
11	Communication of orders	.. 28
12	Common proceedings	.. 29
13	Special Procedure in certain cases	.. 29-30

Rule No.	Contents	Page No.
14	Provisions regarding Officers lent to the State, Local Authority etc.	.. 30-31
15	Provision regarding Officers borrowed from the State, Local Authority, etc.	.. 32
PART – V – APPEALS		
16	Orders against which no appeal lies	.. 33
17	Orders against which appeal lies	.. 33-35
18	Appellate Authorities	.. 35-36
19	Period of limitation for Appeals	.. 36
20	Mode, form and contents of Appeal	.. 36
21	Transmission of Appeals	.. 37
22	Consideration of Appeal	.. 37-39
23	Implementation of orders in Appeal	.. 40
PART VI – REVIEW		
24	Review	.. 41-42
PART VII – MISCELLANEOUS		
25	Service of orders, notices etc	.. 43
26	Powers to relax time-limit and to condone delay	.. 43
27	Repeal and Savings	.. 43-44
28	Removal of doubt	.. 44

**BRIHANMUMBAI MUNICIPAL CORPORATION
SERVICES (DISCIPLINE AND APPEAL) RULES, 2015**

In exercise of the powers conferred by the section 64 (3) (a) of the Mumbai Municipal Corporation Act, 1888, the Municipal Commissioner is pleased to make the following rules, viz:-

PART – I – GENERAL

1. Short title and commencement –

(i) These Rules may be called the Brihanmumbai Municipal Corporation Services (Discipline and Appeal) Rules, 2015. Hereinafter unless otherwise any other Rules are specifically quoted, Rules mean “Rules under the Brihanmumbai Municipal Corporation Services (Discipline and Appeal) Rules, 2015.”

(ii) These Rules shall come into force from the date notified by the Municipal Commissioner i.e. as per captions @, \$, #,% as mentioned below.

2. Interpretation -

In these Rules, unless the context otherwise requires : -

(a) “ Corporation” means the Corporation as defined in section 3 of the Mumbai Municipal Corporation Act, 1888, as amended from time to time.

@ The Corporation vide their Resolution No. 1149 Dt. 07.10.2016 accorded approval to these rules

\$ The rules came into force from 21.11.2016 vide the Municipal Commissioner’s orders under No. MPM/2/757 Dt. 22.12.2016

The Corporation vide their Resolution No. 46 Dt. 31.05.2019 accorded approval to the modified rules.

% The modified rules came into force from 01.09.2020 vide the Municipal Commissioner’s order under No. CHOE/HO/2071 Dt. 08.09.2020

(b) "Municipal Commissioner" means the Municipal Commissioner for Brihanmumbai appointed vide section 54 of the Mumbai Municipal Corporation Act, 1888 and that includes the Additional Municipal Commissioners appointed vide section 54(3) and the Acting Commissioner appointed vide section 59(3) of the Mumbai Municipal Corporation Act, 1888.

(c) "Deputy Municipal Commissioner" means the Deputy Municipal Commissioner as defined in section 55 of the Mumbai Municipal Corporation Act, 1888.

(d) "Appointing Authority" in relation to a Corporation Employee means: -

(i) the Authority competent to make appointments to the Service of which the Corporation Employee is for the time being a member or to the grade of the Service in which the Corporation Employee is for the time being included, or

(ii) the Authority competent to make appointments to the post which the Corporation Employee for the time being holds, or

(iii) the Authority which appointed the Corporation Employee to such Service, grade or post, as the case may be, or

(iv) where a Corporation Employee having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Corporation, the Authority which appointed him to that Service or to any Grade in that Service or to that post, whichever Authority is the highest Authority;

(e) "Corporation Employee" means a person who is appointed to any Municipal service or post in connection with the affairs of the Corporation and includes such Corporation Employee whose services are temporarily placed at the disposal

of any other Government in India, or a Company or Corporation owned or controlled by Government or a Local Authority or any other Authority or Corporation, notwithstanding that his salary is drawn from the sources other than from the Municipal Treasury. It also includes the person who is a member of service or holds a post under any other Government in India or Company, Corporation, Organisation, Local Authority or any other Authority, Corporation and whose services are temporarily placed at the disposal of the Corporation, but does not include the Honoraries appointed in the Corporation .

(f) "Competent Authority" means the Municipal Commissioner or Deputy Municipal Commissioner and also the officers empowered by them by a General or Special delegation of powers to exercise any powers under these Rules.

(g) "Disciplinary Authority" means the Authority competent to impose Penalties upon a Corporation Employee under section 83 of the Mumbai Municipal Corporation Act, 1888 and also the officers empowered by these Authorities by a Special delegation of powers.

(h) "Enquiry Authority" means the Officer or Committee appointed by the Municipal Commissioner or Disciplinary Authority to hold a Departmental Enquiry against any Corporation Employee in any case, by a General or Special order.

Note:- This includes the Chief Officer (Enquiries) or any other officer and also a person who is not a Municipal Officer but is duly appointed by the Municipal Commissioner by a Special order to hold Departmental Enquiry in any case.

(i) "Departmental Enquiry" means an enquiry into any matter which appears to involve any breach of departmental rules or discipline, carelessness, unfitness, neglect of duty or

misconduct on the part of any Corporation Employee with a view to determining whether the Corporation Employee is guilty of such breach of departmental rules or discipline, carelessness, unfitness, neglect of duty or misconduct and if so the nature and quantum of Penalty in respect of the offence or default proved against him.

Note:- (1) A Preliminary Enquiry held to ascertain whether there is a *prima-facie* case to frame a charge or charges against a Corporation Employee is not a Departmental Enquiry.

(2) Barring the cases where the matter is to be investigated into or Preliminary Enquiry is to be conducted, on a report of irregularities by a Municipal Authority with due sanction of the Competent Authority, it should be ensured that the complainant has furnished atleast *prima-facie* evidence to substantiate his complaint while ordering investigations into/Preliminary Enquiry.

(j) "Major Penalty" means any of the Penalties specified in item (One) to (Three) (both inclusive) alongwith the notes (1) and (2) thereunder of Sub-rule (B) of Rule 5.

(k) "Minor Penalty" means any of the Penalties specified in item (One) to (Four) (both inclusive) of Sub-rule (A) of Rule 5.

(l) "Service" means Civic Services of the Brihanmumbai Municipal Corporation.

(m) "State" means the State of Maharashtra.

3. Application –

(a) Except as otherwise provided by or under these Rules or the Mumbai Municipal Corporation Act, 1888 (including the provisions of Rules not inconsistent and also any Rules or orders in respect of the matters incorporated in these

Rules), these Rules shall be applicable to all Corporation Employees defined in Rule 2(e) of these Rules.

(b) If any doubt arises whether any person to whom these Rules apply belongs to a particular service or otherwise, the matter shall be referred to the Municipal Commissioner who shall decide the same.

PART II (A) SUSPENSION**4. (A) Suspension –**

(1) The Appointing Authority or any Authority to which the Appointing Authority is subordinate or the Disciplinary Authority or any other Authority empowered in that behalf by the Municipal Commissioner by General or Special order may place a Corporation 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 affairs of the Corporation, or

(c) where a case against him in respect of any criminal offence is under investigation, enquiry or trial :

Provided that, where the order of suspension is made by an Authority lower than the Appointing Authority, such Authority shall forthwith report to the Appointing Authority, the circumstances in which the order was made and such suspension, shall come to an end if not confirmed by the Appointing Authority within a period of six months from the date of such suspension.

(2) A Corporation 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 police or judicial 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 from service 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 also be taken into account.

(3) Where a Penalty of Dismissal or Removal from service imposed upon a Corporation Employee under suspension is set aside in Appeal or on Review under these Rules, and the case is remitted for further Enquiry or action or with any other directions, the order of his suspension shall be deemed to have been continued in force on and from the date of the original order of Dismissal or Removal from service and shall remain in force until further orders.

(4) Where a Penalty of Dismissal or Removal from service imposed upon a Corporation Employee is set aside or declared or rendered void in consequence of, or by, a decision of Court of Law, and the Disciplinary Authority, on a consideration of the circumstances of the case, decides to hold a further Enquiry against him on the allegations on which the Penalty of Dismissal or Removal from service was originally imposed, the Corporation Employee shall be deemed to have been placed under suspension by the Appointing Authority from the date of original order of Dismissal or Removal from service and shall continue to remain under suspension, till further orders.

Provided that, no such further Enquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case.

(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 a Corporation 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 during the continuation of that suspension, the Authority competent to place him under suspension may, for the reasons to be recorded by it in writing, direct that the Corporation 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.

Provided that, where a criminal offence is registered against a Corporation Employee, the recommendation of the Suspension Review Committee constituted by the Corporation in this behalf, shall be obtained by the Authority which has made or is deemed to have made the suspension order or by any Authority to which that Authority is subordinate, before revoking or modifying the order of suspension of such Corporation Employee.

Explanation:- The Municipal Commissioner or any Authority/Officer empowered by him can review the suspension of the Corporation Employee involved in a criminal or Anti-Corruption case. The meeting of the subject Review Committee will be convened every six months. Similarly, if in any specific case the Head of the Department puts forth any

extraordinary reason, in accordance with that the Municipal Commissioner or any Authority/Officer empowered by him may review the suspension of such Corporation Employee and may revoke it.

Before according sanction for prosecution of Public Servant in the Competent Court of Law in Criminal Cases, if the Municipal Commissioner is of the opinion that on the basis of the documentary evidence furnished by the Investigating Officer/Authority, there is Dereliction of Duty/Gross Misconduct on the part of that Public Servant and there is sufficient *prima-facie* evidence for prosecution, he may accord sanction for prosecution.

Eventhough, investigation by the Police Authorities is not over or chargesheet is not filed within specific limit according to the prevalent Acts or Rules, suspension could be reviewed.

Where the investigation by the Police Authorities is over or the chargesheet is filed, barring the grave criminal cases, the suspension could be reviewed, considering the direct or otherwise relation of the matter with the Corporation, gravity of the charge, the involvement of the Public Servant, therein is purely individual or otherwise, on the basis of the evidence in the matter.

PART – II (B) PRELIMINARY ENQUIRY

4. (B) Preliminary Enquiry -

(1) Before a Full Fledged Departmental Enquiry/ Enquiry under Summary Procedure is held or ordered to be held it shall be considered by the Disciplinary Authority, whether a Preliminary Enquiry is necessary or desirable.

(2) If in the opinion of the Disciplinary Authority, in cases where allegation made against the Corporation Employee are grave or are such as are likely to entitle a Major Penalty, a Preliminary Enquiry should be considered as desirable.

(3) Where there has been an Investigation or Enquiry by the Police, such Investigation or Enquiry by the Police may be considered as equivalent to a Preliminary Enquiry and no fresh or further Preliminary Enquiry may be held.

(4) The Preliminary Enquiry should be held by the Enquiry Officer duly authorised by the Municipal Commissioner or Disciplinary Authority.

(5) On receipt of the report of the Preliminary Enquiry or on perusal and consideration of other material available in the case, the Competent Authority should decide: -

(a) whether a prima-facie case exists for a Departmental Enquiry;

(b) whether the Corporation Employee/s concerned should be suspended pending a Departmental Enquiry and ;

(c) whether the services of Corporation Employee/s could be and should be terminated without a Departmental Enquiry.

**PART III – PENALTIES AND DISCIPLINARY
AUTHORITIES**

5. Penalties -

Without prejudice to the provisions of any Law for the time being in force, the following Penalties may for good and sufficient reasons and as hereinafter provided, be imposed on a Corporation Employee Viz;

(A) Minor Penalties:-

As per section 83(3) of the Mumbai Municipal Corporation Act, 1888 following Minor Penalties can be imposed:-

(i) Censure

(ii) Fine

(iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Corporation by negligence or breach of orders.

(iv) Withholding the increments of pay (with or without permanent effect).

(B) Major Penalties : -

As per section 83(1) of the Mumbai Municipal Corporation Act, 1888 following Major Penalties can be imposed: -

(i) Dismissal from service, which shall ordinarily be a disqualification for future employment under Corporation.

(ii) Removal from service, which shall ordinarily be not a disqualification for future employment under Corporation.

(iii) Reduction in pay or Demotion from post.

Note:- (1) Demotion to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Corporation Employee will earn increments of pay during the period of such Demotion and whether on the expiry of such period, the Demotion will or will not have the effect of postponing the future increments of his pay;

Note:- (2) Reduction to lower time-scale of pay, grade, post or service for a period to be specified in the order of Penalty, which shall be a bar to the promotion of the Corporation Employee during such specific period to the time-scale of pay, grade, post or service from which he was reduced. Such order should incorporate following conditions for reinstating the Corporation Employee to his earlier time-scale of pay, grade, post or service, on expiry of the period specified in the order :-

(Explanation:- However while reducing the Corporation Employee to lower time-scale of pay, grade, post or service, such reduction should not be to a post lower than the post to which he was initially appointed to)

(a) whether or not the period of reduction to time-scale of pay, grade, post, or service shall operate to future increments of his pay and if so, to what extent; and

(b) whether or not, the Corporation Employee regain his original seniority in the higher time-scale of pay, grade, post or service.

[Provided that, in every case in which the charge of acceptance from any person of any gratification other than the legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the Penalties mentioned in clause (i) or (ii) in (B) above, shall be imposed.] Similarly in specific cases the Penalties prescribed as per Government Policies in accordance with judicial decisions (e.g. bogus Cast Certificate cases) 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.

(c) where a Penalty mentioned in Sub-rule (B)(iii) along with note (2) is imposed on a Corporation Employee, the Authority imposing the Penalty shall expressly state in the order imposing the Penalty that the period for which the Reduction is to be effective will be exclusive of any interval spent on leave before the period is completed.

Explanation:- The following shall not amount to a Penalty within the meaning of these rules Viz:-

(i) withholding of increments of pay of a Corporation Employee for his failure to pass any Departmental examination or any other prescribed examination (e.g. Marathi language examination, Computer Qualification examination) in accordance with the rules or orders governing the services to which he belongs to or post which he holds or the terms of this appointment;

(ii) non-promotion of a Corporation Employee, whether in a substantive or officiating capacity, after consideration of his case, to a service, grade or post for promotion to which he is eligible, on administrative ground unconnected with his conduct;

(iii) reversion of a Corporation Employee officiating in a higher service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post on any administrative ground unconnected with his conduct;

(iv) reversion of a Corporation Employee appointed on probation to any other services, grade or post to his permanent service, 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 such probation;

(v) Replacement of the services of a Corporation Employee whose services had been borrowed from any Corporation or any Authority under its control, at the disposal of such Corporation or Authority;

(vi) compulsory retirement of a Corporation Employee in accordance with the provisions relating to his superannuation or retirement;

(vii) termination of the services:-

(a) of a Corporation 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 Corporation Employee on grounds unconnected with his conduct; or

(c) of a Corporation Employee employed under an agreement in accordance with the terms of such agreement.

6. Disciplinary Authorities -

The Municipal Commissioner or the Officers empowered by the Municipal Commissioner may impose any of the Penalties mentioned in Rule 5 (A) or 5 (B) upon any Corporation Employee. However as per provisions of section 83(1) of the Mumbai Municipal Corporation Act, it is necessary that the Major Penalty upon the employee in the pay grade of Executive Engineer or equivalent thereto & above be imposed with the approval of the Corporation.

7. Authority to institute proceedings -

(1) The Municipal Commissioner or any other Authority empowered by him by General or Special order may -

(a) Initiate Disciplinary proceedings against any Corporation Employee;

(b) direct a Disciplinary Authority to institute disciplinary proceedings against any Corporation Employee on whom that Disciplinary Authority is competent to impose under these Rules any of the Penalties specified in Rule 5;

(c) direct the transfer of any pending enquiry from any Enquiry Officer/Authority, appointed by the Disciplinary Authority under Sub rule (2) of Rule 8, to any other Enquiry Officer/Authority if he is satisfied that it is necessary for timely completion of enquiry.

(2) A Disciplinary Authority competent under these Rules to impose any of the Penalties specified in Rule 5 (A) 5 (B) on a Corporation Employee may institute disciplinary proceeding against such Corporation Employee.

PART IV – PROCEDURE FOR IMPOSING PENALTIES**8. Procedure for imposing Major Penalties (Full Fledged Departmental Enquiry)**

(1) No order imposing any of the Major Penalties shall be made except after an enquiry held, as far as may be in the manner provided in this Rule and Rule 9,

(2) Whenever the Disciplinary Authority is of the opinion that there are grounds for enquiring into the veracity of any imputation of misconduct or misbehaviour against a Corporation Employee it may itself enquire into, or (as the case may be) appoint under this Rule an Enquiry Officer or Committee to Enquire into the veracity thereof :-

Provided that, where there is a complaint of sexual harassment within the meaning of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013”, the Complaints Committee established in each Department or Office for enquiring into such complaints, shall be deemed to be the Enquiring Authority appointed by the Disciplinary Authority for the purpose of these Rules, and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding Enquiry into the complaint of sexual harassments, the Enquiry as far as practicable in accordance with the procedure laid down in these Rules.

Explanation:- Where a Disciplinary Authority itself holds an Enquiry under this Rule, any reference to an Enquiring Authority in this Rule shall, unless the context otherwise requires, be construed as reference to the Disciplinary Authority.

(3) Where it is proposed to hold an Enquiry against a Corporation Employee under this Rule, the Disciplinary Authority shall draw up or cause to be drawn up:-

(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;

(ii) a statement of the imputations of misconduct or misbehaviour 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 Corporation Employee; and

(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 Corporation Employee, a copy of articles of charge, the statement of the imputations of misconduct or misbehaviour, and a list of documents and of the witnesses by which each article of charge is proposed to be sustained, and shall by a written notice require the Corporation Employee to submit to it within such time as specified in the notice, 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 enquire into such of the articles of charge as are not admitted, or if it considers it necessary as to do, appoint, under Sub-rule (2), an Enquiring Authority for the purpose, and where all the articles of charge have been admitted by the Corporation 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 laid down in Rule 9 of these Rules;

(b) if no written statement of defence is submitted by the Corporation Employee, the Disciplinary Authority may itself enquire into the articles of charge or may, if it consider it necessary to do so, appoint under Sub rule(2) of these Rules, an Enquiring Authority for the purpose;

(c) where the Disciplinary Authority, appoints an Enquiring Authority, it may by an order, appoint a Corporation Employee or a Legal Practitioner, to be known as the "Presenting Officer" to present the case in support of the articles of charge before the Enquiring Authority.

(6) The Disciplinary Authority shall, where it is not the Enquiring Authority, forward to the Enquiring Authority -

(i) a copy of each of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any, submitted by the Corporation Employee.

(iii) copies of statement of witnesses, if any, referred to in Sub-rule (3) of this Rule;

(iv) evidence proving the delivery of the documents referred to in Sub-rule (3) to the Corporation Employee; and

(v) a copy of the order appointing the Presenting Officer.

(7) The Corporation Employee shall appear in person before the Enquiring Authority on such day and at such time within ten working days from the date of receipt by the Enquiring Authority of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the Enquiring Authority may, by a notice in writing specify, in this behalf, or within such further time, not exceeding ten days, as the Enquiring Authority may allow.

(8) The Corporation Employee may take the assistance of any other Corporation Employee or Retired Corporation Employee, as explained further in (a) and (b) to present the case on his behalf. But may not engage a legal practitioner for the purpose, unless the Disciplinary Authority, having regard to the circumstances of the case, so permits;

(a) The Corporation Employee may take the assistance of any other Corporation Employee posted in any office either at his headquarters or at the place where the Enquiry 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 Corporation Employee may take the assistance of any other Corporation Employee posted at any other workplace, if the Enquiring Authority having regard to the circumstances of the case, and for the reasons to be recorded in writing, so permits.

Note:- The Corporation Employee shall not take the assistance of any other Corporation Employee who has three pending disciplinary cases on hand in which he has to give assistance.

(b) The Corporation Employee may also take the assistance of a Retired Corporation Employee to present the case on his behalf, subject to such conditions as may be specified by the Municipal Commissioner, from time to time, by General or Special order in this behalf.

(9) If the Corporation 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 Enquiring Authority, such Authority shall ask him whether he is guilty or has any defence to make and if he

pleads guilty to any of the articles of charge, the Enquiring Authority shall record the plea, sign the record and obtain signature of the Corporation Employee thereon.

(10) The Enquiring Authority shall return a finding of guilt in respect of those article of charge to which the Corporation Employee pleads guilty.

(11) The Enquiring Authority shall, if the Corporation Employee fails to appear within the specified time or refuses or admits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove articles of charge and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Corporation 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 Enquiring Authority may allow, the documents specified in the list referred to in Sub-rule (3) of this Rule,

(ii) Submit a list of witnesses to be examined on his behalf,

(iii) Give a notice within ten days of the order or within such further time not exceeding ten days as the Enquiring Authority may allow, for the discovery or production of any documents which are in the possession of the Corporation but not mentioned in the list referred to in Sub-rule (3) of this Rule, indicating the relevance of such documents.

(12) Where the Corporation Employee applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in Sub-rule (3) of this Rule, the Enquiring Authority shall furnish him with such copies as early as possible and in any case before the commencement of the examination of the witnesses on behalf of the Disciplinary Authority.

(13) Where the Enquiring Authority receives a notice from the Corporation Employee for the discovery or production of documents, the Enquiring Authority shall 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 Enquiring Authority, for the 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.

(14) On receipt of the requisition referred to in Sub-rule (13), every Authority having the custody or possession of the requisitioned documents shall produce the same before the Enquiring Authority;

Provided that, if the Authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or interest of the Corporation, it shall inform the Enquiring Authority and the Enquiring Authority shall, on being so informed, communicate the information to the Corporation Employee and withdraw the requisition made by it for the production of discovery of such documents.

(15) The Enquiry shall be commenced on the date fixed in that behalf by the Enquiring Authority and shall be continued thereafter on such date or dates as may be fixed from time to time by that Authority.

(16) On the date fixed for the Enquiry, 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 the Presenting Officer and may be cross-examined by

or on behalf of the Corporation Employee. The Presenting Officer shall be entitled to re-examine, the witnesses on any points on which they have been cross-examined but not on any new matter, without the leave of the Enquiring Authority. The Enquiring Authority may also put such questions to the witnesses as it thinks fit.

(17) If it shall appear necessary before the close of the case on behalf of the Disciplinary Authority, the Enquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Corporation Employee or may itself call for new evidence or recall and re-examine any witness and in such case the Corporation 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 Enquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the Enquiry is adjourned. The Enquiring Authority shall give the Corporation Employee an opportunity of inspecting such documents before they are taken on the record. The Enquiring Authority may also allow the Corporation Employee to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice;

Provided that, no new evidence shall be permitted or called for or any witness shall be recalled to fill up any gap in the evidence unless there is an inherent lacuna or defect in the evidence which has been produced originally.

(18) When the case for the Disciplinary Authority is closed, the Corporation 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 Corporation 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 appointed, if any.

(19) The evidence on behalf of the Corporation Employee shall then be produced. The Corporation Employee may examine himself in his own behalf if he so prefers. The witnesses produced by the Corporation Employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the Enquiring Authority according to the provisions applicable to the witnesses for the Disciplinary Authority.

(20) The Enquiring Authority may after the Corporation Employee closes his case and shall, if the Corporation Employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Corporation Employee to explain any circumstances appearing in the evidence against him.

(21) The Enquiring Authority may, after the completion of the production of evidence, hear the Presenting Officer, appointed, if any, and the Corporation Employee, or permit them to file written briefs of their respective case, if they so desire.

(22) If the Corporation Employee to whom a copy of the articles of charge has been delivered, does not submit a written statement of defence on or before the date specified for the purpose or does not appear in person before the Enquiring Authority or otherwise fails or refuses to comply with the provisions of this Rule, the Enquiring Authority may hold the Enquiry *ex-parte*.

(23) (a) where a Disciplinary Authority competent to impose any of the Minor Penalties but not competent to impose any of the Major Penalties has itself enquired into or caused to be enquired into any of the articles of charge and that Authority,

having regard to its own findings or having regard to its decision on any of the findings of any Enquiring Authority appointed by it, is of the opinion that any of the Major Penalties should be imposed on the Corporation Employee, that Authority shall forward the records of the Enquiry to such Disciplinary Authority as is competent to impose such Major Penalty.

(b) the Disciplinary Authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witness and examine, cross-examine and re-examine the witness, and may impose on the Corporation Employee such Penalty as it may deem fit in accordance with these Rules;

Provided that, if any witnesses are recalled, they may be cross-examined by or on behalf of the Corporation Employee.

(24) Whenever any Enquiring Authority, after having heard and recorded the whole or any part of the evidence in any Enquiry ceases to exercise jurisdiction therein, and is succeeded by another Enquiring Authority, which has, and which exercises, such jurisdiction, the Enquiring 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 Enquiring Authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore provided;

Provided that, if any witnesses are recalled, they may be cross-examined by or on behalf of the Corporation Employee.

(25) After the conclusion of the Enquiry, a report shall be prepared by the Enquiring Authority. Such report shall contain -

(a) the articles of the charge and statement of the imputations of misconduct or misbehaviour;

(b) the defence of the Corporation 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.

(26) Where, in the opinion of the Enquiring Authority the proceedings of the Enquiry establish any article of charge; different from the original article of the charge and it may record its finding on such article of charge;

Provided that, the findings on such article of charge shall not be recorded unless the Corporation 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.

(27) The Enquiring Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the records of Enquiry which shall include -

(a) the report prepared by it under Sub-rule (25);

(b) the written statement of defence, if any, submitted by the Corporation Employee;

(c) the oral and documentary evidence produced in the course of the Enquiry;

(d) written briefs, if any, filed by the Presenting Officer or the Corporation Employee or both during the course of the Enquiry; and

(e) the orders, if any, made by the Disciplinary Authority and the Enquiring Authority in regard to the Enquiry.

9. Action on the Enquiry Report –

(1) The Disciplinary Authority, if it is not itself the Enquiring Authority may, for reasons to be recorded by it in writing, remit the case to the Enquiring Authority for further Enquiry and report and the Enquiring Authority shall thereupon proceed to hold the further Enquiry according to the provisions of Rule 8 of these Rules as far as may be;

(2) The Disciplinary Authority shall forward or cause to be forwarded a copy of the Report of the Enquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Enquiring Authority, a copy of the Report of the Enquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Enquiring Authority on any article of charge to the Corporation Employee who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the said Corporation Employee;

(2A) The Disciplinary Authority shall consider the representation, if any, submitted by the Corporation Employee and record its findings before proceeding further in the matter as specified in Sub-rules (3) and (4).

(3) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the Minor Penalties should be imposed on the Corporation Employee, it shall, notwithstanding anything contained in Rule 10 of these Rules on the basis of the evidence adduced during the Enquiry held under Rule 8 determine what Penalty, if any, should be imposed on the Corporation

Employee and 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 Enquiry, is of the opinion that any of the Penalties specified in Rule 5 should be imposed on the Corporation Employee, it shall make an order imposing such Penalty and it shall not be necessary to give the Corporation Employee any opportunity of making representation on the Penalty proposed to be imposed.

10. Procedure for imposing Minor Penalties (Departmental Enquiry under Summary Procedure) -

(1) Save as provided in Sub-rule (3) of Rule 9, no order imposing on a Corporation Employee any of the Minor Penalties shall be made except after :-

(a) informing the Corporation 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 Enquiry in the manner laid down in Rule 8, in every case in which the Disciplinary Authority is of the opinion that such Enquiry is necessary;

(c) taking into consideration the representation, if any, submitted by the Corporation Employee under clause (a) of this Rule and the record of Enquiry, if any, held under clause (b) of this Rule; and

(d) recording a finding on each imputation of misconduct or misbehaviour;

(2) 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 Corporation 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 Corporation Employee or to withhold increment of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an Enquiry shall be held in the manner laid down in Sub-rules (3) to (27) of Rule 8, before making any order of imposing on the Corporation Employee any such Penalty.

(3) The record of the proceedings in such cases shall include :-

(i) a copy of the intimation to the Corporation 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 representations, if any;

(iv) the evidence produced during the Enquiry;

(v) the findings on each imputation of misconduct or misbehaviour; and

(vi) the orders on the case together with the reason therefor.

11. Communication of orders –

The orders made by the Disciplinary Authority alongwith its findings on each article of charge shall be communicated to the Corporation Employee or where the Disciplinary Authority is in disagreement with the Enquiring Authority, the brief reasons therefor and the findings of the Enquiring Authority shall also be communicated.

12. Common Proceedings -

(1) Where two or more Corporation Employees are concerned in any case, the Municipal Commissioner or any other Authority competent to impose the Penalty of Dismissal from service on all such Corporation Employees may make an order directing that disciplinary action against all of them may be taken in a common proceedings.

(2) Where the Authorities competent to impose the Penalty of Dismissal on such Corporation Employee are different, an order for taking disciplinary action in a common proceedings may be made by the Superior of such Authorities.

(3) Every order for taking disciplinary action in a common proceedings shall specify: -

(i) the Authority which may function as the Disciplinary Authority for the purpose of such common proceedings;

(ii) the Penalties specified in Rule 5(A) and 5(B) which such Disciplinary Authority shall be competent to impose;

(iii) whether the procedure laid down in Rule 8 and Rule 9 or Rule 10 shall be followed in the proceedings.

13. Special Procedure in certain cases -

Notwithstanding anything contained in Rules 8 to Rule 12 of these Rules -

(i) where any Penalty is imposed on a Corporation 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 Enquiry in the manner provided in these Rules; or

(iii) where the Municipal Commissioner is satisfied that in the interest of the security of the Corporation, it is not convenient to hold any Enquiry 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;

(iv) disciplinary proceedings come to an end immediately on the death of the delinquent Corporation Employee, No disciplinary proceedings under these Rules, can therefore, be continued after the death of the concerned Corporation Employee.

Provided that, the Corporation 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).

14. Provisions regarding Officers lent to the State, Local Authority etc. -

(1) Where the services of a Corporation Employee are lent by one department of Corporation to another department of Corporation or to any Local Authority or to the State or any other Corporation or any Authority subordinate thereto or to a Local or other Authority (including any Company or Corporation owned or controlled by the Corporation) (hereinafter in this Rule referred to as "the Borrowing Authority"), the Borrowing Authority shall have the powers of the Appointing Authority and of the Disciplinary Authority for the purpose of conducting a disciplinary proceeding against him for his alleged misconduct or misbehaviour in that service.

Provided that, the Borrowing Authority shall forthwith inform the Authority which lent the services of the Corporation Employee (hereinafter in this Rule referred to as "the Lending

Authority") of the circumstances leading to the order of suspension of such Corporation Employee or the commencement of disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the Corporation Employee:-

(i) if the Borrowing Authority is of the opinion that any of the Minor Penalties should be imposed on the Corporation Employee, it may after consultation with the Lending Authority, make such orders on the case as it deems necessary;

Provided that, in the event of a difference of opinion between the Borrowing Authority and the Lending Authority, the services of the Corporation Employee shall be replaced at the disposal of the Lending Authority;

(ii) If the Borrowing Authority is of the opinion that any of the Major Penalties should be imposed on the Corporation Employee, it shall replace his services at the disposal of the Lending Authority and transmit to it, the proceedings of the Enquiry; and thereupon the Lending Authority may, if it is the Disciplinary Authority pass such orders thereon as it may deem necessary or, if, it is not the Disciplinary Authority, submit the case to the Disciplinary Authority which shall pass such orders on the case as it may deem necessary;

Provided that, before passing any such order, the Disciplinary Authority shall comply with the provisions of Sub-rules (3) and (4) of Rule 9 of these Rules.

(3) The orders under clause (ii) of Sub-rule (2), of this Rule may be passed by the Disciplinary Authority either on the basis of the record of the Enquiry transmitted to it by the Borrowing Authority or after holding such further Enquiry as it may deem necessary, as far as may be, in accordance with the provisions of Rule 8 of these Rules.

15. Provision regarding Officers borrowed from the State, Local Authority, etc.

(1) Where an order of suspension is made or a disciplinary proceeding is conducted against an Employee whose services have been borrowed from the State, Local Authority etc., 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 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 conducted against the Employee:-

(i) if the Disciplinary Authority is of the opinion that any of Minor Penalties should be imposed on him, it may, subject to the provisions of Sub-rule (3) of Rule 9 of these Rules, after consultation with the Lending Authority, 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 Lending Authority the services of the Employee shall be replaced at the disposal of the Lending Authority;

(ii) if the Disciplinary Authority is of the opinion that any of the Major Penalties should be imposed on the Employee, it shall replace the services of such Employee at the disposal of the Lending Authority and transmit to it the proceedings of the Enquiry for such action as it may deem necessary.

PART – V – APPEALS**16. Orders against which no appeal lies -**

Notwithstanding anything contained in this Part, no appeal shall lie against -

(i) any order made by the Standing Committee/ Education Committee/Corporation;

(ii) any administrative order made by the Municipal Commissioner;

(iii) any order of an interlocutory nature or of the nature of a step-in-aid or the final disposal of a Disciplinary Proceeding, other than an order of suspension;

(iv) any order passed by an Enquiring Authority in the course of an Enquiry under Rule 8 of these Rules.

17. Orders against which appeal lies -

Subject to the provisions of Rule 16, a Corporation Employee may prefer an appeal against all or any of the following orders, viz:-

(i) an order of suspension made or deemed to have been made under Rule 4 of these Rules;

(ii) an order imposing any of the Penalties specified in Rule 5(A) and 5(B) of these Rules;

(iii) an order enhancing any Penalty, imposed under Rule 5(A) and 5(B) of these Rules;

(iv) an order which:-

(a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by Rules or by Agreement; or

(b) denies promotion to which he is otherwise eligible according to the Recruitment Rules and which is due to him according to his seniority;

(c) interprets to his disadvantage the provisions of any such Rule or Agreement;

(v) an order:-

(a) reverting him while officiating in a higher service, grade or post to a lower service, grade or post, otherwise than as a Penalty;

(b) reducing or withholding the pension or denying the maximum pension admissible to him under the Rules governing pension;

(c) determining the subsistence and the 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 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 from service or from the date of his Reduction to a lower service, grade, post, time-scale or stage in a time-scale of pay, to the date of his re-instatement or restoration to his service, 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 from service 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 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 "Corporation Employee" includes a person who has ceased to be in Corporation Service;

(ii) the expression "Pension" includes additional pension, gratuity and any other retirement benefits.

18. Appellate Authorities -

An appeal against the orders passed by a Competent Authority shall ordinarily lie to the Authority next higher to such Competent Authority;

(1) where the order of Penalty is made by the Head of the Department, the appeal may be made to the Deputy Municipal Commissioner in-charge of that Department.

(2) where the order is made by a Deputy Municipal Commissioner, the appeal may be made to the Additional Municipal Commissioner of concerned Department. The Additional Municipal Commissioner may either dispose of the appeal himself or direct another Deputy Municipal Commissioner or two Deputy Municipal Commissioners to dispose of it.

(3) where the order is made by the Additional Municipal Commissioner, the appeal may be made to the Municipal Commissioner. The Municipal Commissioner may dispose of it himself or direct another Additional Municipal Commissioner or two Additional Municipal Commissioners or two Deputy Municipal Commissioners to dispose of it.

(4) where the order is made by the Municipal Commissioner, the appeal shall be made to the Municipal Commissioner and the Municipal Commissioner may direct an Additional Municipal Commissioner or two Additional Municipal Commissioners or two Deputy Municipal

Commissioners to hear the appeal and submit to him alongwith the remarks for orders or hear and dispose it of.

19. Period of limitation for Appeals -

An Appeal against the order of Penalty must be preferred within 30 days from the receipt of the order by the Appellant. However in case of order of Dismissal or Removal from service it can be made within 60 days.

20. Mode, form and contents of Appeal -

(1) every person preferring an Appeal shall do so separately and in his own name. He shall address it to the Authority to which it lies and must submit it through the concerned Head of the Department and the Authority making order of Penalty.

(2) the Appeal shall be complete in itself and shall contain all material statements and arguments on which the Appellant relies. It should not be a mere repetition of previously raised points and should contain new and adequate grounds for reconsideration. It must not be couched in impolite or insubordinate language.

(3) if Appeal is not submitted within the prescribed time-limit, cogent and satisfactory reasons be shown therefor.

However, under any circumstances no Appeal can be made after 120 days from the date of receipt of the order against which the Appeal is made in case of order of the "Major Penalty."

(4) a Copy of the Appeal shall also be submitted direct to the Appellate Authority.

21. Transmission of Appeals -

(1) On receipt of the Appeal in the aforesaid manner the concerned Head of the department, shall without any avoidable delay submit it to the concerned Appellate Authority through the Chief Officer (Enquiries) and the Authority which made the Penalty order. While submitting the Appeal it should be brought to the notice, if it is couched in impolite and insubordinate language and/or if it is not preferred within the specified time-limit.

(2) The Authority which made the order appealed against shall, on receipt of copy of the Appeal, without any avoidable delay and without waiting for any direction from the Appellate Authority, transmit the Appeal to the Appellate Authority together with its comments, if such Appeal is not preferred within the prescribed time-limit, without cogent and satisfactory reasons and if it is couched in impolite and insubordinate language and if there are no new and adequate grounds for reconsideration are disclosed, astowhether it should be withheld and submit alongwith the relevant records.

22. Consideration of Appeal -

(1) (a) Where the Appeal is not preferred within the prescribed time-limit and if no satisfactory reasons are shown therfor or/also if the Appellate Authority is of the opinion that the Appeal is couched in impolite and insubordinate language or/also the Appeal does not otherwise disclose new and adequate grounds for reconsideration but is a mere repetition of previous points, the Appeal shall be rejected outright. However, the Appellant shall be informed of the fact and reasons for it.

(b) The powers to condone the delay in preferring an Appeal against Major Penalty, for valid reasons shall be as follows:-

(i) 60 upto 75 days :- The concerned Deputy Municipal Commissioner

(ii) 75 upto 90 days :- The concerned Additional Municipal Commissioner

(iii) 90 to 120 days :- The Municipal Commissioner

(c) In the case of an Appeal against an order of suspension the Appellate Authority shall consider whether 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 5(A) and 5(B) of these Rules or enhancing any Penalty under that Rule and where in an Appeal the Appellant raises a point regarding any material discrepancy or irregularity in the procedure at the Enquiry and which has adversely affected him, the Appellate Authority shall consider:-

(a) where in an Appeal, the Appellant raises a point regarding discrepancy or irregularity in the procedure at the Enquiry and which has adversely affected him;

whether the procedure laid down in these Rules has been followed, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) whether the findings of the Disciplinary Authority are warranted by the evidence on record; and

(c) whether the Penalty or the enhanced Penalty imposed is adequate, inadequate or severe and may pass orders for conducting the Enquiry *de-novo* by setting aside the entire original Enquiry or conducting it again from the stage from where the discrepancy or irregularity is noticed or else pass orders:-

(I) confirming, enhancing, reducing or setting aside the Penalty; or

(II) remitting the case to the Authority which had passed the order appealed against, with such directions as it may deem fit in the circumstances of the case;

Provided that :-

(I) the Appellate Authority shall not impose any enhanced Penalty which neither such Authority nor the Authority which made order appealed against is not competent in the case to impose;

(II) if the enhanced Penalty which the Appellate Authority proposes to impose is one of the Major Penalties and an Enquiry under Rule 8 has not already been held in the case, the Appellate Authority shall, subject to the provisions of Rule 13, itself hold such Enquiry or direct that such Enquiry be held in accordance with the provisions of Rule 8, and thereafter, on consideration of the proceedings of such Enquiry, make such orders as it may deem fit.

(III) if the enhanced Penalty which the Appellate Authority proposes to impose is one of the Major Penalties and an Enquiry under Rule 8 of these Rules has already been held in the case, the Appellate Authority shall make such orders as it may deem fit;

Provided that, in any case where it is proposed to enhance the Penalty a reasonable opportunity to show cause against the proposed enhancement must be given to the Appellant.

(3) In an Appeal against any order specified in Rule 17 of these Rules, the Appellate Authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

23. Implementation of orders in Appeal -

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

PART VI – REVIEW**24. Review -**

(1) Notwithstanding anything contained in these Rules, even when no Appeal is filed or when any case is put up to him by the Head of the Department, the Municipal Commissioner may review any order of Penalty passed by the sub-ordinate officers 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 he may consider proper in the circumstances of the case; or

(d) pass such other orders as he may deem fit.

(2) No proceeding for Review shall be commenced until after :-

(i) the expiry of period of limitation for an Appeal,

(ii) the disposal of Appeal, where any such Appeal has been preferred.

(3) An application for Review shall be dealt with in the same manner as if it were an Appeal under these Rules, except that the period of limitation for its consideration shall be six months commencing from the date on which a copy of the order under Review is delivered to the Applicant.

Provided that, no order imposing or enhancing any Penalty shall be made by the Municipal Commissioner unless the Corporation Employee concerned has been given a reasonable opportunity of making a representation against

Penalty proposed or where it is proposed to impose any of the Major Penalties specified in Rule 5(B) or to enhance the Major Penalty imposed by the order sought to be reviewed to any of the Major Penalties and if an Enquiry under Rule 8 has not already been held in the case, no such Penalty shall be imposed except after an Enquiry in the manner laid down in Rule 8, subject to the provisions of Rule 13.

PART VII – MISCELLANEOUS**25. Service of orders, notices etc. -**

Every order, notice and other process made or issued under these Rules shall be served in person on the Corporation Employee, shall be served in any manner in which it is possible to obtain written acknowledgement from him. In urgent cases the copy of chargesheet, notice, order or communication be served on the Corporation Employee by Electronic Media (the e-mail id known to the Corporation).

However, refusal to accept official communication can be treated as a separate misconduct and appropriate disciplinary action can be taken.

However, any such notice, order or communication under these Rules, if the same has not been accepted, refused to have been accepted or evaded by the Corporation Employee shall be deemed to have been duly served, if it shall have been sent by Registered post under Acknowledgement due to the address of the Corporation Employee of his last known place of residence as recorded in the Municipal Records, on the date of his evasion/refusal or the remark about non-acceptance, by the postal department.

26. Powers to relax time-limit and to condone delay -

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.

27. Repeal and Savings -

(1) On the commencement of these Rules, the following Rules, that is to say -

(i) The Brihanmumbai Municipal Corporation Service Rules, 1989

(ii) The Municipal Servants (Conduct and Discipline) Rules etc, in so far as they relate to the matter provided by these Rules, are hereby repealed :-

Provided that:-

(a) such repeal shall not affect the previous operation of any notifications or orders made or anything done, or any action under the Rules so repealed;

(b) any proceedings under the Rules so repealed which were pending at the commencement of these Rules shall be continued and disposed of, as far as may be, in accordance with the provisions of these Rules, as if such proceedings were proceedings under these Rules.

(2) Nothing in these Rules shall be construed as depriving any person to whom these Rules apply of any right of Appeal which had accrued to him under the Rules, notifications or orders in force before the commencement of these Rules.

(3) As from the commencement of these Rules any Appeal or application for Review against any orders made before such commencement shall be preferred or made under these Rules, as if such orders were made under these Rules;

Provided that, nothing in these Rules shall be construed as reducing any period of limitation for any Appeal or Review provided by any Rule in force before the commencement of these Rules.

28. Removal of doubt -

Where a doubt arises as to whether any Authority is subordinate to, or higher than, any other Authority or as to the interpretation of any of the provisions of these Rules, the matter shall be referred to the Municipal Commissioner whose decision thereon shall be final.
