

6.7 Tamil Nadu Civil Services (Discipline and Appeal) Rules - Amendment to rule 12(2) - Dismissal/Removal shall not be ordered by an officer subordinate to the appointing authority

Personnel and Administrative Reforms (N) Department

G.O. (Ms) No. 29

Dated : 29.1.1996

Read :

1. G.O. (Ms) No.185, Personnel & Administrative Reforms (Per.N) Department, dated 17.3.88
2. G.O. (Ms) No.66, Personnel & Administrative Reforms (Per.N) Department, dated 10.3.94

ORDER

According to sub-rule (2) of rule 12 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as amended in the G.O. second read above, the State Government after deciding upon the choice of proceeding whether under sub-rule (a) or sub-rule (b) of rule 17 may direct the Head of Departments concerned to initiate disciplinary proceedings under rule 17(a) or rule 17(b) as the case may be, against a member of a State Service and remit the case to the Government for passing final orders. Accordingly, the Government are the authority competent to impose major and minor penalties on members of State Service. The orders in the G.O. second read above were issued based on the observation made by the Tamil Nadu Administrative Tribunal in T.A.Nos. 175/91 and OA No.1148/91 that charges framed by certain Heads of Departments against State Service Officers are out of Jurisdiction and the concerned appointing authorities alone are competent to frame charges against the Government servants. Further, the appointing authorities alone are competent to examine and decide the choice of rules under which the delinquent officers under rule 12(2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as amended in the G.O. first read above for imposing minor punishments against State Service Officers may not be correct.

2. The Supreme Court of India in its order, dated 1.12.94 in Civil Appeal Nos. 1361-62 of 1994 has observed that in so far as initiation of enquiry by an officer subordinate to the appointing authority is concerned, it is well settled now that it is unobjectionable. The initiation can be by an officer sub-ordinate to the appointing authority. Only the dismissal/removal shall not be by an authority sub-ordinate to the appointing authority.

3. In the light of the orders of the Supreme Court said in para 2 above it has been decided to amend sub-rule (2) of rule 12 of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, enabling the Heads of Departments to initiate disciplinary Proceedings and to impose certain minor penalties on their sub-ordinate officers.

4. The Heads of Departments are informed that the disciplinary proceedings already initiated against the State Service Officers as per the direction of the Government as per the provision in the existing rule shall be remitted to the Government for passing final orders.

5. The following Notification will be published in the next issue of the Tamil Nadu Government Gazette.

6. DISCIPLINARY PROCEEDINGS

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Civil Services (Discipline and Appeal) Rules, Volume I of the Tamil Nadu Services Manual, 1987).

2. The amendment hereby made shall come into force on the 29th January, 1996.

AMENDMENT

In the said rules, in rule 12, for sub-rule (2) the following sub-rule shall be substituted, namely:-

(2) Notwithstanding anything contained in these rules and in appendix-IV, the Heads of Departments concerned may-

- (i) impose any of the penalties specified in items (i) and (iii) in so far as it relates to withholding of increments and item (v) in rule 8 on all members of the State Service other than such members who are immediately below such Heads of Departments; and
- (ii) institute disciplinary proceedings under rule 17(a) which are not covered under clauses (i) above or under rule 17(b) as the case may be, on all members of the State Service other than such members who are immediately below such Heads of Departments and shall remit the case to the Government for passing final orders".

(By order of the Governor)

S. NARAYAN
SECRETARY TO GOVERNMENT