

NATIONAL COUNCIL FOR CEMENT AND BUILDING MATERIALS

**NCB OFFICIALS CONDUCT, DISCIPLINE
AND APPEAL RULES, 1975**
(including amendments up to 20 Feb 03)

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CONTENTS

	<u>Page No</u>
Short Title and Commencement	1
Applications	1
Terminology	1

CONDUCT

General	2
Misconduct	2
Employment of NCB officials or near relatives of the NCB officials in private Undertakings enjoying patronage of the NCB	5
Taking part in Demonstrations, Strike, Gherao and Association	6
Connection with Press or Radio	6
Criticism of Government and the NCB	6
Evidence before Committee or any other Authority	7
Unauthorised Communication of Information	7
Subscriptions	7
Gifts	7
Private Trade or Employment	8
Investment, Lending and Borrowing	8
Insolvency and Habitual Indebtedness	8
Movable, Immovable and valuable Property	9
Canvassing of Non-Official or other Influence	9
Bigamous Marriage	9
Consumption of Intoxicating drinks and/or drugs	10

DISCIPLINE

Suspension	10
Subsistence Allowance	11
Treatment of the period of suspension	11
Penalties	12
Authorities	13
Procedure for imposing major penalties	14

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Procedure for imposing minor penalties	17
Transmission of orders	17
Common proceedings	18
Special procedure in certain cases	18
Officials on deputation from the Central Govt or the State Govt, etc	18
Appeals	19
Provisions when Disciplinary Authority subsequently becomes Appellate Authority	20
Powers to Review	21
Authentication and Communication	21
Clarifications, Amendments, Modifications, Additions and Exceptions	21
Disciplinary, Appellate and Reviewing Authorities	23

NCB OFFICIALS' CONDUCT, DISCIPLINE AND APPEAL RULES, 1975

1 SHORT TITLE AND COMMENCEMENT

- 1.1 These Rules shall be called '**NCB Officials' Conduct, Discipline and Appeal Rules, 1975**'.
- 1.2 They shall come into force with effect from 1 September 1975.

2 APPLICATION

- 2.1 These Rules shall apply to all NCB officials governed by NCB Cadre Rules, 1974 or NCB Contract Service Rules 1975 as in force from time to time.
- 2.2 The provisions of these Rules may also be extended, wholly or partially, by the Director General to employees other than those covered in 2.1 in which case reference to words 'NCB Official' wherever occurring in these Rules shall mean 'NCB Employees'.

3 TERMINOLOGY

- 3.1 For the purpose of these Rules, the following expressions shall have the meaning assigned to them hereunder :
 - a) '**Appellate Authority**' means the authority specified in Rule 25 of these Rules.
 - b) '**Appointing Authority**' means the authority specified in Rule 25 of these Rules and competent to make appointments.
 - c) '**Board**' means the Board of Governors of the National Council for Cement and Building Materials.
 - d) '**Chairman**' means the Chairman (in office) of the NCB.
 - e) '**Competent Authority**' means the Director General or the person/officer empowered by the Director General by any general or special order to discharge the functions or use the power specified in these Rules.
 - f) '**Director General**' means the Director General of the National Council for Cement and Building Materials.
 - g) '**Disciplinary Authority**' means the authority specified in Rule 25 of these Rules and competent to impose any of the penalties specified in Rule 24.

- h) **'Family'** in relation to an NCB official includes :
- i) the wife or husband as the case may be of the NCB official, whether residing with him or not but does not include a wife or husband as the case may be separated from the NCB official by a decree or order of a competent court.
 - ii) sons or daughters or stepsons or step daughters of the NCB official and wholly dependent on him, but does not include a child or stepchild who is no longer in any way dependent on the NCB official or of whose custody the NCB official has been deprived of by or under any law, and
 - iii) any other persons related, whether by blood or marriage to the NCB official or to such NCB official's wife or husband and wholly dependent on such NCB official.
- j) **'NCB'** means the National Council for Cement and Building Materials, a Society registered under the Societies Registration Act, 1860.
- k) **'NCB Official'** means an individual admitted to NCB Cadre Rules, 1974 or NCB Contract Service Rules, 1975.
- l) **'Reviewing Authority'** means the authority specified in Rule 25 of these Rules.
- m) **'Vice-Chairman'** means the Vice-Chairman (in office) of the NCB.

3.2 Wherever the context of a rule so admits, the masculine gender shall include the feminine and the singular number shall include the plural number and vice versa and reference to any Rule shall mean the Rule as in force from time to time.

C O N D U C T

4 GENERAL

4.1 Every NCB official shall at all times

- a) maintain absolute integrity;
- b) maintain devotion to duty;
- c) do his best to achieve the objectives set by the NCB; and
- d) do nothing unbecoming of an NCB official.

4.2 Every NCB official shall take all possible steps to ensure the integrity and devotion to duty of all NCB officials for the time being under his control and authority.

5 MISCONDUCT

5.1 Without prejudice to the generality of the term 'misconduct', it shall mean and include violation of any of the provisions of Rules 4 to 20 and in particular the following acts of omission and

commission by an NCB official shall constitute misconduct :

- a) Theft, fraud, negligence or dishonesty in connection with the business or property of the NCB or of another person;
- b) Taking or giving bribes or any illegal gratification or adopting disruptive or corrupt practices;
- c) Possession of pecuniary resources or property disproportionate to the known sources of his income by the NCB Official or on his behalf by another person, which the NCB official can not satisfactorily account for;
- d) Furnishing false information regarding name, age, father's name, qualification, ability or previous service or any other matter germane to the employment at the time of employment or during the course of employment'
- e) Acting in the manner prejudicial to the interest of the NCB;
- f) Insubordination or disobedience, whether alone or in combination with others, of any lawful and reasonable order of his superior;
- g) Absence without leave or over-staying the sanctioned leave without sufficient grounds to the sole satisfaction of his superior;
- h) Frequent late coming, or irregular attendance ('frequent late coming' means not reporting to duty at the appointed hour without prior permission more than 3 times in a month and 'irregular attendance' means applying for leave frequently or taking leave without prior permission);
- j) Neglect of work or negligence in the performance of assigned duty including malingering or slowing down of work;
- k) Damage to any property of the NCB;
- m) Interference or tampering with any safety devices installed in or about the premises of the NCB or non-observance of safety instructions, security system, or the rules on the subject;
- n) Drunkenness or riotious or disorderly or indecent behaviour in the premises of the NCB or outside such premises where such behaviour is related to or connected with the employment;
- p) Gambling within the premises of the NCB;
- q) Smoking within the premises of the NCB where it is prohibited;
- r) Collection without the written permission of the Competent Authority of any money/contribution within the premises of the NCB;

- s) Sleeping or idling while on duty or during duty hours or adopting any dilatory tactics;
- t) Commission of any act which amounts to a criminal offence involving moral turpitude;
- u) Absence of the NCB official from his appointed place of work without permission or a cause acceptable in the discretion of his superiors;
- w) Commission of any act subversive of discipline or of good behaviour;
- y) Abetment of or attempt at abetment of any act which amounts to misconduct;
- z) Being adjudged insolvent;
- aa) Leaving station of posting without permission of the Competent Authority;
- ab) Applying directly or indirectly for an outside job or seeking outside job by verbal understanding without the prior consent of the NCB;
- ac) Unauthorized communication or disclosure of information, which in the sole discretion of the Competent Authority of the NCB is detrimental to the NCB's interest, concerning policy matters or information relating to any project, investigation or research scheme, operation or business carried out by the NCB whether the same may become known to the NCB official during the course of service or otherwise;
- ad) Non-compliance or violation of any rule, standing instruction or order of the NCB;
- ae) Refusal by an NCB official to do a work assigned by a superior or refusal to work on holidays/closed days or beyond normal working hours;
- af) Threatening or intimidating any official within the boundaries of the NCB or coercing any official(s); disturbing or dissuading any official(s) from performing his duty or interference with the work of other official(s);
- ag) Writing of anonymous or pseudonymous letters, writing to any superior authority jointly or in combination or writing with name to any superior authority without routing through proper channel or addressing a communication to or approaching an authority other than those permitted by these rules or forwarding advance copies of appeals and applications to any authority;
- ah) Loose talking and spreading false rumours;
- aj) Unauthorised use or possession of any property, machinery, tools, vehicles or land belonging to the NCB;
- ak) Wilful falsification, defacement or destruction of personal records or any other records of the NCB;

- am) Refusal to accept charge-sheet or warning notice or any communication issued by the NCB or for and on its behalf;
- an) Not taking proper care of the NCB's property, equipment etc handed over to an official in connection with the nature of his employment;
- ap) Levelling false allegations against any official of the NCB orally or in writing;
- aq) Carrying of lethal or dangerous weapon or attempting to cause bodily injury and intimidating any official of the NCB;
- ar) Distributing or exhibiting within the premises of the NCB, or its vehicle any hand bills, pamphlets or posters without the previous written sanction of the NCB;
- as) Attending or holding meetings within the premises of the NCB without previous written permission of the NCB;
- at) Canvassing for unions or associations or party membership or the collections for union, association or party dues, funds or contributions etc within the premises of the NCB without prior written permission of the NCB;
- au) Shouting slogans or any other activity calculated to disturb the peace within the premises of the NCB;
- aw) Such other instances, without prejudice to the generality of the term 'misconduct' as may be determined by the Director General NCB from time to time;
- ax) Any physical contact and advances, a demand or request for sexual favours, showing prönography and any other unwelcome physical, verbal or non-verbal conduct of sexual nature towards woman employee. (68th BoG)

Note : The above instances of misconduct are only illustrative in nature and not exhaustive.

6 EMPLOYMENT OF NCB OFFICIAL OR NEAR RELATIVES OF THE NCB OFFICIALS IN PRIVATE UNDERTAKING ENJOYING PATRONAGE OF THE NCB

6.1 No NCB official shall use his official position or influence directly or indirectly to secure employment for any member of his family or for himself in any private undertaking having official dealings with the NCB.

6.2 No NCB official shall, except with the previous knowledge of the Competent Authority, permit his son, daughter or any other member of family to accept employment in any private undertaking with which he has official dealings or in any other undertaking having official dealings with the NCB.

6.3 No NCB official shall in the discharge of his official duties deal with any matter or give or sanction any contract to any undertaking or any other person if any member of his family is employed in that undertaking or under that person or if he or any member of his family is interested in such

matter or contract and he shall refer every such matter or contract to his superior official and the matter or the contract shall thereafter be disposed off according to the instructions of the authority to whom the reference is made.

7 TAKING PART IN DEMONSTRATIONS, STRIKE, GHERAO AND ASSOCIATION

7.1 No NCB official shall

- a) engage himself or participate in any demonstration or do such things which involve incitement to offence, contempt of court or considered prejudicial by the Disciplinary Authority, in its sole discretion, to the interest of the NCB, public order, decency or morality;
- b) resort to or in any way abet any form of strike, gherao, coercion or duress in connection with any matter pertaining to his service or the service of any other official of the NCB.

7.2 No NCB official shall join or continue to be a member of an association the object or activities of which are considered by the Disciplinary Authority, in its sole discretion, prejudicial or likely to become prejudicial to the interest of the NCB, public order, decency or morality.

8 CONNECTION WITH PRESS OR RADIO

8.1 No NCB official shall, except with the previous sanction in writing of the Competent Authority, own wholly or in part or conduct or participate in the editing or management of, any newspaper or other periodical publication.

8.2 No NCB official shall, except with the previous sanction in writing of the Competent Authority or except in the bonafide discharge of his assigned duties, participate in a radio/television broadcast or contribute any article including article in a book or write any letter whether in his own name or anonymously, pseudonymously or in the name of any other person to any newspaper or periodical.

Provided that no such sanction shall be required if such broadcast or such contribution is of a purely professional, literary, artistic or scientific character having no bearing whatsoever on any of the activities of the NCB.

9 CRITICISM OF GOVERNMENT AND THE NCB

9.1 No NCB official shall, in any radio/television broadcast or in any document published anonymously, pseudonymously or under his name or in the name of any other person or in any communication to the press, or in any utterance, make any statement of fact or opinion :

- a) which has the effect of an adverse criticism of any policy or action of the Central or State Government or of the NCB, or
- b) which is capable of embarrassing the relation between the NCB and the public.

Provided that nothing in this Rule shall apply to any statement made or views expressed by an NCB official of purely factual nature which are not considered to be of a confidential nature, in his official capacity or in due performance of the duties assigned to him.

10 EVIDENCE BEFORE COMMITTEE OR ANY OTHER AUTHORITY

10.1 Save as provided in Rule 10.3, no NCB official shall, except with the previous sanction in writing of the Competent Authority give evidence in connection with any enquiry conducted by any person, committee or authority.

10.2 Where any sanction has been accorded under rule 10.1, no NCB official giving such evidence shall criticise the policy or any action of the Central Government or of a State Government or of the NCB.

10.3 Nothing in this Rule shall apply to

- a) evidence given at any enquiry before an authority appointed by the Government, Parliament or a State Legislature or the NCB;
- b) evidence given in any judicial enquiry or any court proceedings; or
- c) evidence given at any departmental enquiry ordered by the NCB.

11 UNAUTHORISED COMMUNICATION OF INFORMATION

11.1 No NCB official shall, except in accordance with any general or special order of the NCB or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof or information to any other NCB official or any other person to whom he is not authorised to communicate such document or information.

12 SUBSCRIPTION

12.1 No NCB official shall, except with the previous sanction in writing of the Competent Authority, ask for or accept contributions to or otherwise associate himself with the raising of any funds or other collections in cash or in kind in pursuance of any object whatsoever.

13 GIFTS

13.1 Save as otherwise provided in these Rules, no NCB official shall accept or permit any member of his family or any person acting on his behalf, to accept any gift.

Explanation -- The expression 'gift' shall include free transport, board, lodging or other service or any other pecuniary advantage when provided without the specific knowledge of the NCB by any person other than a near relative or a personal friend having no official dealings with the official. A casual meal, lift or other hospitality shall not be deemed to be a gift.

Note : An official of the NCB shall avoid acceptance of lavish or frequent hospitality from any individual, organisation or body corporate having official dealings with him.

13.2 An NCB official may accept gifts from his near relatives or personal friends having no official dealing with him but he shall make a report to the Competent Authority if the value of the gift exceeds Rs 500/-.

13.3 In any other case, an NCB official shall not accept any gift without the sanction in writing of the Competent Authority if the value thereof exceeds Rs 250/-.

Provided that when more than one gift has been received from the same person/firm within a period of 12 months, the matter shall be reported to the Competent Authority if the aggregate value of the gifts exceeds Rs 500/-.

14 PRIVATE TRADE OR EMPLOYMENT

14.1 No NCB official shall, except with the previous sanction in writing of the Competent Authority, engage directly or indirectly in any trade or business or undertake any other employment.

Provided that an official may, without such sanction undertake honorary work of a social, religious or charitable nature or occasional work of a professional, literary, artistic or scientific character, subject to the condition that his official duties do not thereby suffer.

14.2 No NCB official shall, without the previous sanction in writing of the Competent Authority, except in the discharge of his official duties, take part in the registration, promotion or management of any bank or other company which is required to be registered under any law for the time being in force or any cooperative society for commercial purpose.

Provided that an official of the NCB may take part in the registration, promotion or management of a cooperative society substantially for the benefit of officials of the NCB, registered under the Co-operative Societies Act 1912 (2 of 1912) or any other law for the time being in force, or of a literary, scientific, religious or charitable society registered under the Societies Registration Act 1860 (21 of 1860), or any corresponding law in force.

14.3 No NCB official shall accept any fee or any pecuniary advantage for any work done by him for any person or a body of persons without the sanction in writing of the Competent Authority.

15 INVESTMENT, LENDING AND BORROWING

15.1 No NCB official shall, save in the ordinary course of business with a bank, the Life Insurance Corporation or a firm of standing, borrow money from or lend money to or otherwise place himself under pecuniary obligation to any person with whom he has or is likely to have official dealing or permit any such borrowing, lending or pecuniary obligation in his name or for his benefit or for the benefit of any member of his family.

16 INSOLVENCY AND HABITUAL INDEBTEDNESS

16.1 An NCB official shall so manage his private affairs as to avoid habitual indebtedness or insolvency unless he proves that such indebtedness or insolvency is the result of circumstances beyond his control.

16.2 An NCB official against whom any legal proceeding is instituted for the recovery of any debt due from him or who applies to be or is adjudged or declared insolvent shall forthwith report the full facts of the proceedings to the Director General.

17 MOVABLE, IMMOVABLE AND VALUABLE PROPERTY

17.1 No NCB official shall, except after giving written information to the Competent Authority, acquire or dispose off any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family.

17.2 No NCB official shall, except with the previous sanction in writing of the Competent Authority, enter into any transaction concerning any immovable or movable property worth Rs 1000/- and above with a person or a body having official dealings with the NCB official.

17.3 Every NCB official shall report to the Competent Authority within one month of every transaction concerning movable property owned or held by him in his own name or in the name of a member of his family, if the value of such property exceeds Rs 5000/-.

17.4 Every NCB official shall, on first appointment in the NCB, and at such intervals as may be determined by the Competent Authority, submit a return of assets and liabilities in the form prescribed by the Competent Authority.

17.5 The Competent Authority may, at any time, by general or special order require an official to submit within a period specified in the order a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required by the Competent Authority, include details of the means by which, or the source from which such property was acquired.

18 CANVASSING OF NON-OFFICIAL OR OTHER INFLUENCE

18.1 No NCB official shall bring or attempt to bring any outside influence to bear upon any official or authority of the NCB to further his interests in respect of matters pertaining to his service in the NCB or on matters pertaining to plans, policies and programmes of the NCB.

19 BIGAMOUS MARRIAGES

19.1 No NCB official shall enter into or contract a marriage with a person having a spouse living and no NCB official having a spouse living, shall enter into, or contract a marriage with any person.

Provided that the Board may permit an NCB official to enter into or contract any such marriage as is referred to above if it is satisfied that -

- a) such marriage is permissible under the personal law applicable to such NCB official and the other party to the marriage; or
- b) there are other grounds for so doing.

20 CONSUMPTION OF INTOXICATING DRINKS AND/OR DRUGS

20.1 An NCB official

- a) shall strictly abide by any law relating to intoxicating drinks and/or drugs in force in any area in which he may happen to be for the time being;
- b) shall not administer or cause to be administered or be under the influence of any intoxicating drinks or drugs while on duty whether within or outside the premises of the NCB.
- c) shall not administer or cause to be administered or be under the influence of any intoxicating drinks or drugs while within the premises of the NCB.
- d) shall not use any intoxicating drinks or drugs to excess.

Provided that nothing in Rule 20.1(b)&(c) shall apply to an NCB official if he is invited to an official function/party by NCB or deputed by NCB to an official function/party or officially invited by an outside body with the consent of the Competent Authority.

DISCIPLINE

21 SUSPENSION

21.1 The Appointing Authority or any authority to which the Appointing Authority is subordinate of the Disciplinary Authority or any other authority empowered in that behalf by the Competent Authority by general or special order may place an NCB official under suspension :

- a) where a disciplinary proceedings against him is contemplated or is pending; or
- b) where a case against him in respect of any criminal offence (except in the due performance of official duties) is under investigation or trial;
- c) where in the opinion of the aforesaid authority an NCB official has engaged himself in an activity prejudicial to the interest of the NCB.

21.2 Where a penalty of dismissal or removal or compulsory retirement from service imposed upon an NCB official under suspension is set aside on appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal or removal or compulsory retirement and shall remain in force until further orders.

21.3 Where a penalty of dismissal or removal or compulsory retirement from service imposed upon an NCB official is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal or removal or compulsory retirement was originally imposed, the official shall be deemed to have been placed under

suspension from the date of the original order of dismissal or removal or compulsory retirement and shall continue to remain under suspension until further orders.

21.4 An order of suspension made or deemed to have been made may at any time be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

21.5 An order of suspension made or deemed to have been made shall continue to remain in force until it is modified or revoked.

22 SUBSISTENCE ALLOWANCE

22.1 An NCB official under suspension shall be entitled to draw subsistence allowance equal to 50 percent of basic pay provided the disciplinary authority is satisfied that the official is not engaged in any other employment or business or profession or vocation. In addition he shall be entitled to Dearness Allowance admissible on such subsistence allowance and any other compensatory allowance such as House Rent Allowance etc of which he was in receipt on the date of suspension provided the suspending authority is satisfied that the official continues to meet the expenditure for which the allowance was granted.

22.2 Where the period of suspension exceeds three months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of first three months as follows :

- a) the amount of subsistence allowance may be increased to 75 percent of basic pay and allowance thereon if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the NCB official under suspension;
- b) the amount of subsistence allowance may be reduced to 25 percent of basic pay and allowances thereon if, in the opinion of the said authority, the period of suspension has been prolonged due the reasons to be recorded in writing, directly attributable to the NCB official under suspension.

23 TREATMENT OF THE PERIOD OF SUSPENSION

23.1 When the NCB official under suspension is reinstated, the competent authority shall grant him the following pay and allowances for the period of suspension :

- a) If the official is exonerated, not awarded any of the penalties mentioned in Rule 24 and the delay in the termination of proceedings is not directly attributable to him, the full pay and allowances which he would have been entitled to if he had not been suspended, less the subsistence allowance already paid to him;
- b) If otherwise, such proportion of pay and allowances as the competent authority may prescribe.

23.2 In a case falling under Rule 23.1(a) the period of absence from duty will be treated as a period spent on duty; in a case falling under Rule 23.1(b), it will not be treated as a period spent on duty unless the Competent Authority so specifically directs.

24 PENALTIES

24.1 The Disciplinary Authority or an authority higher than it may impose the following penalties on NCB official as hereinafter provided, for misconduct committed by him or for any other good and sufficient reason :

Minor Penalties

- a) Censure or fine;
- b) Withholding of increments of pay with or without cumulative effect;
- c) Withholding of promotion;
- d) *Recovery from pay or from such other amount as may be due to him of the whole or part of any pecuniary loss caused by him to the NCB;
- e) Suspend him from service (not amounting to suspension under Rule 21 for a period not exceeding seven days without any salary whatsoever and debit the period of Extraordinary Leave Account.

Major Penalties

- f) Reduction to a lower grade or to a lower stage in an existing time scale;
- g) Removal from service which shall not be a disqualification for future employment in NCB;
- h) Dismissal;
- i) Compulsory Retirement;
- j) Any other penalty considered appropriate by the Disciplinary Authority or an authority higher than it.

Exemption : The following shall not amount to a penalty within the meaning of this Rule :

- i) Withholding of an increment of NCB official on account of his work being found unsatisfactory or not being of the required standard or for failure to pass a prescribed test or examination;
- ii) Stoppage of an NCB official at the efficiency bar in a time scale, on the ground of his unfitness to cross the bar;

*The authority imposing the penalty shall also decide the amount or recovery and the instalments (Authority : Board's decision Minute No 2.12.3)

- iii) Non-appointment, whether in an officiating capacity or otherwise, of an NCB official to a higher post for which he may be eligible for consideration but for which he is found unsuitable after consideration of his case;
- iv) Reversion to a lower grade of an NCB official officiating in a higher grade on the ground that he is considered, after trial, to be unsuitable for such higher grade or on administrative grounds unconnected with his conduct;
- v) Reversion to the previous grade or post, of an NCB official appointed on probation to another grade or post, during or at the end of the period of probation, in accordance with the terms of his appointment.
- vi) Termination of service
 - 1) of an NCB official appointed on probation, during or at the end of the period of probation, in accordance with the terms of his appointment;
 - 2) of an NCB official appointed in a temporary capacity otherwise than under a contract or agreement, on the expiration of the period for which he was appointed, or earlier in accordance with the terms of the appointment;
 - 3) of an NCB official appointed under a contract or agreement, in accordance with the terms of such contract or agreement; or
 - 4) of an NCB official on reduction of establishment.

25 AUTHORITIES

25.1 The appointing Authority for officials governed by NCB Cadre Rules, 1974 for Grade A1 to E5 shall be the Additional Director General/Director/Jt Director heading the activity of Personnel Management; for Grade E6 to D5 the Director General and for Additional Director General and Director General, the Board of Governors. The Disciplinary, Appellate and Reviewing Authority shall be those indicated in Appendix A.

'Grade' above shall mean Grade in NCB Salary Grade System as specified in NCB Cadre Rules, 1974.

Note 1 : Director General and Board of Governors may exercise any powers of lower authority in Specific cases.

Note 2 : Except in case of Board of Governors, in cases where Disciplinary and Appellate or Appellate and Reviewing Authority happens to be the same, the Appellate or Reviewing Authority, as the case may be, in that case will be authority higher than him.

25.2 The Disciplinary Authority or any authority higher than it may impose any of the penalties specified in Rule 24 on any NCB official.

26 PROCEDURE FOR IMPOSING MAJOR PENALTIES

26.1 No order imposing any of the major penalties specified in Rule 24.1(f) to (j) shall be made except after an inquiry is held in accordance with these Rules.

26.2 Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of an imputation of misconduct or misbehaviour against an official, it may itself enquire into, or nominate an Inquiry Officer or a Board of Inquiry (hereinafter called the Inquiring Authority) to enquire into the truth thereof. The Disciplinary Authority may, in its sole discretion, change the Inquiring Authority at any time.

26.3 Where it is proposed to hold an inquiry, the Disciplinary Authority shall frame or cause to be framed definite charges on the basis of the allegations against the NCB official. The charges, together with a statement of the allegations, on which they are based, and a list of documents by which the articles of charge are proposed to be sustained, shall be communicated in writing to the NCB official, who shall be required to submit within such time as may be specified by the Disciplinary Authority (not less than 72 hours and no exceeding 15 days), a written statement whether he admits or denies any or all of the articles of charge.

Explanation : It will not be necessary to show the documents listed with the charge sheet or any other document to the NCB official at this stage.

26.4 On receipt of the written statement/explanation of the NCB official or if no such statement/explanation is received within the time specified, an inquiry may be held by the Disciplinary Authority itself, or by any other Authority nominated under Rule 26.2.

Provided that it may not be necessary to hold an inquiry in respect of the charges admitted by the NCB official in his written statement/explanation. The Disciplinary Authority shall, however, record its findings on each of such charges.

26.5 Where the Disciplinary authority itself enquires or nominates an Inquiring Authority for holding an inquiry, it may, by an order nominate any NCB official to be termed as the 'Presenting Officer' to present on its behalf the case in support of the articles of charge.

26.6 The NCB official under enquiry may take the assistance of any other NCB official*.

26.7 The NCB official shall appear before the Inquiring Authority at the date, time and place specified in the notice by the Inquiring Authority. The Inquiring Authority shall ask the NCB official whether he pleads guilty or has any defence to make. If he pleads guilty to any of the articles of charge, the Inquiring Authority shall record the plea, sign the record and obtain the signature of the NCB official concerned thereon. The Inquiring Authority shall return a finding of guilt in respect of those articles of charge to which the NCB official concerned pleads guilty.

*Engagement of an outsider is not permissible.

Authority : Board (earlier Council) decision vide Minute no 81.10.1

26.8 If the NCB official does not plead guilty, the Inquiring Authority shall adjourn the case to a later date not exceeding thirty days, after recording an order that the NCB official may, for the purpose of preparing his defence :

- a) inspect the documents listed with the charge-sheet;
- b) be supplied with the copies of the documents mentioned in the charge-sheet
- c) submit additional document(s), or written statement, list of witnesses, if any.

Note : The question of relevancy of the additional documents and the witnesses referred to in Rule 26.8© above shall be decided by the Inquiring Authority in his absolute discretion.

26.9 The Inquiring Authority shall ask the authority in whose custody or possession the documents are, for the production of the documents on such date as may be specified.

26.10 The authority in whose custody or possession the requisitioned documents are, shall arrange to produce the same before the Inquiring Authority on the date, place and time specified in the requisition notice.

Provided that the authority having the custody or possession of the requisitioned documents may claim privilege if the production of such documents will be against the public interest or the interest of the NCB. In that event, it shall inform the Inquiring Authority.

26.11 On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by the Presenting Officer or such other NCB official who may be appointed by the Disciplinary Authority to act in place of the Presenting Officer and may be cross-examined by or on behalf of the NCB official. The Presenting Officer or his substitute shall be entitled to re-examine the witnesses on any points on which they have been cross-examined. The Inquiring Authority may, in its discretion, also put such question to the witnesses as it thinks fit.

26.12 The Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the charge-sheet or may itself call for new evidence or recall or re-examine any witness. In such a case, the NCB official shall be given opportunity to inspect the documentary evidence before it is taken on record; or to cross-examine a witness, who has been so summoned.

26.13 When the case for the Disciplinary Authority is closed, the NCB official may 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 NCB official shall sign the record. In either case a copy of the statement of defence shall be given to the Presenting Officer.

26.14 The evidence on behalf of the NCB official shall then be produced. The NCB official may examine himself as his own witness, if he so prefers. The witnesses produced by the NCB official shall then be examined and shall be liable to cross examination, re-examination and examination according to the provision applicable to the witnesses for the Disciplinary Authority.

26.15 The Inquiring Authority may after the NCB official closes his case, generally question him on the circumstances appearing against him in the evidence.

26.16 After completion of the production of the evidence, the NCB official and the Presenting Officer may file written briefs of their respective cases within 15 days of the date of closure of evidence by both the parties.

26.17 If the NCB official does not submit the written statement/explanation referred to in Rule 26.4 on or before the date specified for the purpose or does not appear in person, or through the assisting NCB official or otherwise fails or refuses to comply with any of the provisions of these rules, the Inquiring Authority may proceed with the enquiry ex-parte.

26.18 Whenever any Inquiring Authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction thereon, and is succeeded by another Inquiring Authority which has, and which exercises, such jurisdiction, the Inquiring Authority so succeeding may act on the evidence so recorded by its predecessor or partly recorded by itself.

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

26.19 After the conclusion of the inquiry, report shall be prepared by the Inquiring Authority and it shall contain -

- a) a gist of the articles of charge and the statement of the imputations of misconduct or misbehaviour;
- b) a gist of the defence of the employee in respect of such article of charge
- c) an assessment of the evidence in respect of each article of charge; and
- d) the findings on each article of charge and the reasons therefor.

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

Provided that the findings on such article of charge shall not be recorded unless the NCB official 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.

26.20 The Inquiring Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the record of inquiry which shall include :

- a) the report of the inquiry prepared by it under Rule 26.19;
- b) the written statement/explanation, if any, submitted by the NCB Official referred to in Rule 26.4;
- c) the oral and documentary evidence produced in the course of the inquiry;

- d) written briefs referred to in Rule 26.16, if any; and
- e) the order, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry.

26.21 The Disciplinary Authority, if it is not itself the Inquiry Authority, may, for reasons to be recorded by it in writing remit the case to the Inquiring Authority for fresh or further inquiry and report and the Inquiring Authority shall thereupon proceed to hold further inquiry according to the provisions of these rules as far as may be.

26.22 The Disciplinary Authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge.

26.23 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 penalties specified in Rule 24 should be imposed on the official, it shall, notwithstanding anything contained in Rule 27 make an order imposing such penalty.

26.24 If the Disciplinary Authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order accordingly.

27 PROCEDURE FOR IMPOSING MINOR PENALTIES

27.1 Where it is proposed to impose any of the minor penalties specified in Rule 24, the NCB official concerned shall be informed in writing of the imputations of misconduct or misbehaviour against him and given an opportunity to submit his written statement/explanation within the specified period (not less than 72 hours and not exceeding 15 days). The written statement/explanation, if any, submitted by the NCB official shall be taken into consideration by the Disciplinary Authority before passing orders.

The record of the proceedings shall include -

- a) a copy of the statement of imputation of misconduct or misbehaviour delivered to the NCB official;
- b) his written statement/explanation, if any; and
- c) the orders of the Disciplinary Authority together with the reasons therefor.

28 TRANSMISSION OF ORDERS

28.1 Orders made by the Disciplinary Authority under rule 26 or Rule 27 shall be communicated in accordance with Rule 35 to the NCB official concerned, who shall also be supplied with a copy of the report of inquiry, if any. However, if in the opinion of the Disciplinary Authority disclosure of any part of the report is likely to be prejudicial to the interest of the NCB or the security of an individual(s) it may withhold total or such part of the report.

29 COMMON PROCEEDINGS

29.1 Where two or more officials are concerned in a case, the authority competent to impose a major penalty on all such officials may make an order directing that disciplinary proceedings against all of them may be taken in a common proceedings.

30 SPECIAL PROCEDURE IN CERTAIN CASES

30.1 Notwithstanding anything contained in Rule 26 or Rule 27, the Disciplinary Authority may impose any of the penalties specified in Rule 24 in any of the following circumstances :

- a) where the NCB official has been convicted on a criminal charge or on the strength of facts or conclusions arrived at by a judicial trial, otherwise than in the due performance of official duties; or
- b) where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or
- c) where the Director General is satisfied that in the interest of the NCB it is not expedient to hold any inquiry in the manner provided in these rules.

31 OFFICIALS ON DEPUTATION FROM THE CENTRAL GOVERNMENT OR THE STATE GOVERNMENT, ETC

31.1 Where an order of suspension is made or disciplinary proceedings is taken against an official, who is on deputation to the NCB from the Central or State Government, or another Public Undertaking or a local authority, the authority lending his services (hereinafter referred to as the "Lending Authority") shall forthwith be informed of the circumstances leading to the order of his suspension; or the commencement of the disciplinary proceedings, as the case may be.

31.2 In the light of the findings in the disciplinary proceedings taken against such an official :

- a) if the Disciplinary Authority is of the opinion that any of the minor penalties should be imposed on him, it may pass such orders on the case as it deems necessary after consultation with the Lending Authority. Provided that in event of a difference of opinion between the Disciplinary Authority and the Lending Authority, the services of the official shall be placed at the disposal of the Lending Authority; or
- b) if the Disciplinary Authority is of the opinion that any of the major penalties should be imposed on him, it shall place his services at the disposal of the Lending Authority and transmit to it the proceedings of the inquiry for such action as it deems necessary.

31.3 If the official submits an appeal against an order imposing a minor penalty on him under Rule 31.2(a), it will be disposed of in consultation with the Lending Authority. Provided that if there is a difference of opinion between the Appellate Authority and the Lending Authority, the services of the

official shall be placed at the disposal of the Lending Authority, and the proceedings of the case shall be transmitted to that authority for such action as it deems necessary.

32 APPEALS

32.1 Order Not appealable : Notwithstanding anything contained in this part, no appeal shall lie against any order original or appellate made by :

- a) the Board;
- b) the Reviewing Authority;
- c) any order of an interlocutory nature, or
- d) any order passed by the Inquiring Authority during the course of Inquiry under Rule 26.

32.2 Appeals against Orders Imposing Penalties : Subject to the provisions of Rule 32.1, an NCB official may appeal to the Appellate Authority against an order imposing upon him any of the penalties specified in Rule 24 or against the order of suspension referred to in Rule 21.

32.3 An NCB official may appeal against any other order made by or on behalf of the NCB, only up to the Director General and his decision shall be final and binding on him.

32.4 Period of Limitation for Appeal : No appeal shall be entertained unless it is submitted within a period of thirty days from the date on which the appellant receives a copy of the order appealed against.

32.5 Form and Contents of Appeal : Every NCB official submitting an appeal shall do so separately (not jointly or in combination) in his own name, on his own behalf and through proper channel. The appeal shall be addressed to the Appellate Authority as given in Rule 25, shall contain the grounds, statements and arguments on which the appellant relies and shall not contain any disrespectful or improper expression and shall be complete in itself.

32.6 Submission of Appeals : Every appeal shall be submitted through proper channel and through the authority who made the order appealed against who may give such comments as it may consider necessary and shall forward it to the Appellate Authority unless it withholds the appeal. No advance copy of the appeal shall be sent to the Appellate Authority directly.

32.7 Withholding of Appeals

32.7.1 The Director General or the authority which made the order appealed against may withhold the appeal if

- a) it is an appeal against an order from which no appeal lies; or
- b) it does not comply with any of the aforesaid provisions or any other relevant rule of the NCB; or
- c) it is a repetition of an appeal already decided and no new facts or circumstances are adduced

32.7.2 Where an appeal is withheld, the Appellate Authority and the appellant shall both be informed of the fact by the authority withholding the appeal and the reasons therefor, ordinarily within thirty days from the date of receipt of the appeal by the withholding authority.

32.8 Transmission of Appeals

32.8.1 The authority which made the order appealed against shall, transmit to the Appellate Authority through proper channel every appeal which is not withheld under Rule 32.7, together with its comments thereon within 45 days from the date of receipt of the appeal.

32.9 Consideration of Appeal

32.9.1 In the case of an appeal against an order of suspension, the Appellate Authority shall consider having regard to the circumstances of the case whether the order of suspension is justified or not, and confirm or revoke the order for reasons to be recorded in writing.

32.9.2 In the case of an appeal against an order imposing any of the penalties specified in Rule 24, the Appellate Authority shall consider :

- a) whether the procedure prescribed in these rules has been complied with, and, if not whether such non-compliance has resulted in failure of justice;
- b) whether the findings are justified; and
- c) when the penalty imposed is excessive, adequate or inadequate; and pass appropriate orders
 - i) setting aside, confirming, reducing, or enhancing the penalty; or
 - ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

Provided that

- i) the Appellate Authority shall not impose any enhanced penalty which such authority 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 inquiry under Rule 26 has not already been held in the case, the Appellate Authority shall, subject to the provisions of Rule 26, itself hold such inquiry or direct that such inquiry be held and thereafter on consideration of the proceedings of such inquiry pass such orders as it may deem fit.

33 PROVISION WHEN DISCIPLINARY AUTHORITY SUBSEQUENTLY BECOMES APPELLATE AUTHORITY

33.1 Notwithstanding anything contained in Rule 32, where the person who made the order appealed against becomes by virtue of his subsequent appointment or otherwise, the Appellate

