


**THE ODISHA CIVIL  
SERVICES  
(CLASSIFICATION,  
CONTROL AND APPEAL)  
RULES, 1962**



**“A Deterrent from wrong doing for  
government servant”**

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## **The Orissa Civil Services (Classification, Control and Appeal) Rules, 1962**

### **“A Deterrent from wrong doing for government servant”**

#### **Introduction:**

It is imperative that every organization, whether government or semi-government or private, should have a well established reward and punishment system to ensure that the people are made to work towards the fulfillment of the organizational goals. While the reward system will encourage the employees to work better towards the achievement of organizational goals, punishment system is used to prevent people from working against the organizational goals, misconduct, or non-conforming behavior. The disciplinary proceedings are intended to give the employee concerned a last chance to prove his innocence. When disciplinary proceedings are going to be held the employer should follow the principles of natural justice and the constitutional provision as well as the concerned rules formulated for such purpose.

#### **Constitutional Provision Related To DISCIPLINARY PROCEEDING:**

**Article 309** is an enabling provision that gives power to the legislature to enact laws governing the conditions of services of the persons appointed in connection with the affairs of the states.

**The Article 311** of the Constitution of India clearly lays down that "No person holding a civil post shall be dismissed, removed, compulsorily retired or reduced in rank, unless an inquiry is held and given a reasonable opportunity of being heard in respect of the charges leveled against him.

**Part XIV of the Constitution** of India relates to the terms of employment in respect of persons appointed in connection with the affairs of the State. Any

action against the employees of the Union Government and the State Governments should conform to these Constitutional provisions, which confer certain protections on the Government Servants. In addition to the constitutional provisions, there are certain rules which are applicable to the conduct of the proceedings for taking action against the erring employees like The Orissa Civil Services (Classification, Control and Appeal) Rules, 1962.

**Part -III of the Constitution** is also relevant to the matter of disciplinary proceedings.

**Article 14**, it strikes at the roof of arbitrariness. Hence any employee affected by the arbitrary action of the state can file a writ petition alleging violation of right to equality.

**Article 21** of the constitution provides right to life and liberty. It state's no one shall be deprived of his right to life and liberty except in accordance with the procedure established by law.

### **Other Provisions:**

#### **Evidence Act :**

The provisions of the Indian Evidence Act and the Criminal Procedure Code are not applicable to the departmental enquiries. The spirit of these enactments should, however, be followed in departmental enquiries. The Inquiry Officer should afford reasonable opportunity to both sides to present their respective cases including full opportunity for cross-examining witnesses.

### **Types of Proceedings:**

#### **A. Minor Penalty Proceeding:**

1. Rule-16 provides for the following procedure for imposing minor penalties on delinquent Government servants.

(a) Communication of statement of allegations on the basis of which it is proposed to take up action against the delinquent employee. The delinquent employee is given an opportunity to make any representation he may wish to make,

(b) Such representation, if any is taken into consideration by the disciplinary authority.

(c) Consultation with the OPSC wherever necessary is made. Reasoned orders passed by the disciplinary authority shall be communicated to the delinquent employee.

2. The record in a minor penalty proceeding shall include:

I) A copy of the intimation to the Government servant of the proposal to take action against him;

ii) A copy of the statement of allegations communicated to him;

iii) His representation, if any;

iv) The advice of the Commission, if any; and

v) The orders on the charges together with reasons thereof.

3. No minor penalty shall be imposed without giving an opportunity to the Government servant concerned to make any representation he may wish to make.

### **Major Penalty Proceedings:**

Rule 15 provides for detailed procedure for award of a Major Penalty Proceeding.

The salient features are:

1. Enquiry is a must conducted in prescribed manner.

2. The disciplinary authority shall frame definite charges on the basis of the allegations on which the enquiry is to be held, the charges along with statement of allegations shall be communicated to the delinquent employee requiring him to submit his written statement of defence within a reasonable period (first show cause notice) not ordinarily exceeding one month.

3. The delinquent employee shall be supplied with relevant records and can be permitted to inspect and take extracts from such other records considered relevant.

4. On receipt of written statement of defence or if no such statement is received within the time specified, the disciplinary authority may itself enquire into the charges that are not admitted or may appoint an inquiring officer to enquire into the charges.

If the disciplinary authority on consideration of the written statement of defence is of the view that the facts of the case do not justify award of a major penalty, may impose minor penalty after recording reasons thereof.

5. The disciplinary authority may nominate a marshalling officer/presenting officer/state representative to present the case before the inquiring officer.

The delinquent employee may be allowed to engage a lawyer in case the marshalling officer/presenting officer is a legal practitioner.

6. The enquiring officer shall consider documentary evidences, take oral evidences and permit the delinquent employee to cross examine witnesses. The marshalling officer/presenting officer can also cross examine the delinquent employee or witnesses examined in his defence.

7. On conclusion of the enquiry, the Inquiring Officer shall prepare the enquiry report recording his findings on each charge with reasons. He may recommend award of penalty.

8. The record of enquiry shall include:

I) The charges framed against the Government servant and the statement of allegations furnished to him under sub-rule (2)

Ii) His written statement of defence, if any;

Iii) The oral evidence taken in the course of the inquiry;

Iv) The documentary evidence considered in the course of the inquiry;

V) The orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry;

Vi) A report setting out the findings on each charge and the reasons therefore; and

Vii) The recommendations of the inquiring authority, if any, regarding the punishment to be inflicted.

9. The disciplinary authority shall consider the record of enquiry and record its findings on each charge.

10.(i) (a) A copy of the report of inquiring officer shall be furnished to the delinquent employee with a notice calling upon him to submit representation within 15 days against the findings of the inquiring officer.

(b) The representation shall be considered and the major penalty proposed to be imposed shall be communicated to the delinquent employee along with findings on each charge and reasons of disagreement with the findings of the inquiring officer calling upon the delinquent employee to represent against the proposed penalty within a specified time (second show cause notice).

(c) The disciplinary authority shall pass appropriate orders in consideration of the representation submitted by the delinquent employee and the advice of the OPSC.

ii) The orders of the disciplinary authority shall be communicated to the delinquent employee along with copy of the inquiry report, findings of the disciplinary authority, advice of the OPSC etc

**Flow chart:**





**The Orissa Civil Services (Classification, Control and Appeal)  
Rules, 1962**

**Rule-3:** application of these rules to all government servants except casual employees, person persons subject to discharge from service on less than one month's notice; person having separate rules or applicable to members of the All-India Services.

These rules shall apply to every Government servant temporarily transferred to a service

Government may, by order exclude from the operation of all or any of these rules in case of any Government servant or class of Government servants.

**Suspension (Rule -12)-** (1) The appointing authority or any authority empowered by the Governor or the appointing authority in that behalf may place a Government servant under suspension

(a) Where a disciplinary proceeding against him is contemplated or is pending, or

(b) Where a case against him in respect of any criminal offence is under investigation or trial.

(2) A Government servant who is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority and shall remain under suspension until further orders.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from

the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

- (4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of law and disciplinary authority, on a consideration of the circumstances of the case decides to hold a further inquiry against him on the allegations on which the penalty of dismissal; removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original orders of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.
- (5) An order of suspension made or deemed to have been made under this rule may, at any time, be revoked by the authority which made or is deemed to have been made the order or by any authority to which that authority is subordinate.
- (6) The disciplinary authority, while passing the final order of punishment or of release in the disciplinary proceedings against the Government servant, shall give directions about the treatment of the period of suspension, which is passed not as a measure of substantive punishment but as suspension pending inquiry, and indicate whether the suspension would be a punishment or not.

**Draft Charges [Rule-15(2) ]:**

The disciplinary authority shall frame definite charges on the basis of the allegations on which the inquiry is to be held. Such charges, together with a statement of the allegations on which they are based, shall be communicated in writing to the Government servant and he shall be required to submit, within such time as may be specified by the disciplinary authority, not

ordinarily exceeding one month a written statement of his defense and also to state whether he desires to be heard in person.

**Appointment of Inquiring Officer [Rule-15(5)]**

On receipt of the written statement of defense or if no such statement is received within the time specified, the disciplinary authority may itself enquire into such of the charges as are not admitted or, if it considers it necessary so to do, appoint a board of inquiry or an enquiring officer **for the purpose.**

*[Provided that if, after considering the written statement of defiance, the disciplinary authority is of the view that the facts of the case do not justify the award of a major penalty, it shall determine after recording reasons thereof, what other penalty or penalties, if any, as specified in Clauses (i) to (v) of Rule 13 should be imposed and shall after consulting the Commission, where such consultation is necessary, pass appropriate order.]*

**Appointment of Marshalling Officer(Rule 15(5)):**

The disciplinary authority may nominate any person to present the case in support of the charges before the authority inquiring into the charges (hereinafter referred to as the 'inquiring authority'). The Government servant shall have the right to engage a legal practitioner to present his case if the person nominated by the disciplinary authority, as aforesaid, is a legal practitioner. The inquiring authority may also having regard to the circumstances of the case, permit the Government servant to be represented by a legal practitioner.

**Inquiry Report Of Inquiry Officer (Rule-15(8)):**

The record of inquiry shall include-

- (i) The charges framed against the Government servant and the statement of allegations furnished to him under Sub-rule (2) :
- (ii) his written statement of defense, if any;
- (iii) The oral evidence taken in the course of the inquiry;
- (iv) The documentary evidence considered in the course of the inquiry;
- (v) The orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry;
- (vi) A report setting out the findings on each charge and the reasons therefor; and
- (vii) The recommendations of the inquiring authority, if any, regarding the punishment to be inflicted.

**1<sup>st</sup> Show Cause Notice [Rule-15(10) (i)(a)]:**

If the inquiring officer is not the disciplinary authority, the disciplinary authority shall furnish to the delinquent Government servant a copy of the report of the inquiring officer and give him notice by registered post or otherwise calling upon him to submit within a period of fifteen days such representation as he may wish to make against findings of the Inquiring Authority.

**2<sup>nd</sup> show cause Notice [Rule-15(10) (i)(a)]:**

**15(10) (i)(a)** If the inquiring officer is not the disciplinary authority, the disciplinary authority shall furnish to the delinquent Government servant a copy of the report of the inquiring officer and give him notice by registered post or otherwise calling upon him to submit within a period of fifteen days such representation as he may wish to make against findings of the Inquiring Authority.

(b) On receipt of the representation referred to in Sub-clause (a) the disciplinary authority having regard to the findings on the charges, is of the opinion that any of the penalties specified in Clauses (vi) to (ix) of Rule 13 should be imposed, he shall furnish to the delinquent Government servant a statement of its findings along with brief reasons for disagreement, if any, with the findings of the inquiring officer and give him a notice by Registered post or otherwise stating the penalty proposed to be imposed on him and calling upon him to submit within a specified time such representation as he may wish to make against the proposed penalty :

**Procedure for imposing minor penalties. – [rule-13 of OCS  
(CC&A) Rules-1962 ]**

- (i) Fine;
- (ii) Censure;
- (iii) Withholding of increments (without cumulative effect)]
- (iii-A) withholding of promotion];
- [(iv) recovery from pay of the whole, or part of any pecuniary loss caused to Government, or to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by Government, or to a local authority set up by an Act of Parliament or of the Legislature of a State, by negligence or breach of orders].
- (v) suspension;
- (vi) reduction to a lower service, grade or post or to a lower time-scale or to a lower stage in a time scale;
- [(vi-A) withholding of increments (without cumulative effect)]
- (vii) compulsory retirement;

- (viii) removal from service which shall not be a disqualification for future employment;
- (ix) dismissal from service which shall ordinarily be a disqualification for future employment :

**CASE RECORD ON DISCIPLINARY PROCEEDINGS AGAINST SRI  
DEBABRATA SAHOO, SENIOR CLERK, BLOCK OFFICE, JHUMPURA,  
KEONJHR,VIDE CASE NO-XXI-51/2016**

**Cause of Action:**

*During the review meeting in the block office, Jhumpura on 02.12.2016 the Collector found that **Sri Debabrata Sahoo**, working as senior clerk in Block office, Jhumpura was under the influence of liquor during working hour and referred to Jhumpura C.H.C for medical examination.*

**Preliminary evidence:**

*The medical officer I/C Jhumpura CHC has examined **Sri Debabrata Sahoo**, Sr clerk and confirmed that he has consumed liquor.*

**Suspension:**

*In view of the above as per the direction of the Collector, draft suspension order of Sri Manoj Kumar Sahoo is placed as per **rule-12 of Orissa Civil Services (Classification, Control and Appeal) Rules, 1962.***

**Draft charge:**

*Draft memorandum of charges has been prepared against **Sri Debabrata Sahoo, under rule 15(2) of O.C.S (CC &A) rules 1962.** [The disciplinary authority shall frame definite charges on the basis of the allegations on which the inquiry is to be held. Such charges, together with a statement of the allegations on which they are based, shall be communicated in writing to the Government servant and he shall be required to submit, within such time as may be specified by the disciplinary authority, not ordinarily exceeding one month a written statement of his defence and also to state whether he desires to be heard in person.*

**Following charges have been drawn against him:**

Charge no-1: Disobedience of orders of higher authority and consuming alcohol during office hour leading to violation of **Rule 4 and 24-A of odisha government servant conduct rules, 1959.**

Charge no-2: Lack of integrity, decorum of conduct, devotion of duty leading to violation of **Rule-3 of Odisha government servant conduct rules, 1959.**

Charge no 3: Gross misconduct

*The said memorandum was received by Sri Debabrata Sahoo, senior clerk on 21.02.2017 and the served copy has been returned by the sub collector, champua . He has submitted his return statement of defense dated 21.03.2017 where he stated that the charges cannot be proved in absence of authenticated materials .*

**Appointment of inquiring and marshalling officer:**

*Sub-collecor, champua was appointed as the inquiring officer to enquire into the charges framed against Sri Sahoo officer as per **rule 15(5) of OCS (CC&A) rules, 1962** and BDO, Jhumpura was appointed per rule as marshalling officer as **15(5) of OCS (CC&A) rules, 1962.***

*The Sub-collector, Champua-cum-inquiring officer completed the enquiry of the D.P on 20.10.2017 and submitted his enquiry report.*

*The subcollector, champua-cum-inquiring officer has submitted charge wise inquiry repot as follows.*



**1. Charge no:1-dosobedience of orders of higher authority and consuming alcohol during office hour leading to violation of Rule 4 and 24-A of odisha government servant conduct rules, 1959.**

As per report of medical officer on duty, chc jhumpura, the D.O was examined medically on 02.12.2016 at 6.05 pm and found that alcohol like smell was coming from his breath and the D.O HAS admitted that he has taken alcohol in the morning on that day. But the I.O. could not prove the charge.

**2. Charge no-2: lack of integrity, decorum of conduct, devotion of duty leading to violation of Rule-3 of Odisha government servant conduct rules, 1959.**

This charge has been partially proved.

**3. Gross misconduct**

This charge has been proved.

**1<sup>ST</sup> show cause notice:**

*1<sup>st</sup> show cause notice has issued to Sri Sahoo on 5.01.2018 u/r 15(10)(i)(a) of OCS (CC&A) rules, 1962. Along with the copy of the enquiry report of the enquiry officer, calling upon him to represent , if any against the findings of the inquiring officer within a period of 15 days from the date of receipt of this order, failing which , further course of action will be taken as provisions of OCS (CC&A) rules, 1962. The copy of Disciplinary proceedings and inquiry report of the inquiring officer dated 20.10.2017 has been served to the delinquent while issuing 1<sup>st</sup> show cause notice.*

**2<sup>nd</sup> show cause notice:**

**As per the provisions under bRule-13 of OCS (CC&A) rules, 1962** 2<sup>nd</sup> show cause notice has been issued to the D.O Sri. Sahoo as per provision laid down in rule-15(10)(b) of the OCS(CC&A) Rules,1962 along with following penalties were proposed to be imposed on him

- i. Stoppage of one annual increment with cumulative effect.
- ii. D.O to be censured.
- iii) Suspension period to be treated as leave as due.

*In response to the 2<sup>nd</sup> show cause notice Sri Sahoo has submitted his representation in reply to 2<sup>nd</sup> show cause notice placed in the file.*

*The DO .stated that the I.O has not considered the defence plea of the D.O judiciously about consumption of Handia (Rice bear) which he has consumed in the previous night as a medicine to arrest jaundice during the course of inquiry. The report of the medical officer on duty discloses that alcohol like smell was coming from the breath of the D.O. the said charges has not been proved by the I.O.*

*The inquiring officer Sub Collector, Champua, has stated in his findings that*

- 1. BDO Jhumpura could not furnish any evidence regarding the instruction to staff not to consume alcohol. As the DO has not disobeyed any specific order, hence the charge is not proved.*
- 2. The 2<sup>nd</sup> charge about lack of integrity, decorum of conduct and devotion of duty is partially proved.*
- 3. The 3<sup>rd</sup> charge about misconduct by the D.O is proved.*

### **Written Statement of Delinquent:**

*In his written statement in reply to the 2<sup>nd</sup> show cause notice the D.O has prayed to exonerate him from the charges and to withdraw the proposed punishment inflicted upon him.*

*In view of the above facts, imposition of penalties has been decided on the D.O Sri Debabrata Sahoo, senior cleark, Jhumpura block **under rule-13 of OCS (CC&A) Rules-1962 to finalize the case.***

**Final verdict:**

***The collector-cum- appointing authority has stated that the reply to the 2<sup>nd</sup> show cause notice seemed far from satisfactory and proposed to finalize penalty.***

***Suchismita Dash,  
Assistant Collector,  
Collectorate, Keonjhar  
Date: 20.07.2018***

## **Conclusion**

The CCA rules are like an insignia at the hands of authority to check the whimsical and imminent actions of the administrators which in turn result in good governance and better public services. The CCA rules should not be taken as a deterrent but as a tool to check excessive usage of power.

## **Reference**

- 1. Constitution of India**
- 2. <http://www.bareactslive.com/Ori/OR109.HTM>**
- 3. Case record from Collectorate Keonjhar**
- 4. CCA rules with CCR by Mahandra Ku Das**