

GOVERNMENT OF ARUNACHAL PRADESH
HOME DEPARTMENT
ITANAGAR

NOTIFICATION

The 13th October, 2017

**THE ARUNACHAL PRADESH PRISON
(DISCIPLINE AND APPEAL) RULES, 2017**

No. JHQ/JM-01/2016.—In exercise of the powers conferred by Clause (10) of Sub Section (1) of Section- 59 of the Prisons Act 1894, the Governor of Arunachal Pradesh is pleased to make the following rules to regulate the disciplinary proceedings of the staff of Prisons in the Department of Home under the Government of Arunachal Pradesh as follows :

1. Short title, commencement and applicability :

- (i) These rules may be called the Arunachal Pradesh Prisons (Discipline and Appeal) Rule, 2017.
- (ii) It shall come into force with effect from the date of its publication in the official Gazette of Arunachal Pradesh.
- (iii) These rules shall be applicable to all officers and officials of subordinate rank i.e., Jailor, Assistant Jailor, Chief Warden, Head Warden and Jail Warden.
- (iv) All officers and officials of subordinate ranks i.e., Warden to Jailor on deputation to Arunachal Pradesh Prison from Central/State Police/Prisons organizations shall be governed by Prisons Act 1894.
- (v) All Ministerial staff and group-D employee including officer/official on deputation in the Prison department shall be governed by the CCS (CCA) rules 1965 and the rules applicable in their parent department in case of deputation.

2. Definitions :

In these rules, unless the context otherwise requires,

- (i) "Subordinate rank" means a member of the uniform employee below the rank of Deputy Superintendent of Prison.
- (ii) "Appointing Authority" means in relation to a member of the subordinate rank of the Arunachal Pradesh Prisons.
 - (a) The authority empowered to make appointment to the post which the Prison officers or personnel of the subordinate rank for the time being holds ; or
 - (b) The authority which appointed the Prison personnel to such post prior to the commencement of these rules ; or
 - (c) Where the member of the subordinate rank of the department, having been a permanent member of any other service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appoint him to that service or to any grade in that service or that post, whichever authority is the highest authority.
- (iii) "Disciplinary authority" "Appellate authority" and "Reviewing authority", as the case may be as specified in Schedule –I.
- (iv) "Member of the Service" means a Prison personnel holding any other posts specified in column-2 of the Schedule-I and appointed there to under the Prisons Act, 1894 and Arunachal Pradesh Prison Manual.
- (v) "Schedule" means the schedule appended to these Rules;
- (vi) "Government" means the Government of Arunachal Pradesh.
- (vii) "Governor" means the Governor of the State of Arunachal Pradesh.

3. Classification of punishments :

The following minor and major penalties may, for good and sufficient reasons and as hereinafter provided, be imposed upon the subordinate ranks of Arunachal Pradesh Prisons.

(1) Minor Punishments :

- (I) "Withholding of increment without cumulative effect".
- (II) "Recovery of his pay of the whole or part of any pecuniary loss caused by him to the Govt. by negligence or breach of orders.
- (III) Censure
- (IV) Punishment drill not exceeding 20 days.

Definition of Minor Punishments :

(I) Censure :

The punishment of censure shall be supported by a formal order in the order book and shall not be awarded unless the officer concerned has been given an opportunity to explain his conduct.

(II) "Punishment drill" :

Punishment drill shall consist of drill with a musket or rifle and rolled great coat for not more than six or less than four hours in any one day, with an interval of at least thirty minutes between each hours. Only such days shall be counted towards the completion of an award of punishment drill on which the drill is actually carried out. The officer/official shall not leave the Headquarter during the process of punishment.

(2) Major Punishments :

- (I) Dismissal
- (II) Removal from service
- (III) Compulsory retirement
- (IV) Reduction to the lower rank or a lower time scale of pay
- (V) Reduction to a lower stage in the same time scale of pay
- (VI) Fine not exceeding one month pay
- (VII) Withholding of Increment with Cumulative Effect

Definitions of Major Punishment :

- (I) **Dismissal** :- The punishment of dismissal from service shall be awarded only for the gravest acts of misconduct rendering him unfit for Prison service. In awarding such punishment, regard shall be had to the length of the service of the charged official and his claim to pension. Ordinarily award of this punishment will be a disqualification for future employment under the Government.
- (II) **Removal from Service** :- The Punishment of removal from service shall be awarded for the act of grave misconduct rendering him unfit for Prison service. Ordinarily, the award of this punishment will not be a disqualification for future employment under the Government.
- (III) **Compulsory Retirement**: Although Compulsory retirement of a member of subordinate rank in accordance with the provisions relating to his superannuation or retirement is not a penalty, as an enumerated under explanation 2 (vii) of Rule 3 (2) but it is a penalty if imposed upon for misconduct and hence Article 311 (2) of the Constitution of India is attracted and enquiry in accordance with rule of natural justice is pre-requisite before imposing any penalty.
- (IV) **Reduction** :
 - (i) The reduction either in rank or a lower time scale of pay or a lower stage in the same time scale of pay may be permanent or temporary. Permanent reduction has generally an unsatisfactory repercussion from the point of view of efficiency and moral of the service. In the case of an exceptionally grave offence or proved incompetence, an officer may be reduced permanently to a lower rank or to a lower stage in his time scale. The officer permanently reduced will be able to take chance of future promotion in the lower rank. But as a general rule, reduction should be only for a temporary period.

- (ii) An order for temporary reduction to a lower rank or to a lower stage in the time scale of pay shall specify :
- (a) the pecuniary penalty represented by the reduction
 - (b) the period for which the reduction is remain in force
 - (c) whether on the expiry of the period of reduction, the official's previous service in the stage of the time-scale from which it is reduced and the period during which the reduction is in force shall be counted for increment in whole, or in part, or not at all.
 Provided that where an officer is reduced to lower rank, the period during which the reduction shall remain in force shall not be counted for increment on his reversion to his former rank.
 - (d) all the orders of reduction imposed on an officer shall at once be reported to the JHQ for maintaining his gradation list up to date.
- (V) **Withholding of Increment with Cumulative Effect** : (i) The increment of a Prison officer may be withheld as a punishment. The order must state definitely the period for which the increment is withheld and whether the withholding shall have the effect of postponing future increments.(ii) The withholding of increments shall be entered in the order book in the case of all Prison personnel of subordinate rank.
- (VI) **Fine not exceeding one month pay** :- When any Prison officer of a subordinate rank has been found negligent in discharge of his duties resulting in pecuniary loss to the Govt. the punishment of fine not exceeding one month pay may be imposed on him after a regular departmental enquiry.

Explanation -1

The punishments which are specified in this rule are set out in the order of their severity, each one of being more severe than the one preceding it.

Explanation – 2

The following shall not amount to a penalty within the meaning of this rule,

- (i) Withholding of increments of pay of a member of the subordinate rank for his failure to pass any departmental examination in accordance with the rules or orders governing the post which he holds or the terms of his appointment;
- (ii) Non –promotion of a member of subordinate rank whether in a substantive or officiating capacity, after consideration of his case, to service, grade or post for promotion to which he is eligible.
- (iii) Reversion of a member of the subordinate rank officiating in a higher grade, or post to a lower grade or post, on any administrative ground unconnected with his conduct;
- (iv) Reversion of a member of the subordinate rank appointed on probation to any grade or post to his permanent 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 service of member of the subordinate rank whose services had been borrowed from a State Government or an authority under the control of the State Government at the disposal of the State Government or the authority from which the service of such a member of the subordinate rank had been borrowed ;
- (vi) Compulsory retirement of a member of the subordinate rank in accordance with the provisions relating to his superannuation or retirement
- (vii) Termination of the services :-
 - (a) of a member of the subordinate rank appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment and order governing such probation ; or
 - (b) of a temporary member of the subordinate rank in accordance with the provision of sub-rule (1) Rule 5 of Central Civil Services (Temporary Service) Rules, 1965, or
 - (c) of a member of the subordinate rank employed under an agreement in accordance with the terms of such agreement.

4. Disciplinary Authorities :

- (i) Any of the punishments specified in Rule 3(1) and (2) may be imposed on a member of the subordinate rank by the appointing authority or the authority specified in Schedule -1
- (ii) Notwithstanding anything contained in this rule,
 - (a) Extra drill, guard duty and fatigue duties may be awarded to a Warden for a period not exceeding 10 days by Superintendent of Prison, JHQ and a period not exceeding 15 days by the DIG Prisons and for a period not exceeding 20 days by the Inspector General of Prisons.
 - (b) A Warden may be confined to quarters for a period not exceeding 10 days by the Superintendent of Prisons, for a period not exceeding 15 days by the Deputy Inspector General of Prisons and 20 days by the Inspector General of Prisons with or without the punishment of extra drill, guard duty or fatigue duty.
- (iii) The disciplinary action shall be initiated by the disciplinary authority under whose disciplinary control the prison officer concerned is working at the time it is decided to initiated disciplinary action.
- (iv) Punishment mentioned in rule 3 shall be awarded by the disciplinary authority under whom the member or subordinate rank is actually working at the time of award of punishment.

(5) Procedure of imposing minor punishments :

- (i) Subject to the provisions of sub-rule (iii) of Rule 7, no order imposing on member of the subordinate rank, punishments specified in clause (I) to (IV) of sub-rule (1) Rule 3 shall be made except after :
 - (a) Informing the member of the subordinate rank in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior or which it is proposed to be taken, giving him a reasonable opportunity of making such written or oral representations as he may wish to make against the proposal.
 - (b) Holding and inquiry in the manner laid down in **sub-rule (iii) to (xxi) of Rule 7**, in every case in which the disciplinary authority is of the opinion that such enquiry in necessary.
 - (c) Taking the representation, if any submitted by the member of the subordinate rank under clause (a) and the record of inquiry, if any, held under clause (b) into consideration.
 - (d) Recording a finding on each imputation of misconduct or misbehavior.
- (ii) The record of the proceedings in such cases shall include :
 - (a) A copy of the show cause notice to the member of the subordinate rank of the proposal to take action against him ;
 - (b) A copy of the statement of imputation of misconduct or misbehavior delivered to him.
 - (c) Representation of the member of the subordinate rank if any;
 - (d) The evidences produced during the inquiry;
 - (e) The findings on each imputation of misconduct or misbehavior ; and
 - (f) The orders in the case together with the reasons thereof.
- (iii) Orderly Room Punishment :
 - (a) Punishment specified in clause (IV) of rule 3 (1) namely extra drill, Guard duty, fatigue duties and confinement to a quarters with or without extra drill are punishments those can be awarded Jailor to Jail Warden (s) only in orderly room. Whenever it is intended to dispose on minor defaults of Warden(s) /Driver(s) by awarding such a punishment, the defaulter concerned shall be marched in proper uniform in orderly room by an orderly officer with details of misconduct/dereliction of duty or indiscipline behavior for which he is to be punished. These details shall be mentioned in a register to be maintained at each Prison office as per Proforma below :-

Sl. No.	Date	Name of the defaulter	Brief of misconduct and documents in support thereof	Orders by the competent authority

- (b) The gist of misconduct shall be read over to the defaulter and explained to him in the language he/she understands and he/she shall be called upon to state wherever he/she shall to stay orally. His/her version of facts shall be given due consideration with reference to documents on records and appropriate orders passed and announced. These orders shall then be entered in the order book and executed. A copy of the order shall be placed on the personal file of the officer/official concerned in red ink.
- (c) punishment drill exceeding 10 days shall also be mentioned in the service book of the officer/official under the head "punishment".

6. Preliminary Inquiry :

- (i) A preliminary inquiry is a fact finding enquiry. Its purpose is
 - (a) to establish the nature of default and identity of the defaulter (s),
 - (b) to collect prosecution evidence,
 - (c) to judge quantum of default and
 - (d) to bring relevant documents on record to facilitate a regular departmental inquiry,
- (ii) In case where specific information covering the points mentioned in the sub-rule (i) exists, a preliminary inquiry need not be held and departmental inquiry may be ordered by the disciplinary authority straight way. In all other cases, a preliminary inquiry shall normally precede a departmental inquiry. The preliminary inquiry need not to be conducted by any particular rank of officer and it need not necessarily be ordered by the disciplinary authority.
- (iii) In case in which a preliminary inquiry discloses the commission of a cognizable offence by an officer of subordinate rank in his official relations with the public, departmental inquiry shall be ordered after obtaining prior approval of the Disciplinary Authority as to whether a criminal case shall be registered and investigated or a departmental inquiry should be held.
- (iv) The suspected prison official may or may not be present at a preliminary inquiry but when present, he shall not cross examine the witnesses. The file of preliminary inquiry shall not form part of the formal departmental record. However there shall be no bar to the inquiry officer bringing on record any documents from the file of the preliminary inquiry, if he considers it necessary after supplying copies of the same to the charged official (s). All statements recorded during the preliminary inquiry shall be signed by the person making them and attested by the inquiry officer.

7. Procedure for imposing major punishments :

No order imposing any of the penalties specified in clauses (I) to (VII) of sub-rule (2) of Rule 3 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule.

- (i) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior against a member of the subordinate rank, it may itself enquire or appoint under this rule an inquiry authority to conduct inquiry into the truth thereof.
- (ii) In every case, where it is proposed to impose on a member of the subordinate rank any of the major punishment mentioned in clauses (I) to (VII) of sub-rule (2) of Rule 3, the grounds on which it is proposed to take action, shall, except where such action is proposed to be taken on facts which have led to his conviction in a Criminal Court, be given to the charged official free of cost together with a statement of the allegation on which each charge is based and of any other circumstances in which it is proposed to take into consideration in passing order on the case. List of prosecution witnesses together with brief details of the evidences to be let by them and the documents relied upon by the prosecution shall be attached to the articles of charge. The charged official shall require to submit within 10 days a written statement of his defence.
- (iii) (a) on receipt of the written statement of defence, the disciplinary authority may itself inquire into such articles of charge as are not admitted or if it considers necessary to do so, appoint an inquiry officer for the purpose and where all articles of charge have been admitted by the charged official in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidences as it may think fit and shall act in the manner laid down in Rule 13.
- (b) if no written statement of defence is submitted by the charged official the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint any inquiry officer for the purpose.

- (iv) The disciplinary authority shall, where it is not the inquiry authority forward the following to the inquiry authority.
 - (a) A copy of the articles of charge and the statement of the imputations of misconduct or misbehavior.
 - (b) A copy of the written statement of defence, if any, submitted by the charged official of the subordinate rank.
 - (c) A copy of the written statements of witnesses.
 - (d) Prosecution documents as listed in the articles of charge.
 - (v) The member of the subordinate rank shall appear in person before the inquiry authority on such day and at such time within ten working days from the date of receipt by him/her of the articles of charge and the statement of the imputations of misconduct or misbehavior, as the inquiry authority may, by a notice in writing specify in this behalf, or within such further time, not exceeding ten days, as the inquiry authority may allow.
 - (vi) The member of the subordinate rank may take the assistance of any other member of the Prison department posted in the same district to present the case on his behalf before the inquiry authority, but may not engage a legal practitioner.
 - (vii) The inquiry authority shall ask him/her whether he/she is guilty or has any defense to make and if he/she pleads guilty to any of the articles of charge, the inquiry authority shall record the plea, sign the record and obtain his/her signature thereon.
 - (viii) The inquiry authority shall return a finding of guilt in respect of those articles of charge to which the charged official pleads guilty.
 - (ix) The inquiry authority shall, if the charged official fails to appear within the specified time or refuses or omits to plead, proceed to record the evidence by which he/she proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding 15 (fifteen) days, after recording an order that the charged official may, for the purpose of preparing his/her defence.
 - (a) Inspect within five days of the order or within such further period not exceeding 5 (five) days as the inquiry authority may allow, the documents specified in list **referred to in sub-rule (ii)**;
 - (b) Submit a list of witnesses to be examined on his/her behalf,
- Note :**
- (i) If the charged official applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to **in sub-rule (ii)**, the inquiry authority shall furnish him/her with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.
 - (ii) Give a notice within ten days of the order or within such further time not exceeding ten days as the inquiry authority may allow, for the discovery or production of any documents which are in the possession of Government but not mentioned in the list referred to the **sub-rule (ii)**;
 - (iii) The member of the subordinate rank shall indicate the relevance of the documents required by him to be discovered or produced by the government.
- (x) The inquiry authority shall, on receipt of the notice for the discovery or production of documents 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 inquiry authority may, for reasons to be recorded by it in writing refuse to requisition of such documents as are, in its opinion, not relevant to the case.
 - (xi) On receipt of the requisition referred to in **sub-rule (x) of Rule 7**, every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiry 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 security of the state, it shall inform the inquiry authority accordingly and the inquiry authority shall, on being so informed, communicate the information to the charged official and withdraw the requisition made by him/her for the production or discovery of such documents.

- (xii) 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 and may be cross-examined by or on behalf of the charged official. The inquiry authority may also put such questions to the witnesses as it thinks fit.
- (xiii) The inquiry authority is empowered, however, to bring on record the earlier statement of any witness whose presence cannot, in the opinion of such officer, be procured without undue delay, inconvenience or expense if he considers such statement necessary provided that it has been recorded and attested by a Prison officer superior in rank to the charged official, or by a magistrate and is either signed by the person making it or has been recorded by such officer during an investigation or a judicial enquiry or trial. The statements and documents so brought on record in the departmental proceedings shall also be read out to the charged official and he/she shall be given an opportunity to take notes. Unsigned statements shall be brought on record only through recording the statement of the officer or Magistrate who had recorded the statement of the witness concerned. The charged official shall be bound to answer any questions which the inquiry authority may deem fit to put to him with a view to elucidating the facts referred to in the statements of documents thus brought on record.
- (xiv) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiry authority may, in its discretion, call for new evidence or recall and re-examine any witness and in such case the charged official shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiry authority shall give the charged official opportunity of inspecting such documents before they are taken on the record. The inquiry authority may also allow the charged official to produce new evidence if it is the opinion that the production of such evidence is necessary in the interest of the justice.

Note : New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

- (xv) After the defence evidence has been recorded and after the charged official has submitted his final statement, the inquiry officer may examine any other witness to be called "Court Witness" whose testimony he/she considers necessary for clarifying certain facts not already covered by the evidence brought on record in the presence of the charged official who shall be permitted to cross-examine all such witnesses and then to make supplementary final defence statement, if any, in case he/she so desires.
- (xvi) When the case for the disciplinary authority is closed, the charged official shall be required to state the defence, orally or in writing as he/she may prefer. If the defence is made orally, it shall be recorded and the charged official shall be required to sign the record.
- (xvii) The evidence on behalf of the charged official shall then be produced. The charged official may examine such defence evidence himself on his own behalf, if he/she so prefers. The witnesses produced by him shall then be examined and shall be liable for cross-examination, re-examination and examination by the inquiry authority according to the provisions applicable to the examination of witnesses for the disciplinary authority.
- (xviii) The inquiry authority may, after the charged official closes his case, and shall, if the charged official has not examined himself, generally question him/her on the circumstances appearing against him/her in the evidence for the purpose of enabling the charged official to explain any circumstances appearing in the evidence against him.
- (xix) If the charged official to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiry authority may hold the inquiry ex-parte as per the rules.

- (xx) Whenever any inquiry authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiry authority which has, and which exercises such jurisdiction, the inquiry 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 inquiry authority is of the opinion that further examination of any of the witness whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine; cross-examine any such witnesses as herein before provided.
- (xxi) (a) After the conclusion of the inquiry, a report shall be prepared and it shall contain.
- (i) The articles of charge and the statement of the imputations of misconduct or misbehavior,
 - (ii) The defence of the member of the subordinate rank in respect of each article of charge.
 - (iii) An assessment of the evidence in respect of each article of charge ;
 - (iv) The findings on each article of charge and the reasons thereof.

If in the opinion of the inquiry authority the proceedings of the inquiry establish any article of charge different from the original article 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 charged 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.

- (b) The inquiry authority, where it is not itself the disciplinary authority shall forward to the disciplinary authority the records of inquiry which shall include,
- (i) The report prepared by it under clause (a),
 - (ii) The written statement of defence, if any submitted by the member of the subordinate rank.
 - (iii) The oral and documentary evidence produced in the course of inquiry
 - (iv) The orders, if any, made by the Disciplinary Authority and the inquiring authority in regard to the inquiry.

8. Ex-parte departmental proceedings :

- (i) Notwithstanding anything contained in these rules, the inquiry authority may; with the prior approval of the disciplinary authority, conduct ex-parte proceedings in any case in which he/she is satisfied that the charged official cannot be found or that in spite of notice to attend, the charged official is evading service or refusing to attend without due cause.
- (ii) The procedure in such ex-parte proceeding shall, as far as possible, conform to the procedure laid down in Rule 7 above, provided that the charged official shall be deemed ;
 - (a) not to have admitted misconduct contained in the summary of allegations, and
 - (b) to have entitled a plea of not guilty to the charges framed against him.

Provided further that if the charged official subsequently appears or wants to take part in the disciplinary proceeding at any stage during the course of proceedings, he/she shall be permitted to do so. He/she shall not be entitled to claim de-novo recall for cross examination any witness whose evidence has already been recorded. He/she shall be entitled to the inspection of the departmental inquiry file and to take notes of the proceedings, which have already taken place in his absence.

9. Standard of evidence in departmental enquires :

Offices conducting departmental enquires are not bound to follow the provisions of the code of criminal procedure or of Indian Evidence Act. They may admit any evidence which they consider relevant and should exclude evidence which is irrelevant to the charge specified under the enquiry or which is introduced merely to prejudice the opposite party or to cloud the issues.

10. Maintenance of discipline in departmental enquires :

Disciplines must be maintained during the proceedings of departmental enquires. Refusal of a charged official to answer question, inordinate delay in producing his/her defence or insubordinate behavior before the inquiry authority or intemperate or impertinent question of superior officer by charged officials, are, in addition to being contrary to the spirit to the rules for the conduct of departmental enquires, entirely contrary to the requirement of discipline and shall be treated accordingly.

11. Payment to prosecution witness :

Prosecution witness summoned in departmental enquires shall be entitled to journey expenses, and if detained for more than 12 hours, to suitable daily allowance, such expenditure, in the case of witnesses who are not government servants, shall be paid out of the allotment under the head of account of " other charges" at the rates equivalent to judicial scales prevalent in Arunachal Pradesh Judicial Courts.

12. Record in departmental enquires :

- (i) In all departmental enquires in which the alleged misconduct in such as to merit a major punishment, if proved, the following records shall be kept ;
 - (a) Order Sheet
 - (b) Article of charges and statement of imputation
 - (c) Written statement of charged official
 - (d) Order of disciplinary authority regarding conduction of the DE & appointment of E.O
 - (e) Statement of P.Ws and court witness if any
 - (f) Statement of D.Ws and court witness, if any
 - (g) Defence statement of the charged official
 - (h) Exhibits along with a list thereof
 - (i) Findings of the inquiry authority
 - (J) Representation of charged official against the findings
 - (k) Show Cause Notice for punishment, if any issued to the charged official
 - (l) Final order of the disciplinary authority.
- (ii) The records may be maintained in English and shall be paged like an ordinary file. An index shall be attached to the first page.
- (iii) A character sheet indicating name and rank of the charged official, his/her date of appointment, confirmation and particulars of punishment/reward given to him/her shall also be added after the index.
- (iv) The records, together with the order passed, in appeal shall after necessary entry has been made in the service book, be filed with the personal file of the official concerned. If the records concerned more than one official, an attested copy of the final order in the case shall be attached to the personal file of each official concerned. A reference to the original file shall also be given on each such copy.
- (v) Every punishment order shall be entered in the daily order book and shall bear the annual serial number of the entry in the punishment register to the case.

13. Action on the inquiry report :

- (i) The disciplinary authority, if is not itself the inquiry authority may, for reasons to be recorded by it in writing remit the case to the inquiry authority for further inquiry and the inquiry authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 7.
- (ii) The disciplinary authority shall if disagree with the findings of the inquiry authority on any article of charge, records its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.
- (iii) The disciplinary authority shall forward or cause to be forward a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiry authority a copy of the report of the inquiry authority and a statement of the facts to the charged official who shall be required to submit, if he/she so desires, his/her written representation or submission to the disciplinary authority within fifteen days, irrespective of whether the report is favourable or not to the charged official.
- (iv) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that the punishment as specified in clause (I) to (IV) of sub-rule (1) of Rule 3 should be imposed on the charged official it shall, notwithstanding anything contained in Rule 5, make an order imposing such penalty.

(v) 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 punishments specified in clause (I) to (VII) of sub-rule (2) of Rule 3 should be imposed on the charged official it shall make an order imposing such penalty and it shall not be necessary to give the charged Official any opportunity of making representation on the punishment proposed to be imposed except in case the punishment proposed is that of dismissed or removal from the service.

(vi) Order made by the disciplinary authority shall be communicated to the charged official.

14. Common Proceedings :

Where two or more members of the subordinate rank are concerned in any case, the Director General of Prisons/Inspector General of Prisons or any other authority competent to impose the penalty or dismissal from service on all such charged officials may make an order directing that disciplinary action against all of them be taken in a common proceedings; provided that-

- (i) In such case, the disciplinary authority will be the competent authority to impose punishment of dismissal to the senior most charged official of the subordinate rank involved in the proceedings, as per Schedule –I.
- (1) The departmental enquiry under common proceedings shall be conducted as per the procedure laid down in Rule 5, 7, & 8 as the case may be.

15. Special procedure in certain cases :

Notwithstanding anything contained in Rule 5, 7, 8, 13 and 14,

- (a) Where any punishment is imposed on a member of subordinate rank on the ground of conduct which has led to his/her conviction on a criminal charge, or
- (b) Where the disciplinary authority is satisfied for reasons to be hold an inquiry in the manner provided in these rules, or
- (c) Where the disciplinary authority is satisfied that in the interest of the security of the state, it is not expedient to hold any inquiry in the manner provided in these rules, the disciplinary authority may consider the circumstances of the case and make such order thereon as it deems fit, "provided that the charged official shall be given an opportunity of making representation on the punishment proposed to be imposed before any order is made in a case under clause (a)".

16. Provision regarding officers borrowed from state Government etc. :

- (1) Where an order of suspension is made or a disciplinary proceeding is conducted against a member of the subordinate rank whose services have been borrowed by Arunachal Pradesh Prisons from another State Government, or from the Central Government the authority lending his service (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 member of the subordinate rank 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 charged official if the disciplinary authority is of the opinion that any of the punishment as specified in clause (I) to (IV) of sub-rule (1) of Rule 3 should be imposed on him/her, it may, subject to the provisions of sub-rule (iv) of Rule 13 after consultation with the lending authority, pass such order on the case as it may deem necessary;
 - (a) Provided that in the event of a difference of opinion between the borrowing authority and the lending authority the services of the member of the subordinate rank shall be replaced at the disposal of the lending authority.
 - (b) If the disciplinary authority is of the opinion that any of the punishments specified in clauses (I) to (VII) of sub-rule (2) of Rule 3 should be imposed on the charged official, it shall replaced the services of such charged official of the subordinate rank at the disposal of the lending authority and transmit it to the proceedings of the inquiry for such action as it may deem necessary.

17. Punishment of Judicial Conviction :

- (i) When a report is received from an official source, for example from a Court or the prosecution agency, that a member of the subordinate rank has been convicted in a Criminal Court of an

offence, involving moral turpitude or on charge of disorderly conduct in a state of drunkenness or in any criminal case, the disciplinary authority shall consider the nature and gravity of the offence and if in its opinion that the offence is such as would render further retention of the convicted prison officer in service, prima facie is undesirable, it may forthwith make an order dismissing or removing him/her from service without calling upon him/her to show cause against the proposed action provided that no such order shall be passed till such time the result of the first appeal that may have been filed by such Prison official is known.

- (ii) If such Prison official is acquitted in second appeal or revision, he/she shall be reinstated in service from the date of dismissal or removal and may be proceeded against departmentally.
- (iii) In case where the dismissal or removal from service of the convicted Prison official is not considered necessary, the disciplinary authority may examine the judgment and take such departmental action as it may deem proper.
- (iv) When a Prison official is convicted judicially and consequently dismissed or removed from service, and it is desired to ensure that the official dismissed or removed shall not be re-employed elsewhere, a full descriptive roll with particulars of punishments shall be widely circulated and be sent for publication in the Gazette.

18. Action following Judicial acquittal :

When a prison official tried and acquitted by a Criminal court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not unless :

- (i) the criminal charge has failed on technical grounds, or
- (ii) in the opinion of the Court, or the Superintendent of Prison, the prosecution witnesses have been won over, or
- (iii) the Court has held in its judgment that an offence was actually committed and that suspicion rests upon the Prison official concerned, or
- (iv) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge, or
- (v) additional evidences for departmental proceedings is available.

19. Stricture by Court :

- (i) In case in which strictures are made on the conduct of Prison official by a Court but no specific recommendation for an inquiry is made, the disciplinary authority will decide whether an inquiry into the matter is necessary. If he decides so, the inquiry should be conducted as per the procedure laid down in Rule -7.
- (ii) In case where serious charges arise from strictures with or without recommendation for an inquiry by a Court the disciplinary authority shall initiate necessary disciplinary action against the Prison official against whom strictures have been made.
- (iii) When a stricture on the conduct of a Prison official is made by a Court and communicated to the government of Arunachal Pradesh the disciplinary authority shall proceed to take action in accordance with the instruction of the government of Arunachal Pradesh.

20. Suspension :

- (i) Officers of the rank of **Superintendent of Prison** and above are authorized to suspend all Prison officials of subordinate rank of uniform and ministerial staff including group-D staff.
 - (a) Where a disciplinary proceeding against a member of subordinate rank is contemplated or is pending; or
 - (b) Where in the opinion of the authority aforesaid, a member of the subordinate rank has engaged himself in activities prejudicial to the interest of the security of the state; or
 - (c) Where a case against a member of the subordinate rank in respect of any criminal offence is under investigation, inquiry or trial.
- (ii) 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.

- (iii) A member of the subordinate rank 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/she is detained in custody, whether on 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/she is sentenced to a term of imprisonment exceeding forty eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.
- (iv) **An official shall be revoked from suspension only by the Gazetted officer empowered to punish or appoint him/her or any authority to which such Gazetted officer is subordinate.**
 - (a) During the term of such suspension the powers, functions and privileges vested in a member of subordinate rank as a prison officer shall be in abeyance but he shall continue to be subject to the same responsibilities discipline and punishments to the same authorities, as if he/she had not been suspended.
 - (c) A member of the subordinate rank under suspension shall ordinarily be transferred to the lines if not already posted there. He/she shall attend all Roll calls and shall be required to perform such duties and to attend such parades as the Supdt. of Prison or a competent officer may direct him provided that the officer under suspension shall not perform guard duty or any other duty entailing the exercise of the powers or functions of a prison officer, shall not be placed on any duty involved the exercise of responsibility and shall not be issued with arms and ammunitions. A Prison official under suspension shall ordinarily be confined to lines, when off duty, but shall be allowed reasonable facilities for the preparation of his defence when transferred to the line. A member of the subordinate rank shall deposit his kits in the line and shall not wear any article of uniform till he/she is reinstated or specifically permitted by the competent authority.

21. **Suspension in departmental cases :**

A member of the subordinate rank whose conduct is under departmental enquiry, shall ordinarily be placed under suspension only :

- (i) When it appears likely that the charge framed will if proved render him liable to dismissal or removal from service; or
- (ii) When the nature of accusation against him/her is such that his/her remaining on duty is prejudicial to the public interest or detrimental to inquire into the accusations. A report of all suspension and re-instatements shall be submitted to **Deputy/Inspector General of Prisons**.
- (iii) When a punishment of dismissal or removal from service awarded to a Prison official under suspension is set aside, in appeal under these Rules and the case is pending for further inquiry or action, or with any other directions, the order of his suspension shall be deemed to have been revoked.
- (iv) When a member of the subordinate rank, is kept under suspension for more than 6 months in connection with a departmental enquiry the concerned Superintendent of Prison shall obtain prior approval of the **Deputy/ Inspector General of Prison** for his continued suspension and shall simultaneously take steps to review the subsistence allowances as provided in the rules.

22. **Suspension in Judicial cases :**

The cases of suspension during pendency of criminal proceedings or proceedings for arrest, or during detention under a law providing for preventive detention, shall be dealt within the following manner :-

- (i) A member of the subordinate rank who is detained in custody, under any law providing for preventive detention or as a result of a proceedings on a criminal charge shall, if the period of detention exceeds forty eight hours and unless he is already under Suspension from the date of detention, be deemed to be under suspension from the date of detention until further orders. A member of the subordinate rank who is undergoing a sentence of imprisonment, shall be dealt within the same manner pending decision on the disciplinary action to be taken against him.

- (ii) A Prison official of subordinate rank against whom a proceeding has been taken up a criminal charge but who is not actually detained in custody or released from custody within forty eight hours or absconding may be placed under suspension by an order of the Competent Authority. If the charge is connected within the official position of the member of the subordinate rank or involves any moral turpitude on his/her part, suspension shall be ordered under this rule unless there are exceptional reasons for not adopting this course. In the later case permission of the next higher authority for not suspending the individual concerned shall be obtained.
- (iii) When a member of the subordinate rank who is deemed to be under suspension in the circumstances mentioned in **clause (i)** or who is suspended on circumstances mentioned in **clause (ii)**, is re-instated without taking disciplinary proceedings against him/her, his/her pay and allowances for the period of suspension will be regulated under the relevant rules.

23. Suspension in case of escape of prisoners from Prison :

- (i) If a prisoner escapes or is rescued from Prison the member of the subordinate rank immediately responsible, shall forthwith be suspended from duty. A preliminary enquiry shall at once be held by or under the orders of the Superintendent of Prison. The object of this inquiry shall be the elucidation of all circumstances connected with the escape or rescue and the determination of the issue whether the escape or rescue could have been prevented by the exercise of such vigilance and courage on the part of the member of the subordinate rank immediately responsible as might reasonably, have been expected, and whether it was rendered possible or facilitated by any neglect or omission of duty on the part of any superior Prison officer.
- (ii) On the conclusion of inquiry, if the Superintendent of Prison finds that no misconduct is attached to the member of the subordinate under suspension, he/she shall re-instate him/her.
- (iii) If the inquiry established negligence or connivance in an escape, thereby creating a presumption that an offence Under Section 221, 222 or 223 IPC has been committed, the member of the subordinate rank concerned shall be prosecuted in a Criminal Court, unless on a reference by the Superintendent of Prison decides, for reasons to be recorded in writing that the case shall be dealt with departmentally.

If the inquiry establishes a breach of discipline or misconduct not amounting to an offence under any of the Sections of the IPC mentioned above, the case shall ordinarily be dealt with departmentally. The Criminal Prosecution under this rule against Chief Warden, Asstt Jailor and Jailor shall not be undertaken without the approval of the **Deputy/ Inspector General of Prisons**.

24. Subsistence Grants :

- (i) A member of the subordinate rank under suspension shall be given a subsistence grant in accordance with rules and orders issued by the Government of Arunachal Pradesh from time to time. If a member for the subordinate rank is re-instated on inquiry or trial or an appeal, the grant of pay and allowances including subsistence grant shall also be made in accordance with prevalent rules and orders on the subject.
- (ii) The officers of and above the rank of Superintendent of Prison shall be the competent authority for granting subsistence grants to member of the subordinate rank under suspension.

25. Orders against which no appeal lies :

No appeal shall lie against :-

- (i) Any order made by the Government ,
- (ii) Any order of an interlocutory nature or of the nature of a step-in-aid of the final disposal of a disciplinary proceeding, other than an order of suspension,
- (iii) Any order passed by an inquiry authority in the course of an inquiry under Rule 7.

26. Appeals :

- (i) appeals shall lie against order of dismissal or removal from service, compulsory retirement, reduction in rank or pay, forfeiture of increment (s), fine not exceeding one month's pay, within 45 days of its order.
- (ii) There shall be only one appeal from the original order and order of the Appellate Authority shall be final.
- (iii) A copy of the original order appealable shall be supplied to the person concerned free of cost.
- (iv) Any person wishing to make an appeal **under Sub-rule (i) Rule -26** may apply to the disciplinary authority for a copy of the complete record or any portion thereof for the purpose of filling an appeal. Copies of the record of preliminary enquiry shall not be given to the charged officials for the purpose of appeal except where the record of preliminary enquiry also forms part of the departmental proceedings.
- (v) The copy of such record shall be given within 7 (seven) days, and Gazetted officer shall certify its correctness and the date on which it was given to the applicant.
- (vi) The Appellate Authority in cases in which appeal is admissible as laid down in Rule 26 of the Arunachal Pradesh Prison (Discipline and Appeal) Rule 1999 are indicated in the following table :

Sl. No.	Officer by whom original order of punishment is passed	Appellate authority
1.	Superintendent of Prisons, JHQ	Dy/Inspector General of Prisons
2.	Dy. Inspector General of Prisons	Inspector General of Prisons
3.	Inspector General of Prisons	DG Prisons/Commissioner (Home)

27. Rules regarding appeals :

- (i) Appeals against punishment shall be made through the concerned Superintendent of Prison or equivalent head of the unit under whom the appellant is serving at the time of appeal.
- (ii) Every appeal shall set forth the grounds and shall be accompanied by a copy of order of the Disciplinary Authority.
- (iii) An Appeal which is not filled within 45 (forty five) days of the receipt of the original order, exclusive of the time taken to obtain the copy of the record, shall be barred by the law of limitation. The appellate authority may, however, accept an appeal which is barred by the law of limitation, if in his/her opinion the delay occurred due to circumstances beyond the control of the appellant. If there are reasons to believe that an official is evading receipt of an order, the period of forty five days shall be counted from the date of dispatch of the order by the register post acknowledgement.

28. Orders of appeal :

- (i) In an appeal, the Appellate Authority may,
 - (a) confirm the impugned order, or
 - (b) accept the appeal and set aside punishment order, or
 - (c) reduce the punishment, or
 - (d) remit the case to the authority which made the order or to any other authority to make such further inquiry as it may consider proper in the circumstances of the case; or pass such other orders as it may deem fit.
- (ii) Every order passed in an appeal shall contain the reason thereof. A copy of every appellate order shall be given free of cost to the appellant.

29. Implementation of orders of appeal :

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

30. Revision :

A member of the subordinate rank whose appeal has been rejected will not be entitled to file a second appeal. Such member of the subordinate rank may however, file a revision within a month of receipt of appellate orders by him to the authority superior to the appellate authority on grounds of material irregularity or illegality in the proceedings, Provided that no application for revision of an order of the State government shall lie. The revising authority thereupon :

- (i) confirmation or modality the impugned order, or
- (ii) accept the revision petition and set aside the order of appellate authority ; or
- (iii) reduce the punishment ; or
- (iv) remit the case to the authority which made the order or any other authority to make such further inquiry as it may consider proper in the circumstances of the case ; or pass such other order as it may deem fit.

31. Review :

- (i) The Reviewing Authority may call for the records of awards/punishments made by any of his/her subordinate either on his/her appeal by the appellant and confirm, modify or annul the same or make further inquiry or direct such inquiry to be made before passing orders :

Appeal for review before the Reviewing Authority shall be made within 6 (six) months from the date of issue of award/punishments.

- (ii) If an award of dismissal or removal from service is annulled, the officer annulling it shall state whether it is to be recorded as suspension followed by reinstatement or not. The order shall also state whether service previous to dismissal or removal shall count for pension or not.

32. Service orders, notices etc :

Every order, notice and other process made or issued under these rules shall be served in person on the member of the subordinate rank concerned or communicated to him by registered post or special messenger.

33. Power to relax time limit and to condone delay :

Same as otherwise expressly provided in these rules, the authority competent under these rules may make any order, 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.

34. Discharge certificate :

Every member of the subordinate rank on leaving service from Arunachal Pradesh Prison whether as a measure of punishment or on acceptance of resignation shall be given by the Appointing Authority a Discharge Certificate in the form given under Schedule –II.

35. Pending proceedings :

All pending disciplinary proceedings ordered or instituted under the Central Civil Service (Classification, control and Appeal) Rule, 1965 prior to the commencement of these Rule shall be deemed to have been instituted or ordered under these Rules and shall be decided in accordance with these rules.

36. Removal of doubts :

If any doubt arises as to the interpretation of any of the provisions of these Rules, the matter shall be referred to the State Govt. of Arunachal Pradesh.

G.S. Meena, IAS
Secretary (Home),
Government of Arunachal Pradesh,
Itanagar.

SCHEDULE – I

APPOINTING, DISCIPLINARY, APPELLATE & REVIEWING AUTHORITY FOR
SUBORDINATE RANKS OF ARUNACHAL PRADESH
PRISON & CORRECTIONAL ADMINISTRATION

Sl. No.	Description of post	Appointing Authority	Disciplinary Authority	Penalties	Appellate Authority	Reviewing Authority
1	2	3	4	5	6	7
Uniform Personnel						
1.	Jailor	IG Prisons/ DIG Prisons SP JHQ	DIG Prisons/ AIG Prisons/ SP JHQ	All	IG Prisons	DG Prisons/ Commissioner (Home)
2.	Assistant Jailor	DIG Prison/ SP JHQ	SP JHQ	All	DIG/IG Prisons	IG Prisons
3.	Chief Warden/ Head Warden/ Jail Warden	DIG Prisons/ SP JHQ	SP JHQ	All	DIG/IG Prisons	IG Prisons
Ministerial Staff						
4.	Office Supdt.	IG Prisons/ DIG Prisons/ SP JHQ	DIG Prisons/ AIG Prisons/ SP JHQ	All	IG Prisons	DIG Prisons/ Commissioner (Home)
5.	Assistant/ UDC/LDC	IG Prisons/ AIG Prisons/ SP JHQ	SP JHQ	All	DIG/IG Prisons	IG Prisons
6.	Group – D staff	SP JHQ	SP JHQ	All	DIG/IG Prisons	IG Prisons

PART - II

Certified that Shri
S/o..... whose particulars
have been mentioned in Part - I overleaf has been removed/discharge/dismissed or has resigned from
Prison & Correctional Services with effect from

.....

Days	From	To	Years	Months
------	------	----	-------	--------

.....

- (i) As(rank)
- (ii) As.....(rank)
- (iii) As (rank)
- (vi) As (rank)

Total service in Prison and Correctional Administration :

Previous service in other Government Department :

- (i) As(Nature of service)
- (ii) As (Nature of service)
- (iii) As (Nature of service)

Total service :

Grant total of service :

He has received a true and just account of his pay and arrears of pay and shall claims him by
Government have been settled in full.

Classification : (excellent/very good/good/fair/bad)

Date

Superintendent of Prison
