

Registered No. WB/SC-132

No. 42C(Suppl.)

The Calcutta Gazette

Extraordinary Published by Authority

SRAVANA 11 MONDAY, JULY 23, 1979 [SAKA 1901

SUPPLEMENT—Official Papers

THE WEST BENGAL KHADI AND VILLAGE INDUSTRIES BOARD NOTIFICATION

In exercise of the power conferred by section 33 of the West Bengal khadi and Village Industries Board Act. 1959 (West Ben. Act XIV of 1959), the West Bengal Khadi and Village Industries Board hereby makes, with the previous sanction of the State Government, the following regulations :

THE WEST BENGAL KHADI AND VILLAGE INDUSTRIES BOARD EMPLOYEES (DISCIPLINE AND APPEAL) REGULATIONS, 1979.

CHAPTER I

Preliminary

1. Short title, application and commencement :

- (a) These regulations may be called the West Bengal Khadi and Village Industries Board Employees (Discipline and Appeal) Regulations, 1979.
- (b) They shall apply to all the employees of the West Bengal Khadi and Village Industries Board including Sectary, casual and daily-rated workers but shall not apply to the employees on deputation from the Central Government or State Government or from any other organization.
- (c) They shall come into force with direct from the date of their publication in the Official Gazette.

2. Definition: In these regulations, unless the context otherwise requires,—

- (a) "the Act" means the West Bengal Khadi and Village Industries Board Act, 1959 (West Ben. Act XIV of 1959);
- (b) "Board" means the West Bengal Khadi and Village Industries Board established under section 3 ;
- (c) "Chairman" means the Chairman of the Board appointed under section 4;
- (d) "employee" means an employee of the Board ;
- (e) "Schedule" means the Schedule appended to these regulations;
- (f) "section" means a section of the Act ;
- (g) "State Government" means the Government of West Bengal.

CHAPTER II

Discipline

3. Penalties: The following penalties may be imposed on an employee who is found to be guilty of any misconduct, breach of conduct and discipline, neglect of duly or negligence :

- (a) censure,
- (b) withholding of increments or promotions,
- (c) recovery from pay of the whole or part of any pecuniary loss caused

to the Board by negligence or breach of orders,

(d) reduction to a lower service or time-scale of pay or to a lower stage

in a time-scale of pay,

(e) compulsory retirement,

(f) removal from service which shall not be a disqualification for future employment under the Board,

(g) dismissal from service which shall ordinarily be a disqualification for future employment under the Board.

4. Disciplinary Authority: No penalty specified in regulation 3 shall be imposed on any employee by an authority lower in rank than the appointing authority mentioned in the Schedule.

5. Appellate Authority: The Board shall be the appellate authority in respect, of Class I and Class II employees and the Chairman shall be the appellate authority in respect of Class III and Class IV employees and such authorities shall have the power to impose any of the penalties specified in regulation 3 on any employee in modification or enhancement of any penalty imposed by the disciplinary authority after giving the employee a notice or an opportunity of being heard.

6. Appointing Authority: (a) In the case of Class I and Class II employees, the Chairman shall be the appointing authority and the disciplinary authority.
(b). In the case of Class III and Class IV employees, the Executive Officer of the Board shall be the appointing authority and the disciplinary authority.

7. Authority which Can suspend pending proceedings: An employee against whom disciplinary proceeding has been drawn up or is under contemplation may be placed under suspension by his appointing authority. An employee may also be placed under suspension in case of arrest, detention or for any other good and sufficient reason. During the period of suspension such employee will receive a monthly subsistence allowance of 50 per cent, of his basic pay which may be increased to such percentage as may be decided by the Board, if the period of suspension is continued beyond one year. He will also receive full allowances throughout the period of suspension.

8. Procedure for imposing penalties :

(1) (a) No order imposing any of the penalties specified in regulation 3 shall be made except after an inquiry held in the manner provided in this regulation.

(b) Any penalty once imposed should be recorded in the Confidential Annual Report and or Service Records of the employee in whatever form they are maintained.

(2) The disciplinary authority shall draw up or cause to be drawn up (i) the substance of the imputations of misconduct or misbehavior into definite and distinct articles of charge ; (ii) a statement of the imputations of misconduct or misbehavior in support of each article of charge which shall contain (a) a statement of relevant facts including any admission or confession made by the employee, (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(3) The disciplinary authority shall deliver or cause to be delivered to the employee a copy of the articles of charge and the statement of imputations of misconduct or misbehavior prepared under clause (ii) of sub-regulation (2) and shall require the employee to submit to the inquiring authority within such time as may be specified a written statement of his defense and to state whether he desires to be heard in person.

(4) The disciplinary authority shall in all cases for the purpose of inquiry

appoint an inquiring authority and forward to it

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

(b) a copy of the statement of witnesses, if any ,

(c) evidence proving the delivery of the documents referred to in sub-regulation (2) to the employee.

(5) the employee shall appear in person before the inquiring authority on such date and at such time within a period of ten working days from the date of receipt by him of a copy of the articles of charge and the statements of imputations of misconduct or misbehavior as the inquiring authority may, by a notice in writing, specify in this behalf or within such further period, not exceeding ten days, as the inquiring authority may allow.

(6) If the employee, who has not admitted any of the articles of charge in his written statement of defense, appear before the inquiring authority, such authority shall ask him whether he is guilty or has any defense to make, and if he pleads guilty in respect of any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the employee thereon and shall return a finding of such guilt. The inquiring authority shall, if the employee fails to appear within the specified period or refuses or omits to plead or claims to be tried, require the disciplinary authority or his representative to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the employee may, for the purpose of preparing his defense,

- (a) inspect within five days of the order or within such further period, not exceeding five days, as the inquiring authority may allow, the documents specified in the list referred to in sub-regulation (2) ;
- (b) submit a list of witnesses to be examined on his behalf ;
- (c) give a notice within a period of ten days of the order or within such future period, not exceeding ten days, as the inquiring authority may allow asking for the discovery or production of any documents which are in the possession of the Board but not mentioned in the list referred to in sub-regulation (2).

(7) The inquiring 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 inquiring authority may, for the reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

(8) On receipt of the requisition referred to in sub-regulation (7), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority : Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for the 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 inquiring authority accordingly and the inquiring authority shall, on being SO informed, communicate the information to the employee and withdraw the requisition made by it for the production or discovery of such documents.

(9) After the completion of the inquiry, the inquiring authority shall submit to the disciplinary

authority a report containing the following particulars :

- (a) the articles of charge and the statement of imputations of misconduct or misbehavior ;
- (b) the defense of the employee in respect of each article of charge ;
- (c) an assessment of the evidence in respect of each article of charge ;
- (d) the finding on each article of charge and the reasons therefore.

(10) The disciplinary authority shall consider the report and record its findings on each charge.

9. Special procedure in certain cases:

(1) Nothing in regulation 8 shall apply to a case where-

- (i) an employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge ; or
- (ii) the authority empowered to dismiss or remove an employee or to reduce him in rank is satisfied that for reasons to be recorded in writing, it is not reasonably practicable to hold such inquiry .

(2) If any question arises whether it is reasonably practicable to give any employee an opportunity of showing cause under clause (ii) of sub-regulation (I), the decision therefore of the authority empowered to dismiss or remove such employee or to reduce him in rank shall be final.

10. Procedure of arrest : An employee, who is arrested for debt or on a criminal charge shall be deemed to be placed under suspension from the date of arrest and shall be allowed during the period of such suspension such pay-ment as is admissible to an employee under suspension under regulation.

11. Procedure on conviction: An employee who is committed to prison for debt or is convicted of a criminal offence shall be liable to be dismissed from the date of the judgment order in this behalf without drawal of any proceedings. The order of dismissal shall be cancelled and the employee shall be instated in service if the employee is acquitted by a higher court.

12. Conduct rule : In the absence of any rules in this regard, the provisions of the West Bengal Government Servants Conduct Rules, 1959, shall apply mutatis mutandis to the employees.

13. Classification of grades: In the absence of any rules in this regard, the rules regulating the gradation or classification, of the West Bengal Government servants shall apply mutatis mutandis in determining whether an employee is included in Class I or Class II or Class III or Class IV for the purpose of departmental proceedings.

14. Action after inquiry : Departmental inquiry once started should be completed. If the proceedings are withdrawn at any stage, the employee shall be paid full pay and allowances for the period of suspension which shall be treated as a period spent on duty. If he is not acquitted, he shall be given such pay and allowances as the disciplinary or appellate authority may determine, and the period of suspension shall be treated as duty or leave as may be directed by the disciplinary or appellate authority.

15. Appeals : An employee may appeal against an order imposing upon him any of the penalties specified in regulation (3) to the authority specified in this behalf in the Schedule. An appeal against any disciplinary order shall be submitted in writing before the appellate authority within a period of one month from the date on which the appellant receives the copy of the order. The appellate authority may entertain the appeal after the expiry of the aforesaid period if it is satisfied that the appellant had sufficient cause for not submitting the appeal within the specified period. The authority making the order appealed against shall implement the orders of the appellate authority and, in doing so, shall furnish to the employee concerned a copy of the order passed by the appellate authority.

SCHEDULE

(Vide regulations 4 and 13)

Description	Appointing Authority empowered to impose penalty and the regulation 3 of Chapter II	Appellate of post. authority which it may impose with reference to
-------------	---	--

Authority					Penalty				
1	2	3	4	5					
(A)	Class I and Class	II employees	Chairman	Chairman			All		Board
(B)	Class III and Class	IV	Executive	Executive			All		Chairman
employee		Officer	Officer						

**HEMANTA GHOSAL, Chairman,
West Bengal Khadi and Village Industries Board.**