

APPEALS

Sl.No	Date	Type	File No	Subject
1.	20.3.1957	Government Order	GAD 18 PHS 57	Prompt transmission of appeals of Government Servants with relevant documents.
2.	12.12.1957	Official Memorandum	GAD (OM) 9 SMR 57	Procedure for submission of representation by Government servant.
3.	19.4.1982	Circular	DPAR 10 SDE 82	Departmental enquiries-instructions to follow prescribed procedure.
4.	16.5.1990	Official Memorandum	DPAR 14 SDE 90	Prompt disposal of appeal petition submitted by the Government servant against the order of the disciplinary authority by the appellate authority- Instructions reg.

G.O.No.GAD 18 PHS 57 dated 20th March 1957

Sub:- Prompt transmission of appeals of Government Servants with relevant documents.

A Case has recently come to notice where disciplinary action was taken by a Government Officer against a Subordinate officer. The Subordinate officer appealed and on that appeal the Head of the Department was asked by Government to send up all the relevant papers. In spite of a number of reminders, the papers did not reach Government for a period of nearly two years. Government issued peremptory orders for the submission of the papers.

1. This state of affairs is thoroughly unsatisfactory and showed that the Head of the Department did not realize his responsibility in the matter.

2. Government rightly insist that appeals and representations from Government Servants will reach Government through the proper channel. This, however casts an equal responsibility on the superior officers to see that such appeal papers or representations are transmitted to Government promptly and are not delayed unduly. Such delay may cause irreparable damage to the Government servant concerned and in its turn, may give rise to a crop of direct representations to higher authorities which is detrimental to administrative discipline and efficiency.

3. It is accordingly impressed on all officers that appeals and representations against orders addressed to higher authorities should be promptly forwarded with all the relevant documents. Where any authority delays transmission of such papers, serious notice of such delay may have to be taken.

O.M.NO.GAD (OM) 9 SMR 57, dated 12th December 1957

Sub:- Procedure for submission of Representations by Government Servant.

Government is pleased to issue the following instructions in regard to submission of representations by Government Servants in respect of any matters pertaining to their service and in respect of any disciplinary matters or orders affecting their conditions of service. Provision is made for an appeal by the Government Servant under Rules 18 to 22 of the Mysore Civil Services (Classification, Control and Appeal) Rules 1957. Representations should be addressed to the authority competent to entertain the appeal and not to other authorities.

2. All representations should be concise, set out the grounds relied upon by the Government servant and clearly specify the reliefs sought. As a second representation on the same subject will not be entertained, it will be in the interest of the Government servant to set out all relevant grounds and to mention all the reliefs which he seeks, in his representations.

3. Any Government servant who has a grievance from which he seeks relief, must send in his representation in his own name. Joint representations by more than one Government servant will not be considered. This bar does not apply to representations made by recognized Service Associations in accordance with their conditions of recognitions.

4. The representations should invariably be accompanied by a copy of the order appealed against, if any.

5. The representation should be sent through the official superior of the Government servant concerned, who should forward the representation with the relevant papers and his comments, if any, without delay, to the higher authorities, except in the circumstances mentioned in para 9 below.

6. An appeal or representation should be submitted within three months of the order appealed against. An appeal or representation submitted beyond that period will only be entertained at the discretion of the Government, on Government being satisfied that there were adequate reasons for not submitting the representations within time.

7. Where Government has already passed an order on a representation, a fresh representation on the same subject will not be entertained, unless the representation on the face of it discloses new grounds not before Government when the previous order was passed and adequate reasons for not placing those grounds before Government at that time. Any such representations received will be merely recorded and no action will be taken thereon.

8. An Officer who receives the representation from a subordinate office will transmit the papers to proper authorities, with his comments and with the relevant records if any, in his possession, with the least possible delay.

9. The representation should, however, be withheld in the following cases.

- (i) It is time-barred and sufficient reasons are not assigned for the delay in submitting the representation.
- (ii) A copy of other order appealed against is not annexed to the representation.
- (iii) A representation is debarred under paras 3 & 7.

The fact that a representation has been withheld and the reasons thereof shall be communicated to the Government servant concerned except where the representations is withheld under clause (iii) above.

10. The representation received from a Government servant should be forwarded by his immediate superior officer through the official channel. The practice sometimes adopted of handling back the representations to the aggrieved officer himself with the remarks of the higher officer, for being taken personally to the higher authority, is not correct and should cease. All noting on representations by officers at all levels and in the Secretariat is confidential and should not be communicated to unauthorised persons.

11. The Government servant who after having made a representation does not receive an order thereon within a period of two months, shall be entitled to send copies of his representation directly with a copy of such communication to the authority through whom the representation was originally addressed. Where the advance copy received does not show that proper authorities at lower levels have been approached for securing necessary relief, no action need be taken on the representation. Where, however, the advance copy indicates that relief from the appropriate authorities at lower levels has been sought in vain, the authority who receives the representations should take prompt action to get the relevant records and pass suitable orders in the case.

12. The authority who withhold a representation shall, every three months, send a statement of representations withheld by him, to the authority to whom the representations withheld were addressed.

13. These instructions are issued in supersession of all previous rules, orders and instructions on this subject. The procedure prescribed in these instructions shall, save as otherwise provided in any rules made under the proviso to Article 309 of the Constitution of India, be applicable to all representations pending on the date of issue of these instructions.

GOVERNMENT OF KARNATAKA

No.DPAR 10 SDE 82

Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated the 19th April 1982.

CIRCULAR

Sub: Departmental Enquiry Instructions to follow prescribed procedure.

Rule 18 of the Karnataka Civil Services (Classification, Control and Appeal) Rules 1957 provides for appeal against orders imposing penalties and rule 25 prescribes the procedure for consideration of such appeals and their disposal. While reviewing the orders of Courts in accordance with O.M.No.LAW 166 LAG 81, dated 18-12-1981 it is noticed that the Appellate Authorities pass very brief orders sometimes one sentence order like 'appeal considered and rejected' - such brief orders are technically defective and violative of rules of natural justice and are, therefore, being quashed by the Courts or by the Governor while exercising his powers of review. As a result, Government servants who deserve, on merits of the case, severe penalties unpunished. It is therefore necessary that all the Appellate Authorities strictly follow the procedure prescribed in Rule 25 of the rules before they pass final orders.

2) The important points to be borne in mind by the Appellate Authorities while considering the appeals are

- i) Whether the appeal was filed within the period of limitation prescribed
- ii) Whether the disciplinary authority has followed the prescribed procedure before passing final orders,
- iii) Whether in a case before the inquiry officer has been appointed to hold inquiry and the disciplinary authority proposes to accept the recommendation of the inquiry officers, the several steps prescribed in rule 11 of the rules have been taken by the Inquiring Officer and whether he has analyzed, appreciated and evaluated the evidence for and against the charges and whether he has dealt within his orders each of the contentions raised by the concerned accused Government officers and whether the Inquiring Officer has given reasons for his conclusions.
- iv) Whether the disciplinary authority has complied with the requirements of rule 11-A or Rule 12 as the case may be; and
- v) Whether the penalty is adequate, inadequate or excessive.

3) The Appellate Authority should consider the contentions raised by both sides and give his findings therein. He should not hesitate to accept errors, if any, committed by the

Inquiry Officer and to give proper relief if wrong has been done to the accused officer. He should decide the case without bias in a spirit of and with the sense of responsibility of a Tribunal so that the departmental remedy, by way of appeal, provided for in the rules does not become illusory.

4) Any lapse on the part of the Appellate Authorities in this behalf would be viewed by Government seriously.

sd/-
M.K.Venkateshan,
Additional Chief Secretary.

GOVERNMENT OF KARNATAKA

No.DPAR 14 SDE 90

Karnataka Governmen Secretariat,
Vidhana Soudha
Bangalore, dated: 16th May 1990.

OFFICIAL MEMORANDUM

Sub: Prompt disposal of appeal petition submitted by the Government servant against the order of the disciplinary authority by the appellate authority Instructions reg.-

According to Rule 18 of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, every person who is a member of the State Civil Services is entitled to appeal to the extent and to the authorities specified therein against the order made by the Disciplinary authority or by an Appellate or Reviewing authority imposing any of the penalties specified in Rule 8 of the said rules.

2. In the case of an appeal against an order imposing any of the penalties specified in rule 8, the Appellate authority has to consider the appeal petition in accordance with the provision contained in Rule 25 of the said rules and pass such order as it deems just and equitable as provided under Rule 25.

3. While disposing application No. 5578/89 filed by one Sri. N.Kondaiah Chowdry, F.D.A in the department of Mines and Geology, on the ground that the appeal submitted to the Appellate authority against the order of the Disciplinary authority was not disposed of for a long time, etc., the Karnataka Administrative Tribunal has observed as follows:

"It has been noticed by the Tribunal in scores of cases that because of the failure of the Appellate authorities to pass a final order in respect of appeals filed before them within a period of six months the Government officials concerned are forced to seek redress at the hands of the Tribunal. This leads to a lot of avoidable litigation, apart from the unnecessary increase in work load for all concerned as well as waste of time and energy and incurring of unavoidable expenses. Since in a very large number of cases the Appellate authority happens to be the State Government, it would be helpful if the State Government makes it a point to ensure that all appeals filed by Government servants before them are disposed of within a period of six months so that there would be no occasion for the concerned Government servants to seek redress of their grievances at the hands of the Tribunal unless, in a few cases where there may be aggrieved by the order passed in an appeal.

4. The Secretaries to Government and Heads of Department are requested to keep in mind the observation made by the KAT while disposing of the appeal petitions and ensure that all appeals filed by Government servants against the orders of the Disciplinary authority or Appellate or Reviewing authority under Rule 18 of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, before the Appellate authorities are disposed of within a period of six months.

5. These instructions should be brought to the notice of all the Disciplinary/Appellate authorities under their administrative control.

sd/-

K. Hirianna

Deputy Secretary to Government, Dept. of
Personnel & Admnv, Reforms, (Service
Rules).