

**TAMIL NADU WATER SUPPLY AND DRAINAGE BOARD EMPLOYEES'
(DISCIPLINE AND APPEAL) REGULATIONS 1972.**

(B.P.Ms.No.18, dated 19th January, 1973)

(Published in part V of the Tamil Nadu Government Gazette dated 7.2.73)

In exercise of the powers conferred by sub-section (3) of Section 73 of the Tamil Nadu Water supply and Drainage Board Act, 1970 (Tamil Nadu Act 4 of 1971), Tamil Nadu Water supply and Drainage Board with the previous approval of the Government of Tamil Nadu hereby makes the following regulations for the employees of the Tamil Nadu Water Supply and Drainage Board:-

REGULATIONS

1. Short title and commencement. – (a) These regulations may be called the Tamil Nadu Water Supply and Drainage Board Employees' (Discipline and Appeal) Regulations, 1972 .

(b) They shall come into force on and from the date of their publication in the Gazette.

2. Applicability.- Subject to such exceptions as the Board may, from time to time, make in respect of specified cases or in respect of specified classes of employees, these regulations shall apply to all the employees of the Board including the employees of the Government of Tamil Nadu who have opted for service under the Board:

Provided that nothing in these regulations shall deprive any employee of any right or privilege to which he is entitled to by or under any law for the time being in force.

Provided further that in the case of employees appointed on contract, they shall, except in so far as they are not governed by the terms of contract, be regulated by the provisions of these regulations.

3. Removal of doubts.- If any doubt arises as to whether these regulations apply to any employee or in regard to the applicability or otherwise of any of the provisions in these regulations, the matter shall be referred to the Board, whose decision shall be final.

4. Definitions.- The terms used in these regulations shall have the same meaning as in the Tamil Nadu Water supply and Drainage Board Service Regulations.

5. Penalties.- (a) the following penalties may for good and sufficient reasons or for any misconduct specified in regulation 6 and as hereinafter provided, be imposed upon members of the services under the Board, namely:

- (i) Censure;

(ii) Fine (in the case of persons for whom such penalty is permissible under these regulations);

(iii) Withholding of increments or promotion;

(iv) Reduction to a lower rank in the seniority list, to a lower post or time - scale or to a lower stage in a time-scale;

(v) (a) Recovery from pay of the whole or part of any pecuniary loss caused to the Board or to a local body by negligence or breach of orders;

(b) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld where such an order cannot be given effect to.

(c) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of reduction to a lower stage in a time-scale ordered where such an order cannot be given effect to.

Explanation.- In cases of stoppage of increment with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld may be recovered.

(vi) Compulsory retirement otherwise than the retirement of an employee :

(a) on attaining the age of superannuation;

(b) Owing to reduction of establishment;

(c) Owing to his permanent incapacity for service on account of bodily or mental infirmity; and

(d) Whose efficiency has been impaired after completion of 25 years of continuous service.

(vii) Removal from the service of the Board.

(viii) Dismissal from the service of the Board.

(ix) (a) Suspension (in connection with an enquiry into grave charges against him or when a complaint against him on a criminal offence is under investigation or trial) to the extent considered necessary by the authority imposing the penalty.

(b) the discharge of a person -

(i) appointed on probation before the expiry or at the end of the prescribed or extended period of probation; or

(ii) engaged under contract in accordance with the terms of his contract; or

(iii) appointed otherwise than under contract to hold a temporary appointment on the expiration of the period of the appointment does not amount to removal or dismissal within the meaning of this regulation.

(c) The removal of a person from the service of the Board shall not disqualify him for future employment but the dismissal of a person from the service of the Board shall ordinarily disqualify him from future employment under the Board.

(d) The seniority on re-promotion of an employee reduced to a lower post on time - scale shall be determined by the date of such re-promotion. He shall not be eligible for his original seniority unless otherwise directed in the orders of punishment or the revised order on appeal.

(e) An employee on whom the penalty under clause (iii) of sub-regulation (a) is imposed will, on re-promotion count his previous service in the higher grade unless the order of punishment or the order passed on appeal directs otherwise.

6. Acts and Omissions constituting misconduct- The following acts and omissions shall be deemed to be misconduct:

(i) Willful insubordination or disobedience, whether alone, or in combination with another or others, of any lawful and reasonable order of a superior.

(ii) Striking work or deliberate slowing down of work either singly or along with another or others in contravention of orders of any statute, law, enactment or rule for the time being in force or as applied from time to time.

(iii) Concerted or organised refusal on the part of employees to receive their pay.

(iv) Theft, fraud or dishonesty in connection with the Board's property or business.

(v) Taking or giving bribes or any illegal gratification whatsoever.

(vi) Collection or canvassing for collection without the written permission of the management of any money within the premises of the establishment.

(vii) Habitual late attendance or habitual absence without leave or without sufficient causes.

(viii) Carrying on money-lending or any other private business without the permission of the management within the premises of the establishment.

(ix) Drunkenness, fighting, riotous or disorderly or indecent behaviour in the premises of the establishment or any act subversive of discipline.

- (x) Habitual negligence or neglect of work.
- (xi) Habitual indiscipline
- (xii) Smoking within the premises of the establishment in places where it is prohibited.
- (xiii) Causing willful damage to work in progress or to any property in the establishment.
- (xiv) Distribution, exhibition, display or use within the boundaries of work spot or premises of any newspapers, hand bills, pamphlets or posters, flags or loud speakers, without previous sanction of management.
- (xv) Refusal on the part of an employee to work on a job or a machine other than the job or machine on which he is usually engaged without adversely affecting his service conditions.
- (xvi) Holding meetings within the establishment or in any of the premises including the precincts thereof owned by the Tamil Nadu Water Supply and Drainage Board without the previous sanction of the management.
- (xvii) Gambling within the premises of the establishment.
- (xviii) Sleeping while on duty.
- (xix) Malingering or slowing down of work.
- (xx) Unauthorised use of Board's quarters or land.
- (xxi) Acceptance of gifts from subordinates.
- (xxii) Lending or borrowing money to or from subordinates.
- (xxiii) Insolvency
- (xxiv) Writing of anonymous or pseudonymous letters criticising the Board or any person employed by the Board.
- (xxv) Spreading false rumours, or giving false information, which tends to bring into disrepute the Board or those employees of the Board or spreading panic among them.
- (xxvi) Conviction in any Court of Law for any criminal offence involving moral turpitude.
- (xxvii) Theft of employer's or any employee's property inside the premises of the establishment.

(xxviii) Continuous absence without permission and without satisfactory cause for more than five years.

(xxix) Giving false information regarding name, father's name, qualification, age or previous service or any other information connected with employment, at the time of employment or any other time during service.

(xxx) Any breach of any rules.

(xxxi) Abetment of or attempt to commit any of the above acts of misconduct.

(xxxii) Habitual breach of any rules or instructions for the maintenance and cleanliness of work places.

(xxxiii) Willful disobedience of any order expressly given or any rule expressly framed for the purpose of securing safety or willful removal or disregard of or interference with any safety guard or other device provided for securing safety.

(xxxiv) Accepting service in any other establishment other than that belonging to Board or private remunerative employment from any persons.

(xxxv) Leaving one's post or duty without prior permission from higher authorities.

(xxxvi) Conducting or promoting any raffle or lottery and participating in any unauthorised lottery or raffle within the premises of the establishment.

(xxxvii) Enrolling as members in any political party.

(xxxviii) Engaging in unlawful or illegal demonstrations to coerce or force the management to concede any demand or demands.

(xxxix) Indulging in subversive or other activities which are prejudicial to national security.

(xl) Causing pecuniary loss to the Board by false certificate, or by gross negligence.

Explanation.- Whenever heavy losses are sustained by the Board due to issue of any false certificate by an employee of the Board, or due to his negligence his services are liable to be terminated. Besides, the liability for the losses shall also be enforced on him and recovery of the value of such losses shall be made to the extent necessary from the pay of the employee (B.P.Ms.No.444, dated 14.10.85)

7. (a) The employees of the class or category mentioned in column (1) of the table below may be imposed with the penalties mentioned in column (2) of the said table by the authorities mentioned in the corresponding entries in column (3) thereof and appeal against such imposition may lie to the authorities mentioned in the corresponding entries in column (4) thereof.

THE TABLE

Class and Category of employees	Penalty	Competent authority to impose the penalty in column (2)	Appellate authority
(1)	(2)	(3)	(4)
1. Tamil Nadu Water Supply and Drainage Board Engineering and General Service			
Chief Engineer, Superintending Engineer, Secretary to the Board, Deputy Secretary, Accounts Officer and Assistant Secretary	(a) Censure	Managing Director	Board
	(b) Withholding of increment	Board	Government
	(c) Recovery from pay of the whole or part of any pecuniary loss caused to the Board or to the local body by negligence or breach of orders; or	Board	Government
	(d) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld or equivalent to the amount of reduction to a lower post in a time-scale and where such an order cannot be given effect to.	Board	Government
	(e) Suspension, where a person has already been suspended to the extent considered necessary	-Do-	-Do-
	(f) Withholding of promotion.	-Do-	-Do-
	(g) Reduction to a lower rank in the seniority list or to a lower post or time-scale or to a lower stage in a time scale	-Do-	-Do-

(h) Compulsory retirement otherwise than on attaining the age of superannuation etc.	-Do-	-Do-
(i) Removal from service	-Do-	-Do-
(j) Dismissal from service	-Do-	-Do-

2. (i) Tamil Nadu Water Supply and Drainage Board Chief Engineers' Office -

Non-technical P.A. to Chief Engineer	Censure	Chief Engineer	Managing Director
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(ii) Tamil Nadu Water Supply and Drainage Board Engineering Service -

Executive Engineers/Municipal Engineers Grade-I, Assistant Engineers/Municipal Engineers Grade-II and Chief Head Draughtsman.	Censure	Chief Engineer	Managing Director
(iii) Employees in item (1) above	Other penalties in items (b) to (j) in column (2) of officers mentioned under item 1 above.	Managing Director	Board

3. Tamil Nadu Water Supply and Drainage Board Engineering Subordinate Service -

(i) Junior Engineer/ Supervisors and other technical staff in Chief Engineer's Office.	Censure	Deputy Chief Engineer	Chief Engineer
(ii) Junior Engineers/ Supervisors/Municipal Engineers, Grade-III in Circles.	-Do-	Superintending Engineer	-Do-
(iii) Technical staff in Superintending Engineer's Office	-Do-	Do-	-Do-
(iv) Technical Staff other than Junior Engineers/ Supervisors in Divisions and sub-divisions.	-Do-	Executive Engineer	Superintending Engineer

(v)	Employees in item 3 above	Other penalties i.e. penalties in the items (b) to (j) in column (2) against employees under item No.1 above.	Chief Engineer	Managing Director
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4. Tamil Nadu Water Supply and Drainage Board Subordinate Service -

(i)	Board Secretariat - Superintendents, Assistants, Junior Assistants, Confidential Steno, Steno- typists, Typists, Receptionist-cum-Telephone Operator and Record Assistant.	Censure	Secretary	Managing Director
	Employees in item 4 above.	Other penalties in (b) to (j) in column (2) against employees under item 1 above	Managing Director	Board
(ii)	Chief Engineer's Office – Superintendents, Assistants, Upper Division Steno, Junior Assistants, Steno-typists, Typists.	Censure	Chief Engineer	Managing Director
(iii)	Circle Offices – Managers, Office Assistants, Junior Assistants, Steno-typists, Typists and Store-keepers	Censure	Superintending Engineer	Chief Engineer
(iv)	Division and Sub-Division Offices – Assistants, Junior Assistants, Steno-typists, Typists.	Censure	Superintending Engineer	Chief Engineer
	Employees in item 4 above column (2) against employees under item 1 above.	Other penalties i.e. penalties in the items (b) to (j) in column (2) against employees under item No.1 above.	Chief Engineer	Managing Director

5. Tamil Nadu Water Supply and Drainage Board General Subordinate Service and Tamil Nadu Water Supply and Drainage Board Last Grade Service.

Drivers, Record Clerks, Daffedars, L.G.G.S., Watchmen and other posts not specifically mentioned under the rules	(a)	Penalties in items (a) to (e) in column (2) against employees under item 1 above and fine in respect of last Grade Servants	Immediate superior officer or any higher authority	Next higher authority
	(b)	Penalties in item (f) to(j) in column (2) against employees mentioned under item 1 above	Appointing authority	Next higher authority

NOTES.- (1) The expression “Immediate Superior Officer” occurring in column (3) against item 5 (a) above means the immediate superior officer under whom the delinquent was working at the time when the lapses were committed and includes his successor in office.

(2) In cases where first appeal lies to the Chief Engineer and to the Managing Director, a second appeal may lie to the Managing Director and to the Board, respectively.

(3) The appellate authority in respect of penalties awarded by the Board is the Government and in all other cases, the Board is the appellate authority.

(b) Competency of authorities superior to disciplinary authority – Where in any case a higher authority has imposed or declined to impose a penalty under this regulation, a lower authority shall have no jurisdiction to proceed under this regulation in respect of the same case.

(c) The fact that a lower authority has imposed or declined to impose a penalty in any case shall not debar a higher authority from exercising his jurisdiction under this regulation in respect of the same case.

(d) The order of a higher authority imposing or declining to impose in any case a penalty under this regulation shall supersede any order passed by a lower authority in respect of the same case.

(e) The fact that a lower authority has dropped a charge against a person as not proved shall not debar a higher authority from reviving it for reasons to be recorded in writing and taking suitable action on the charge so revived.

8. *Disciplinary authority in certain cases.* - (a) Where on promotion or transfer, a member of a class of a service in a division, category, or grade is holding an appointment in another division, category or grade thereof or in another class of service, no penalty shall be imposed upon him in respect of his work and conduct before such promotion or transfer except by an authority competent to impose the penalty upon a member of the class of service in the latter division, category or grade or class of service, as the case may be.

(b) Where a person has been reverted or reduced from one class of service to another, or from one division, category or grade of a class of service to another division, category or grade thereof, no penalty shall be imposed upon him in respect of his work and conduct while he was a member of the class of service, division, category or grade, as the case may be from which he was reverted or reduced except by any authority competent to impose the penalty upon a member of such class of service, division, category or grade, as the case may be.

9. *Procedure for imposing of penalties.* - (a) In every case where it is proposed to impose on an employee any of the penalties in item (I), (ii), (iii) and (v) regulation 5, he shall be given a reasonable opportunity to explain and to make representation as he may desire and the explanation and the representation, if any, made by him shall be taken into consideration before the order imposing the penalty is passed:

Provided that the requirements of this sub-regulation shall not apply where it is proposed to impose on an employee any of the penalties aforesaid on the basis of facts which have led to his conviction by a Court martial or where the employee concerned has absconded or where it is for other reason impracticable to communicate with him.

(b) In every case where it is proposed to impose on an employee any of the penalties in items (iv), (vi) to (viii) in regulation 5, he shall be given a charge sheet setting forth the grounds on which it is proposed to take action and any other circumstances which it is proposed to take into consideration in passing orders on the case. He shall be required to answer the charge or charges in a written statement within a reasonable time not exceeding one month and also to state whether he desires an oral inquiry or only to be heard in person. An oral inquiry shall be held if the employee desires such inquiry, or if so directed by the authority concerned. At that inquiry oral evidence shall be heard as to such of those allegations as are not admitted. The employee shall be permitted to produce witness in his defence and cross-examine any witness on whose evidence the charge rests. The officer conducting the inquiry may, for special and sufficient reasons to be recorded in writing, refuse to call a witness. The enquiring officer shall ask, in writing the delinquent employee immediately after the enquiry is over, whether he had a reasonable opportunity of presenting his case or if he has any complaint in this regard, the enquiring officer will examine the complaint and set right the matter. If it is considered that the alleged denial of reasonable opportunity is made with a view to delay the disciplinary

proceedings, the enquiring officer will be competent to ignore the complaint and the reasons for not complying with the request should be recorded. After the inquiry has been completed, the person charged shall be entitled to put in if he so desires, a further written statement of his defence. If no inquiry is held and if he had desired to be heard in person, a personal hearing shall be given to him. In all cases where enquiry is conducted, sufficient record of the evidence and a statement of the findings and grounds thereof should be kept.

After the enquiry or personal hearing referred to above has been completed, and if the authority competent to impose the penalty mentioned in that clause, is of the opinion on the basis of the evidence adduced during the enquiry, that any of the penalties specified therein should be imposed on an employee it shall make an order imposing such penalty and it shall not be necessary to give the person charge any opportunity of making representation on the penalty proposed to be imposed:

Provided that in case of a person appointed to a post by recruitment by transfer from any other class or services, the Board may at anytime before the appointment of the said person as a full member to the said post, revert him to such other class or service either for want of vacancy or in the event of his becoming surplus to requirements or if the Board is satisfied that he has not got the necessary aptitude for work in the said post, without observing the formalities prescribed in clause (b) above (B.P. Rt.No.359, dated 30.6.82).

(i) The requirements of clause (b) shall not apply-

(a) Where it is proposed to impose on an employee any such penalty as is referred to therein on the basis of facts which have led to his conviction in a Criminal Court (whether or not he has been sentenced at once by such Court to any punishment), but he shall be given a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before the order imposing the penalty is passed.

(b) Where it is proposed to impose on an employee any such penalty as is referred to therein on the basis of facts that have led to this conviction by a Court martial or where the employee concerned has absconded or where it is for other reasons impracticable to communicate with him.

(ii) The provisions of clause (b) shall not apply if the Board is satisfied that in the interest of security it is not expedient to follow the procedure prescribed in that clause.

(iii) The requirements of clause (a) or/and (b) shall not apply-

(a) When the person is a daily wage earner or casual worker or when the post held by a temporary employee is retrenched on administrative grounds.

(b) When the person charged admits the charge or charges.

(c) Where the employee is caught red-handed having committed or while committing an act of misconduct.

(d) (i) All or any of the provisions in clause (a) and (b) may in exceptional cases, for special and sufficient reasons to be recorded in writing, be waived where there is a difficulty in observing exactly the requirements of the clauses and those requirements can be waived without injustice to the person charged.

(ii) If any question arises whether it is reasonably practicable to follow the procedure in clause (b), the decision thereon of the authority empowered to dismiss or remove such employee, as the case may be shall be final.

(e) (i) The competent authority or the enquiry officer, as the case may be, may in discretion give an opportunity to the accused employee to inspect any document connected with the enquiry but excluding any confidential papers which in its opinion shall not be disseminated but such request for inspection may for good and sufficient reasons (which need not be recorded nor communicated) be refused partially or wholly. The employee will not be entitled to copies of documents.

(ii) No pleader or outsider representative shall be allowed to appear on behalf of the accused employee during the enquiry or during appeal hearing.

(f) The competent authority may authorise any officer in Class I or Class II service superior in rank to the employee to initiate departmental proceedings and to hold enquiry against the employee. On the findings of that Officer, the competent authority may award punishment or otherwise give a decision.

10. Suspension. - (a) A member of a class of service may be placed under suspension from service, where

(i) an enquiry into grave charges against him is contemplated or is pending,
or

(ii) a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interest.

(b) An employee who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours shall be deemed to have been suspended under this regulation.

(c) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee under suspension is set aside on appeal or on review under these regulations and the case is remitted for further enquiry 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.

(d) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee of the Board is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the disciplinary authority on a consideration of the circumstances of the case, decide to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or

compulsory retirement was originally imposed, the employee shall be deemed to have been placed under suspension by the appointing authority from the date of original order of dismissal/ removal or compulsory retirement and shall continue to remain under suspension until further orders.

(e) An order of suspension made or deemed to have been made under this regulation may at any time be revoked by the authority, which made or is deemed to have made the order or by any authority to which that authority is subordinate.

11. Disciplinary action in respect of employees of State, Central Government or outside bodies. - (a) If any employee to be proceeded against is an employee of the State or Central Government or of any other outside body and is on deputation to the Board, no punishment shall be imposed on him without the concurrence of the authority who lent his services to the Board. If it is considered that the penalty of compulsory retirement, reduction in rank, removal or dismissal is to be imposed, the competent authority shall complete the enquiry and revert the employee concerned to the State or Central Government or other employer, as the case may be and also forward the records of enquiry for such action as is considered necessary.

(b) If a Board's employee is on foreign service the foreign employer shall not impose any punishment of reduction, compulsory retirement, removal or dismissal is to be imposed, the foreign employer shall conduct the necessary enquiry, send the complete papers to the Board and also revert the employee to the Board's service for such action as is considered necessary by the Board against him.

(c) In case an employee referred to in clause (a) or (b) has to be suspended pending enquiry, the foreign employer shall place him under suspension, but shall report forthwith to the lending authority the circumstances leading to the suspension.

12. Record of enquiry:- (a) The authority imposing any penalty under these regulations shall maintain a record showing-

- (i) the allegations upon which action was taken against the person punished
- (ii) the charges framed, if any:
- (iii) the person's representation, if any, and the evidence taken, if any; and
- (iv) the finding and the grounds thereof, if any

(b) All orders of punishment shall also state the grounds on which they are based and shall be communicated in writing to the person against whom they are passed.

13. Suspension pending enquiry. - The authority which may impose suspension pending investigation of enquiry into grave charges under Regulation 10

shall be as follows –

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| 1. | Members of Class I and II Service Assistant Engineer/Chief Head Draughtsman, Non-technical Personal Assistant to Chief Engineer, Tamil Nadu Water Supply and Drainage Board and other | Chief Engineer, Tamil Nadu Water Supply and Drainage Board, Managing Director. |
| 2. | Members of Class III and IV Service (B.P.Ms.No.437, Dated 19.10.83) | Appointing Authority |

14. Appeal. - Every employee of the Board shall be entitled to appeal to the appellate authority prescribed in regulation 7 as hereinafter provided against an order passed by an authority –

- (a) Imposing upon him any of the penalties in regulation 5; and
- (b) Deducting or withholding the maximum pension including an additional person, admissible to him.

15. (a) (1) Review by the Board. - An employee of the Board, in whose case the Board has passed original orders, shall be entitled to submit within a period of two months from the date on which the order was communicated to him a petition to the Board for review of the order passed by it on any of the grounds specified below –

- (a) that the order was not passed by the competent authority;
- (b) that reasonable opportunity of defending himself was not given;
- (c) that the punishment is excessive or unjust;
- (d) discovery of new matter or evidence which the appellant alleges and proves to the satisfaction of the Board, was not within his knowledge or could not be adduced by him before the order imposing the penalty was passed; and
- (e) evident error or omission such as failure to apply the Law of Limitation or an error of procedure apparent on the face of the record.

(2) The petition for review which does not satisfy any of the above grounds shall be summarily rejected.

(b) Every employee belonging to Class I and II Service shall be entitled to appeal to the Board against any order passed by the Managing Director or Chief Engineer who interprets to his disadvantage the provisions of any service regulations or contract of service whereby his conditions of service, pay, allowance or pension are regulated.

(c) Every employee belonging to Class III and IV Service shall be entitled to appeal as indicated below against any order of the kind mentioned in clause (b) above.

Authorities passing orders	Appellate Authority
1. Orders passed by an Executive Engineer	Superintending Engineer
2. Orders passed by the Superintending Engineer	Chief Engineer
3. Orders passed by the Chief Engineer	Managing Director
4. Orders passed by the Secretary to the Board	Managing Director
5. Orders passed by the Managing Director, Tamilnadu Water Supply and Drainage Board	Tamilnadu Water Supply Drainage Board

16. Consideration of appeals. - (1) in the case of an appeal against an order imposing any penalty specified in regulation 5, the appellate authority shall consider.

(a) Whether the facts on which the order was based have been established

(b) Whether the facts established afford sufficient ground for taking actions; and

(c) Whether the penalty is excessive, adequate or inadequate and pass orders-

(i) Confirming, enhancing, reducing, or setting aside the penalty; or

(ii) Remitting the case to the authority which imposed the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case;

Provided that-

i) If the enhanced penalty which the appellate authority proposed to impose is one of the penalties specified in clauses (iv), (v) (c), (vi), (vii) and (viii) of regulation 5 and an inquiry under clause (b) of regulation 9 has not already been held in the case, the appellate authority shall itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of clause (b) of regulation 9 and

thereafter, on a consideration of the proceedings of such inquiry make such orders as it may deem fit.

ii) If the enhanced penalty which the appellate authority proposes to impose anyone of the penalties specified in clauses (iv), (v) (c) (vi), (vii) of regulation 5 and an enquiry under clause (b) of regulation 9 has already been held in the case, the appellate authority shall make such orders as it may deem fit; and

iii) No order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provision of clause (b) of regulation 9 of making representation against such enhanced penalty.

2) Any error or defect in the procedure followed in imposing a penalty may be disregarded by the appellate authority if such authority considers, for reasons to be recorded, that error or defect was not material and has neither caused injustice to the person concerned nor affected the decision of the case.

(3) (A) Notwithstanding anything contained in these regulations.

i) the Board or,

ii) the head of the department referred to in the service regulations in the case of employees serving under the control of such head of a department or

iii) the appellate authority, within six months, of the date of the order proposed to be reviewed or

iv) any other authority specified in this behalf by the Board by a general or special order, and within such time as may be prescribed in such general or special order

may at any time, either on its own motion or otherwise call for the records of any inquiry and review any order made under these regulations, and may-

(a) confirm, modify or set aside the order, or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed ; or

(c) remit the case to the authority which made the order to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case: or

(d) pass such orders as it may deem fit

Provided that no order imposing or enhancing any penalty shall be made by a reviewing authority unless the employee concerned has been given a reasonable opportunity of making representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clause (iv) , (v) , (c),

(vi),(vii) and (viii) of regulation 5 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clause, no such penalty shall be imposed except after an inquiry in the manner laid down in clauses (b) of regulation 9.

Provided further that no power of review shall be exercised by the Head of the Department specified in the Tamilnadu Water Supply and Drainage Board Service Regulations, unless-

(i) the authority which made the order in appeal or

(ii) the authority which made the order in appeal or referred, is subordinate to him

(B) No proceeding for review shall be commenced until after-

(i) the expiry of the period of limitation for an appeal or

(ii) the disposal of the appeal, where any such appeal has been preferred

(C) An application for review shall be dealt with in the same manner as if it were an appeal under these regulation (B.P. Rt. No.359, dated 30.6.82)

17. *Submission of appeal.*- Every person preferring an appeal shall do so separately and in his own name.

18. *Procedure for appeal.*- Every appeal preferred under these regulations shall contain all material statements and arguments relied on by the appellate, shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal shall be addressed to the authority against whose order the appeal is preferred.

19. *Withholding of appeals.* - An appeal may be withheld by the authority not lower than the authority against whose order it is preferred, if-

(1) it is an appeal in a case in which under these regulations no appeal lies, or

(2) it does not comply with the provisions of regulation 18, or

(3) it is not preferred within one month after the date on which the appellant was informed or was in receipt of order appealed against, and no reasonable cause is shown for the delay, or

(4) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances re adduced which afford grounds for a reconsideration of the case, or

(5) it is addressed to an authority to which no appeal lies under these regulations:

Provided that in every case in which an appeal is withheld the appellant shall be informed of the fact and the reasons for it:

Provided further that an appeal withheld on account only of failure to comply with the provisions of regulation 18 may be resubmitted at any time within 15 days of the date ;on which the appellant has been informed of the withholding ;of the appeal, and if resubmitted in a form which complies with those provisions shall not be withheld.

20. Appeals against withholding of appeals. - No appeal shall lie against the withholding of an appeal by a competent authority.

21. Forwarding of appeal and submission of list of appeals withheld. - (a) Every appeal which is not withheld under these regulations shall be forwarded to the appellate authority by the authority against whose order the appeal is preferred with an expression of opinion.

(b) A list of appeals withheld under regulation 18 with the reasons for withholding them shall be forwarded quarterly by the withholding authority to the appellate authority.

22. Powers of an appellate authority.- An appellate authority of the Board may call for any appeal admissible under these regulations which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

23. Review of orders in disciplinary cases. - Any orders issued by an authority imposing any of the penalties specified in regulation 5 cannot be reviewed, revised or altered by that authority for any reason whatsoever, but only by the appellate authority, or any higher authority.

24. Savings. - Nothing in these regulations shall operate to deprive any person of any right of appeal which he would have had if these regulations had not been made, in respect of any order passed before the date ;of coming into force of these regulations.

An appeal pending at the time when these regulations come into force shall be deemed to be an appeal under these regulations and disposed of accordingly.

25. Memorial. - (a) Any employee (including an employee who was in the service of the Board) whose appeal under these regulations has been rejected by the appellate authority, may address a memorial to the Board in respect of that matter. The memorial shall be submitted to the head of the office to which the employee belongs or belonged within six months from the date on which the final orders passed on appeal was communicated to the employee. No such memorial shall be withheld by any authority.

(b) A memorial will be liable to summary rejection if-

(i) the memorialist has not availed himself of the remedies provided by the regulations or orders applicable to the case:

(ii) the memorial was not submitted within the time-limit mentioned in clause (a):

(iii) the memorial relates to a matter which has already been disposed of by the Board.

The authority forwarding a memorial shall state on it whether the memorialist has complied with the above requirements.

NOTE: A memorial under this regulation is also permissible in respect of matter disposed by the Board as competent authority and in respect of which there is no appellate authority.

Madras,
19th January 1973.

J.S. BHANGO,
Managing Director,
Tamilnadu Water Supply and Drainage Board.