

CHAPTER XII

**APPEALS, PETITIONS AND
REPRESENTATIONS**
(1091 - 1092)

APPEALS, PETITIONS AND REPRESENTATIONS

Civil Servants (Appeal) Rules, 1977

Sl. No. 1

In exercise of the powers conferred by section 25 of the Civil Servants Act, 1973 (LXXI of 1973), the President is pleased to make the following rules, namely:-

1. (1) These rules may be called the Civil Servants (Appeal) Rules, 1977.

(2) They shall come into force at once.

2. In these rules unless there is anything repugnant in the subject or context,-

*[(a) Appellate authority means.-

(1) in cases relating to discipline.-

(i) where the order is made by the authorised officer, the officer designated as authority under the Government Servants (Efficiency and Discipline) Rules, 1973.

(ii) where the order is made by the authority, the officer designated as authority, under the Rules specified in paragraph (i) for the civil servants immediately next above in rank to the appellant; and

(iii) where the order is made by the Prime Minister, the President; and

*Subs. vide Estt. Division

Notification No. S.R.O.178(1)/99, dated 24-3-1999.

(2) in other cases, the officer or authority next above the authority against whose order the appeal is preferred and where the order is made by the Prime Minister, the President; and]

(b) *[]

(c) "penalty" means a penalty provided for in the Government Servants (Efficiency and Discipline) Rules, 1973.

3. Every civil servant shall be entitled to appeal, to the appellate authority from an order passed by an authority ** [or an authorized officer] imposing upon him any penalty:

Provided that, where the penalty is imposed by an order of the President, the civil servant shall have no right to appeal but he may apply for review of the order.

4. (1) A civil servant shall be entitled to appeal to the appellate authority from an order passed by an authority which -

- (a) alters to his disadvantage, his conditions of service, pay, allowances or pension; or
- (b) interprets to his disadvantage the provisions of any rules whereby his conditions of service, pay, allowances or pension are regulated; or
- (c) reduces or withholds the maximum pension, including an additional pension, admissible to him under the rules governing pensions; or
- (d) terminates his employment or gives notice of

such termination otherwise than -

- i) on his reaching the age of superannuation, or

*Omitted *vide* Estt. Division Notification No. S.R.O.178(1)/99, dated 24-3-1999.

**Amended *vide* Estt. Division Notification No.3/7/79-DI, dated 28-1-1981.

- ii) in accordance with the pro-visions of the Civil Servants Act, 1973 (LXXI of 1973)

Provided that a person appointed by the President shall have no right to appeal from an order passed by the President, but he may apply for review of the order:

Provided further that no appeal or review shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

(2) A member of an All-Pakistan Unified Grades serving under a Provincial Government may appeal, from the order of the Provincial Government, to the President.

(3) A civil servant appointed by the President may appeal to the President from an order passed by an authority subordinate to the President.

5. (1) Every person preferring an appeal should do so separately and in his own name.

(2) Every appeal preferred under these rules shall contain all material statements and arguments relied upon by the appellant, shall contain no disrespectful or improper language, and shall be complete in itself.

(3) Every appeal shall be submitted through the Head of the office to which the appellant belongs or belonged, and

through the authority from whose order the appeal is preferred.

(4) Every appeal shall be submitted within a period of thirty days of the communication of the order appealed against.

6. (1) In the case of an appeal under rule 3, the appellate authority shall consider-

- (a) Whether the facts on which the order appealed against was based have been established;
- (b) Whether the facts established afford sufficient ground for taking action; and
- (c) Whether the penalty is excessive adequate, or inadequate, and, after such consideration shall confirm, set aside or modify the previous order,*[and the appellant shall be informed of the reasons for passing such order].

(2) In the case of an appeal under rule 4, the appellate authority shall pass such order as, having regard to all circumstances of the case, appears to it just and equitable.*[and the appellant shall be informed of the reasons for passing such order].

(3) The authority from whose order an appeal is preferred under these rules shall give effect to any order made by the appellate authority.

7. (1) An appeal may be withheld by an authority not lower than the authority from whose order it is preferred if:-

- (a) it is an appeal in a case in which no appeal lies under these rules; or

- (b) it does not comply with the provisions of sub-rule (1), (2) or (3) of the rule 5; or
- (c) it is not preferred within the time specified in sub-rule (4) of rule 5 and no reasonable cause is shown for the delay; or
- (d) it is addressed to an authority to which no appeal lies under these rules; or
- **[(e) It is a repetition of a previous appeal and is made to the same appellate authority by which such appeal

*Added *vide* Estt. Division
Notification No. S.R.O. No.582 (1)/93, dated 26-6-1993.

**Added *vide* Estt. Division Notification No. 5/1/81-R.I., dated 26-12-1981.

has been decided, and no new facts or circumstances are added which afford grounds for a reconsideration of the case]:

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 sub-rule (2) or (3) of rule 5 or clause (d) may be resubmitted within one month of the date on which the appellant is informed of the withholding of the appeal and, if resubmitted in a form which complies with those provisions or is addressed to the proper appellate authority, as the case may be, shall not be withheld.

(2) No appeal shall lie against the withholding of an appeal by an authority competent to do so.

8.(1) Every appeal which is not withheld under these rules shall be forwarded to the appellate authority with an expression of opinion by the authority from whose order the

appeal is preferred.

(2) Every appeal by a civil servant serving under a Provincial Government or a local authority, which is not withheld under these rules shall be forwarded by the Provincial Government or the local authority to the Federal Government with an expression of its opinion.

(3) A list of appeals withheld under rule 7, with reasons for withholding them shall be forwarded quarterly by the with-holding authority to the appellate authority.

(4) An appellate authority may call for any appeal admissible under these rules which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

9. (1) Nothing in these rules shall operate to deprive any person of any right of appeal which he would have had if these rules had not been made, in respect of any order passed before they came into force.

(2) All appeals pending immediately before the coming into force of these rules shall be deemed to be appealed under these rules.

10. The Civil Services (Classification, Control and Appeal) Rules, 1930, are hereby repealed, but the repeal thereof shall not affect any action taken or anything done thereunder.

[Authority.- Estt. Division Notification No.S.R.O. 54(I)/77, dated 17-1-1977].

**Submission and Transmission
of Petitions (on service matters)
to the President**

Sl. No. 2

The following instructions for the submission, receipt and transmission of petitions to the President are published for general information in supersession of all previous orders on the subject:-

PART I.- PRELIMINARY

1. **Definitions.**- In these instructions:-

- (1) "Provincial Government" includes the authorities mentioned in the Schedule to these instructions; and
- (2) "Petition" includes memorials, letters and applications of the nature of petitions.

2. Scope of instructions:-

- (1) Save as hereinafter provided, these instructions shall apply so far as may be, to all petitions addressed to the President by persons who are, or have been, members of an All Pakistan Service or of a Civil Service of the Centre or who hold, or have held, a civil post in connection with the affairs of the Centre or a civil post where appointment is made by or with the approval of the President, in respect of matters arising out of such employment or in respect of termination of such employment.
- (2) Notwithstanding anything contained in clause (1), the instructions shall not apply to persons who are, or have been, civilian employees in the Defence Services, nor shall they affect any rules or orders made by competent authority in respect of representations submitted by recognized associations of Government servants.

PART II.- FORMS AND MANNER OF SUBMISSION OF
PETITIONS

3. Form of Petition.-

- (1) A petition may be either in typescript or in print.
- (2) Every petition shall be authenticated by the signature of petitioner, and submitted by the Petitioner in his own behalf.
- (3) Every petition, and the document accompanying it, shall be in English or accompanied by a translation into English.

4. Contents of Petition.- *Every petition shall -*

- (1) contain all material statements and arguments relied upon by the petitioner;
- (2) be complete in itself;
- (3) if any recorded order of a public authority is complained against, be accompanied by a copy of the order and by a copy of any order in that case passed by a subordinate authority; and
- (4) end with a specific prayer.

5. Method of submission.- (1) Every petition shall be submitted through -

- (a) the Provincial Government mentioned in the Schedule in respect of the petitioner; or
- (b) if no Provincial Government is mentioned in the Schedule in respect of the petitioner, the Provincial Government of the Province in which

the petitioner is or has last been residing or employed, and shall be accompanied by a letter requesting the Provincial Government to transmit the petition to the President.

(2) If there is no Provincial Government within the meaning of clause (1), the petition shall be submitted to the President direct.

6. (1) Every petition shall be submitted through the superiors under whom the petitioner is serving, or if he has left the service, under whom he last served before leaving.

(2) The superiors, on receipt of any petition submitted through them in accordance with clause (1), shall forward the petition through the proper official channel to the authority provided in paragraph 5.

PART III.- WITHHOLDING OF PETITIONS BY THE PROVINCIAL GOVERNMENTS

7. **Circumstances in which Petitions may be withheld.**- The Provincial Government may, at discretion, withhold a petition when:-

- (1) the petitioner has not complied in full with the provisions of Part II of these instructions;
- (2) the petition is illegible or unintelligible or contained language which is, in the opinion of the Provincial Government, disloyal, disrespectful or improper;
- (3) a previous petition from the petitioner on the same subject has been disposed of by the President and the petitioner, in the opinion of the Provincial Government, discloses no new facts or circumstances which afford grounds for

a reconsideration of the subject;

- (4) the petition is a representation against a decision which is declared to be final by any law or statutory rule;
- (5) the petition is:-
 - (a) an application for employment in Government service not made in pursuance of any rule or announcement regarding applications for such employment; or
 - (b) a request for exemption from the provisions of any law or rule prescribing qualifications to be possessed by persons in the service of Government or by persons engaging in any profession or employment;
- (6) the petition relates to a subject on which the Provincial Government is competent to pass orders, and no application for redress has been made to the Provincial Government by the petitioner;
- (7) the petition is a representation against an order communicated to the petitioner more than six months before the submission of the petition, and no satisfactory explanation of the delay is given;
- (8) the petition is representation against a failure to exercise a discretion vested in the Provincial Government:

Provided that no petition which is a

representation against such failure and is submitted by an officer appointed by the President or by an Officer appointed substantively to a listed post, shall be withheld;

- (9) the petition is a representation against the discharge of a person -
 - (a) appointed on probation, during such probation;
 - (b) appointed, otherwise than under contract, to hold a temporary appointment, or the expiration of the period of such appointment; or
 - (c) engaged under contract, in accordance with the terms of such contract;
- (10) the petition is a representation against the reduction to a lower post of a person promoted to a post on probation, during such probation;
- (11) the petition is a representation against an order -
 - (a) from which the petitioner has exercised, or possesses a right of appeal under -
 - (i) rules or orders regulating his conditions of service; or
 - (ii) the terms of his contract of service;
 - (b) passed by any authority in the exercise of appellate or revisional powers conferred by any rule or order regulating his conditions of service or by any term of his contract of service such as is referred to in

sub-clause (a); or

- (c) from which, not being an order of punishment passed by the President on an officer appointed by the President, an appeal is expressly barred by any rule, order or contract such as is referred to in sub-clause (a);

(12) the petition is a representation relating to:-

- (a) the application of -
 - (i) rules or orders made by the President; or
 - (ii) the terms of the contract of service of the petitioner; or
- (b) an order of the Provincial Government refusing to grant or to recommend -
 - (i) a special pension;
 - (ii) a compassionate pension; or
 - (iii) any pecuniary or other concession to which the petitioner is not entitled under any law or statutory rule:

Provided that no petition which is representation relating to the application of the rules, orders or terms of the contract of service referred to in sub-clause (a) or to an order referred to in sub-clause (b), and is submitted by an officer appointed by the President or by

an officer appointed substantively to a listed post, shall be withheld;

- (13) the petition is submitted, otherwise than in accordance with any rule, order or contract such as is referred to in sub-clause (a) of clause (11) with regard to the prospective claim of the petitioner to pension;
- (14) the petition is a representation against the withholding of the petition by an authority competent to do so;*[]
- (15) the petition is submitted by a member of an All-Pakistan Service serving in connection with the affairs of a Province, against the orders of the Provincial Governor in matters relating to transfer, promotion etc., on which he is competent to pass orders *[,or]
- *[(16) after examination, in consultation with the **[] the Law Division and/or the Ministry of Finance, where necessary, it is unanimously agreed between the Ministry/Division etc., in Provincial Governments and the Establishment Secretary that prayer is not covered by the existing rules/ instructions];
- **[(17) the petition is a representation relating to the expunction of adverse remarks in the Confidential Report of the person concerned].

8. Petitioner to be informed when petition is withheld.- The Provincial Government shall, when it withholds a petition under paragraph 7, inform the petitioner of the withholding and the reason therefor.

**Or^l Omitted and added

vide Estt.Division Notification No.12/3/57-F1,dated 5-11-1970.

***CPSC" Omitted and added *vide* Estt. Division Notification No.12/3/57-F1,dated 11-2-1974.

***9. List of petitions withheld.-** (1) The Provincial Government shall send a quarterly return to the President in the months of January, April, July and October each year, specifying all petitions from officers serving under, or under the rule making control of the authority or an authority subordinate thereto withheld under paragraph 7 and the reasons for withholding them.

(2) The President may call for any petition specified in the quarterly return mentioned in clause (1), together with full facts of and all the papers relevant to the case to which the petition relates.

PART IV.- TRANSMISSION OF PETITIONS BY THE PROVINCIAL GOVERNMENT

10. Procedure for Transmission.- The Provincial Government shall transmit within two months of receipt, all petitions not withheld under paragraph 7, together with a concise statement of facts material thereto, to the Cabinet Secretariat (Establishment Division), Government of Pakistan. The Provincial Governments shall also express its opinion on the petition while transmitting it, unless there are special reasons to the contrary. If, in any case the Provincial Government is unable to transmit the petition within the specified period, a report to that effect, with reasons for the delay and an estimate of any further time required, shall be forthwith submitted to the Cabinet Secretariat (Establishment Division), Government of Pakistan.

11. Submission to the President.- When a petition is transmitted in accordance with paragraph 10 the Cabinet Secretariat (Establishment Division), Government of Pakistan, shall submit the petition and other papers received therewith, together with an expression of its own opinion on the petition,

to the President for orders.

12. Notwithstanding anything contained in paragraph 11, if Provincial Government, while transmitting a petition in accordance with paragraph 10, recommends its acceptance and the Cabinet

The return will be transmitted to the President's Secretariat (Public). A copy to be endorsed to the Cabinet Secretariat (Establishment Division), Government of Pakistan, Islamabad. Secretariat (Establishment Division), Government of Pakistan, agrees that the petition should be accepted, that Secretariat shall return the petition to the Provincial Government for issue of an order in accordance with its own and the Provincial Government's agreed opinion.

SCHEDULE

LIST OF AUTHORITIES INCLUDED IN THE TERM "PROVINCIAL GOVERNMENT"

[See paragraph 1 (1).]

1. The Provincial Governments.

2. Secretaries of Ministries/Divisions under the Government of Pakistan or Joint Secretary where there is no Secretary.

3. Heads of departments of the status of Secretary to the Government of Pakistan, in respect of the non-gazetted staff working under their administrative control.

[Authority.- Estt. Division Notification No. S.R.O. 1313 (K)/67, dated 27-7-1967]. Estt. Division Endorsement No. 12/3/57-F.I, dated 27-7-1967].

Determination of the 'Appellate Authority' in terms of the Civil Servants (Appeal) Rules, 1977

Sl. No. 3

It has been observed that Ministries/Divisions/Departments do not generally follow the prescribed procedure regarding submission of appeals/petitions to the Establishment Division, for obtaining orders of the Prime Minister or the President, as the case may be in terms of Civil Servants (Appeal) Rules, 1977 read with rule 15-A of Rules of Business, 1973. In a number of cases the appeals/petitions processed by the respective Ministries/Divisions etc have been found to have not been addressed to the proper appellate authority. In such a case, to avoid delay, the receiving authority, should withhold the appeal and simultaneously inform the appellant to re-submit the same duly addressed to the proper Appellate Authority to be indicated as required under rule 7 of the said rules. The case relating to an appeal should invariably be submitted to the Establishment Division in the form of a Summary titled as "Summary titled as "Summary for the Prime Minister" seeking orders of the President where the President is an Appellate Authority alongwith the appeal (in original) with parawise comments to be given in juxta position in the form of a statement as indicated therein (Annexure).

2. In this connection, it may be pointed out that an appeal from a civil servant in BPS-17 and above against imposition of any minor penalty, as prescribed in rule 4(i) (b) of Government Servants (E&D) Rules, 1973, by an authorised Officer or a major penalty by the authority i.e. the Prime Minister under rule 4(1)(a) shall lie to the President, in his capacity as the appellate authority, and shall be processed in accordance with rule 15-A of the Rules of Business, 1973.

3. All Ministries/Divisions/Provincial Governments are requested to bring the said position to the notice of all concerned for their information and guidance.

[Authority.- Estt. Division O.M.No.5/4/94-Rev./D.3, dated 17-3-1997].

Annexure

PARAWISE COMMENTS ON THE APPEAL SUBMITTED
 BY.....(NAME, DESIGNATION, OFFICE,
 BPS), AGAINST MINOR/MAJOR PENALTY OF.....

accused appeal	Comments of the Ministry/ Division/Department	Comments to be offered by Establishment Division	Sl. No.	Contention of the (Relevant paras in to be reproduced
1	2	3	4	

**Petitions not to be
 transmitted to the
 President**

Sl. No. 4

Instances have come to notice in which petitions which do not either conforming to the provisions of Part II of the Petition Instructions or which do not lie under rule 7, and should be withheld, are often transmitted to the Establishment Division for submission to the President. In such cases a Ministry/Division concerned is advised to withhold the petition and inform the petitioner accordingly. This creates an anomalous position in that the discretion to withhold a petition rests with the Provincial Government as defined in the Petition Instructions and once a petition has been transmitted to the Establishment Division that discretion has been exercised and it should be submitted for the orders of the President which may not be justified in the circumstances of the case.

2. All Ministries/Divisions are, therefore, requested to exercise greatest care to see whether in any case a petition to

the President is or not and only such petitions should be transmitted to the Establishment Division as strictly conform to the provision of Petition Instructions and should not be withheld under rule 7, *ibid*.

[Authority.- Estt. Division O.M. No.1/5/64-D.II, dated 7-8-1974].

Sl. No. 5

General Instructions regarding Appeals/Petitions representations on service matters submitted by the civil servants.- It has been observed that the Civil Servants have been sending their appeals/petitions/representations without regard to the prescribed channel of communication to authorities other than the authorities designated in various rules for this purpose. Such appeals/representations on the one hand create avoidable work load for the authorities to whom these are addressed and on the other delay the redressal of the grievances of concerned officials. This course of action is also a violation of the Government Servants (Conduct) Rules, 1964. In order to ensure speedy redressal of their grievances and to maintain the sanctity of the rules. It is imperative that the civil servants address their appeals/ representations etc. to the authorities designated in the rules with due regard to the prescribed channels of communication.

2. Instructions issued from time to time indicating authorities for submission of appeals/representations/petitions and their mode of submission etc. are given below -

- (a) *APPEAL (Civil Servants/Appeals) Rules, 1977.-* A civil servant is entitled to appeal to the appropriate appellate authority. In terms of Civil Servants (Appeal) Rules, 1977, through proper channel within a period of thirty days of the communication of the order passed by an authority or an authorised officer imposing upon

him any of penalty under Government Servants (E&D) Rules, 1973 or otherwise as provided in Rule 4 of the Appeal Rules. In case the penalty is imposed by an order of the President, the civil servant has no right to appeal but he may apply, through proper channel, for review of the order;

- (b) *REPRESENTATION (Section 22 of the Civil Servants Act, 1973).*- Where no provision for appeal or review exists under the rules, in respect of any order or class of orders, a civil servant aggrieved by any such order, may within thirty days of communication to him of such order, make a representation against it, through proper channel, to the Authority next above the authority which made the order provided that no such representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.
- (c) *PETITION, (Petition Instructions).*- A civil servant may also submit a petition which includes memorials, letters, and application of the nature of the petitions to the President in accordance with the instructions contained in Notification No. SRO. 1313(k)/67, dated 27.7.1987.
- (d) *GENERAL INSTRUCTIONS.*

3. In addition to the above laws and rules/instructions, the following general guidelines are issued for compliance by all civil servants:-

- (i) All civil servants should refrain from sending advance copies of their appeals/petitions/representations, direct to higher authorities and

that appeal/petitions/representations should be addressed only to the prescribed authority and submitted through proper channel;

- (ii) The appeal/petition/representation should be in their own behalf only and that joint representation by Government servants shall not be entertainable under the Rules;
- (iii) The civil servants should discourage their wives/wards and relations to address the petitions/ applications in respect of service matter on their behalf;
- (iv) The civil servants should refrain from using intemperate and in-appropriate language in their petitions/representations etc. as use of such language constitutes misconduct and order them liable to disciplinary action against them;
- (v) The Civil Servants Act, 1973 as well as Civil Servants (Appeal) Rules, 1977 and the instructions issued on the subject from time to time envisage only one appeal/petition/representation etc. from a civil servant in respect of particular order by which he is aggrieved. Once an appeal or representation etc is rejected by the competent authority, the civil servant can go to Federal Service Tribunal but he has no right under these rules to submit further appeal/petition/representation/application or a service of it to the appellate authorities; and
- (vi) Each representation appeal petition etc. should be accompanied by a prescribed proforma (Annexure) duly completed by the civil servant, making the representation/appeal/petition. This

will enable the competent authority to properly attend to and finalize the matter quickly. In cases where the competent authority has already rejected the first appeal/petition/representation on the subject case, the second or subsequent appeal/petition/ representation need not necessarily be replied to;

3. All Ministries/Divisions/Departments etc. are requested to circulate these instructions to all concerned for their guidance/ strict compliance.

4. The Secretary/Head of the Departments are also requested to devise an appropriate mechanism to ensure and monitor expeditious disposal of representations/appeals/petitions of civil servants to eliminate the root-cause of each appeal. This will also enable the officials to devote their assignments besides effecting economy in public expense on account of available litigations.

[Authority.- Estt. Division letter No.5/4/94-Rev.D.3, dated 21-6-1997].

Annexure

PROFORMA

1. Name of the Ministry/Department/Office.
2. Name of the applicant.
3. Designation and grade of the applicant.
4. Number and date of the order against which aggrieved.
5. Brief subject matter of the order giving to the applicant's grievances.
6. Date on which the first appeal/application for review or representation was filed.
7. Particulars of the authority to which the first appeal, application for review or representation mentioned in column 6 was addressed.
8. Whether any reply to the appeal, review application or

representation mentioned in column 6 has been received. If so, on what date?

9. Number of appeals, review applications, or representations submitted subsequent to the one mentioned in column 6 and the date on which these were submitted.
- | | | |
|--|-----------------------------|------|
| | (i) Appeal |)in |
| | (ii) Application for review |)red |
| | (iii) Representation |)ink |
10. Authority to which the appeals, review applications or representations mentioned in column 9 were submitted.
11. Whether any reply to appeal, application for review or representation mentioned in column 9 was received. If so, indicate the date or dates.
12. Date of present appeal/review/application/representation.

Sl. No. 6

Bar against making joint representations.- According to the existing instructions a petition, memorial or a representation should be submitted by a Government servant in his own behalf only. An implication of these instructions is that joint representations cannot be made to the Government. It has been observed that some Government servants have submitted representations in contravention of the spirit of these instructions in that they have individually signed copies of petitions containing the same text. Government is of the view that although these petitions are signed and sent separately, they are in effect tantamount to joint representations. No action can, therefore, be taken on such representations.

2. The correct procedure is that if any category of Government servants have a grievance of a common nature, they should bring the matter to the notice of the head of the Department concerned so that he may take such action as may

be necessary in the circumstances of the case.

3. Ministries/Divisions are requested to advise officers and members of the staff under their control to keep these instructions in mind while making representations in respect of a common grievance. As joint representations are not permitted, a breach of these instructions will amount to an act of indiscipline.

[Authority.- Estt. Division O.M.No.3/1/67-D.II, dated 18-2-1967].

Sl. No. 7

Appeals/Petitions/Representations by the civil servants addressed to the Prime Minister.- The Prime Minister's Secretariat have pointed out that disciplinary action has been initiated and explanations have been called for in respect of officials whose applications were forwarded by that Secretariat to different Ministries and agencies for consideration and redressal. While this may well be within the existing rules, it is not in harmony with demands of a democratic order as it infringes upon the privilege of Prime Minister's Secretariat to forward grievances and requests to the concerned quarters for action and redressal under the directives of the Prime Minister as, indeed, it takes away from the civil servants an opportunity of access to the Chief Executive of the country through the quickest means possible.

2. It is, therefore, advised that steps may please be taken whereby officials whose cases are referred for redressal by Prime Minister's Secretariat are not victimized and harassed on that account.

[Authority.- Estt. Division O.M.No.6/3/89-D.3, dated 12-10-1989].

Sl. No. 8

Disposal of appeals/petitions of Section Officers.- The

Ministries/Divisions are requested that they should themselves examine the appeals/petitions of Section Officers posted therein and should try to redress their grievances promptly. It will be appreciated if in future only those appeals/petitions are referred to the Establishment Division which merit consideration by this Division.

[Authority.- Estt. Division O.M. No. 1/6/85-OMG1 dated 6-10-1985].

Sl. No. 9

Defence of cases before Service Tribunals and Law Courts by Ministries/Divisions.- The following guidelines and instructions are to be observed by the Ministries/Divisions/Attached Departments in regard to Appeals/Writ Petitions/Suits preferred by the aggrieved Civil Servants before Service Tribunals, High Courts and Civil Law Courts against final orders effecting the terms and conditions of service, including cases where penalty has been awarded under the Government Servants (Efficiency and Discipline) Rules:-

- i) After the promulgation of the Tribunal Act, 1973, the jurisdiction in all matters pertaining to the terms and conditions of the Civil Servants, including orders passed under Government Servants (Efficiency and Discipline) Rules rest with the Tribunal and to that extent the jurisdiction of the High Courts and the Civil Courts has been ousted. In cases where Writ Petitions/Civil Suits are filed they should be contested on the point of Jurisdiction.
- ii) In appeals/Writ Petitions/Civil Suits against orders passed by the Ministries/Divisions, the responsibility of defending such cases is of the Ministry/Division/Attached Department concerned. However, in view of the fact that Establishment Division is made proforma party

in most of the cases, the cases are referred routinely to this Division which results in loss of time. It is clarified that where the final orders have been passed by the Ministry/Division other than the Establishment Division no reference should be made to the Establishment unless there is a specific point of reference, in which case the issue should be clearly specified and necessary papers supplied as annexure in a self contained reference. It would not be possible for the Establishment Division to respond to general queries or a general request for advice in such cases.

- iii) In cases where the Ministries/Divisions are the principal respondent, arrangement for submission of parawise comments well in time and appointment of counsels to defend the case should be made in consultation with the Law Division. The Federal Service Tribunal is presently not happy about the delays in filing parawise comments and the proper defence of the cases before them by the Ministries/Divisions.
- iv) In defending the appeals, before the Service Tribunals, the question of limitation should be carefully examined, and the appeals contested on this ground where appeals are time barred.
- v) The Ministries/Divisions are also required to examine those cases which are decided against the Government by the Service Tribunal in their capacity as the main respondent, with a view to filing an appeal before the Supreme Court in consultation with the Law Division directly. Such cases need not to be referred to this Division for examination.

[Authority.- Estt. Division O.M. No. 14/5/80-Lit.Misc., dated 7-3-1982].

Notes.- For detailed instructions regarding the conduct of cases of the Federal Government in Courts (including service appeals before the Service Tribunals) please see Appendix 'F' of the Secretariat Instructions (1996 edition).