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THE JUDICIAL SERVICE ACT, 1962
(C.A. Act 10)

REGULATIONS

Under section 21

THE JUDICIAL SERVICE (GENERAL, TERMINATION OF SERVICE AND
DISCIPLINARY) REGULATIONS, 1965

PART I

PRELIMINARY

1. These Regulations may be cited as the Judicial Service (General, Termination of Service and Disciplinary) Regulations, 1965.

2. In these Regulations, unless the context otherwise requires—

Interpreta-
tion

“Chairman” means the Chairman of the Commission;

“judicial officer” does not include a primary court magistrate.

PART II

PROCEDURAL

3.—(1) Every meeting of the Commission shall be presided over by the Chairman.

Meetings
of
Commission

(2) The quorum at any meeting shall be the Chairman and one other member.

4. A record shall be kept of the members present and of the business transacted at every meeting of the Commission.

Minutes

5. Decisions may be made by the Commission without a meeting by circulation of the relevant papers among the members and the expression of their views in writing, but any member shall be entitled to require that any such decision shall be deferred until the subject matter shall be considered at a meeting of the Commission.

Decisions
may be
made by
circulation
of papers

6.—(1) All decisions of the Commission, whether arrived at a meeting or by means of the circulation of papers, shall be by a majority of votes of the members present and voting, or by a majority of members expressing their views on the circulated papers, as the case may be.

Voting

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(2) Any member who dissents from a decision of the Commission shall be entitled to have his dissent and his reasons therefor set out in the records of the Commission.

Commission may require attendance

7. The Commission may require any judge, judicial officer or civil servant to attend and give information before it concerning any matter which it is required to consider in exercise of its functions and may require the production of any official documents relating to any such matter by any person attending before it.

Addressing of correspondence

8. All correspondence for the Commission shall be addressed to the Chairman.

PART III

TERMINATION OF APPOINTMENTS (OTHERWISE THAN BY DISCIPLINARY PROCEEDINGS OR IN THE PUBLIC INTEREST)

Probationary appointments

9. The Chief Justice may, at any time, recommend to the Commission that a probationary appointment be terminated:

Provided that he shall not make any such recommendation unless he has first informed the probationer of his intention and of the right of the probationer to make representations thereon within a period to be specified in such letter, and required the probationer to acknowledge receipt of such letter in writing within that period. The Chief Justice shall attach copies of all such correspondence to his recommendation.

Non-pensionable officers

10. The power to terminate (otherwise than by dismissal), in accordance with the provisions of a contract, the appointment of a judicial officer serving under that contract is hereby delegated to the Registrar, subject to confirmation by the Commission.

Pensionable officers: age

11.—(1) If it appears to the Chief Justice that there is reason why a judicial officer who has attained the prescribed age and who holds a pensionable office should be called upon to retire from the public service otherwise than on medical grounds, he shall advise the officer that his compulsory retirement is under consideration and ask if he wishes to make any representations in writing of a personal nature on such a step. The Chief Justice shall forward such representations, if any, together with his own observations to the Commission, and the Commission shall decide whether such officer should be called upon to retire.

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(2) In this regulation "the prescribed age" means the age at which the officer concerned may be required to retire under subsection (1) of section 10 of the Pensions Ordinance.

Pensionable officers: infirmity

12.—(1) Where it appears to the Chief Justice that a judicial officer is incapable by reason of any infirmity of mind or body of discharging the functions of his office he may (and shall if the officer so requests) call upon such officer to present himself to a medical practitioner approved by the Chief Justice or to a medical board appointed in that behalf by the Chief Justice, with a view to it being ascertained whether or not such officer is incapable as aforesaid.

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(2) After the officer has been examined, the medical practitioner or the medical board, as the case may be, shall make a report and forward the same to the Chief Justice who shall forward the report, together with any representations which the officer desires to make and his own recommendation, to the Commission. Unless the Commission considers that further inquiry is necessary, in which case it shall issue directions to the Chief Justice accordingly, it shall decide forthwith whether the officer should be called upon to retire upon the grounds of ill health.

PART IV

DISCIPLINARY PROCEEDINGS AGAINST JUDICIAL OFFICERS

13.—(1) If in any case the Chief Justice considers that the public interest requires that a judicial officer should cease forthwith to exercise the powers and functions of his office, he may interdict the officer from the exercise of those powers and functions, provided that proceedings for his dismissal are being taken or about to be taken or that criminal proceedings are being instituted against him. ^{Interdiction}

(2) An officer who is interdicted shall receive such salary, not being less than half his salary, as the Chief Justice shall think fit.

(3) Where disciplinary or criminal proceedings have been taken or instituted against an officer under interdiction and such officer is not dismissed or otherwise punished under these Regulations, the whole of any salary withheld under paragraph (2) of this regulation shall be restored to him upon the termination of such proceedings. If any punishment other than dismissal is inflicted, the officer may be refunded such proportion of the salary withheld as a result of his interdiction as the Commission shall think fit.

(4) An officer who is under interdiction may not leave his station without the permission of the Chief Justice.

(5) In this regulation "salary" means basic salary and, where applicable, inducement and overseas allowance.

14.—(1) Where a judicial officer has been convicted of a criminal offence, the Chief Justice may suspend him from the exercise of his office pending consideration of his case under the provisions of these Regulations. ^{Suspension}

(2) While an officer is suspended from the exercise of his office under the provisions of the preceding paragraph he shall not be entitled to any salary:

Provided that the Chief Justice may, if he thinks fit, direct that any suspended officer shall be granted an alimentary allowance in such amount and on such terms as the Chief Justice may determine.

15. If criminal proceedings are instituted against a judicial officer in court, no proceedings for the dismissal of such officer upon any grounds involved in the criminal charge shall be taken until the conclusion of the criminal proceedings and the determination of any appeal therefrom: ^{Pending criminal proceedings}

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Provided that nothing in this regulation shall be construed as prohibiting or restricting the power of the Chief Justice to interdict such officer.

Disciplinary
action
after
acquittal

16. A judicial officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter, unless the charges raise substantially the same issue as those on which he has been acquitted.

Loss of
privileges
on dismissal

17. Subject to the provisions of any law for the time being in force, a judicial officer who is dismissed shall forfeit all rights or claims with regard to leave or passages at the public expense.

Officers to
be informed

18. Where proceedings have been taken against a judicial officer under this Part, such officer shall be informed—

- (a) of the decision, but not of the reasons therefor, on each charge preferred against him; and
- (b) of the punishment (if any) to be imposed.

Proceed-
ings
for dismissal

19.—(1) When the Chief Justice considers it necessary to institute disciplinary proceedings against a judicial officer on the grounds of misconduct which, if proved, would, in his opinion, justify his dismissal from the public service, he shall, after such preliminary investigation as he considers necessary, forward to the officer a statement of the charge or charges framed against him together with a brief statement of the allegations, in so far as they are not clear from the charges themselves, on which each charge is based; and shall call on the accused officer to state in writing before a day to be specified any grounds on which he relies to exculpate himself.

(2) If the officer does not furnish a reply to any charge forwarded under paragraph (1) within the period specified, or if in the opinion of the Chief Justice he fails to exculpate himself, the Chief Justice shall appoint an investigating officer or a committee of not more than three investigating officers (hereinafter in either case referred to as the investigator) to inquire into the matter. A single investigating officer or the chairman of a committee shall be a judge, magistrate or a civil servant with legal qualifications, and he and every member of a committee shall be selected with due regard to the standing of the officer concerned.

(3) The investigator shall inform the accused officer that on a specified day the charges made against him will be investigated and that he will be allowed or, if the investigator so determines, will be required to appear before him to defend himself.

(4) If witnesses are examined by the investigator, the accused officer shall be given an opportunity of being present and of putting questions on his own behalf to the witnesses and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or given access thereto.