

The
Uttar Pradesh Cooperative Dairy
Federation Employees Service
Regulation, 2010 (First Amendment,
2021)¹

(Cooperative Dairy Federation Employees Service Regulation,
2010 (1st Amendment, 2021))

[29th January, 2021]

In exercise of the power under Section 121(1) of the Uttar Pradesh Cooperative Societies Act, 1965 (U.P. Act XI of 1966) Milk Commissioner and Registrar, Milk Cooperative Societies U.P. please to amend the rules in Uttar Pradesh Cooperative Dairy Federation Employees Service Regulation, 2010 as follows—

1. These regulations shall be called Uttar Pradesh Cooperative Dairy Federation Employees Service Regulation, 2010 (First Amendment, 2021).

2. They shall come into force with effect from the date of their publication in the Gazette.

3. In the Uttar Pradesh Cooperative Dairy Federation Employees Service Regulation, 2010 (2011-LLT-V-186[92]) hereinreferred to said regulations the following regulations shall be *substituted*, namely—

(2) These Regulations shall apply to employees of Pradeshik Cooperative Dairy Federation Ltd., Lucknow working in Pradeshik Cooperative Dairy Federation Ltd., Lucknow (including all its units), Cooperative Milk Unions and Cooperative Milk Board, Parag Dairy Noida, various projects registered under Uttar Pradesh Sahkari Samiti Adhiniyam, 1965 and on deputation in other institutions and departments.

Repealed

85 *Penalties*.—The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed upon the Employees:

Minor Penalties:

(i) Censure;

(ii) Withholding of increments for a specified period;

(iii) Recovery from pay of the whole or part of any pecuniary loss caused to Federation or Union by negligence or breach of orders;

(iv) Fine in case of persons holding the post of “Class-IV”:

Provided the above mentioned fine imposed should not be more than twenty-five percent of the salary of particular month in which fine is imposed.

Major Penalties:

- (i) Withholding of increments with cumulative effect;
- (ii) Reduction to a lower post or grade or time scale or to a lower stage in a time scale;
- (iii) Removal from the service which does not disqualify from future employment;
- (iv) Dismissal from the service which disqualifies from future employment.

Explanation.—The following shall not amount to penalty within the meaning of this Regulation, namely:

- (a) Withholding of increment of an employee for failure to pass a departmental examination or for failure to fulfil any other condition in accordance with the rules, regulations or orders governing the service;
- (b) Reversion of a person appointed on probation to the service during or at the end of the period of probation in accordance with the terms of appointment or the rules, regulations and orders governing such probation;
- (c) Termination of the service of a person appointed on probation during or at the end of the period of probation in accordance with the terms of the service or the rules, regulations and orders governing such probation.

86. (1) *Suspension*—

- (i) An employee against whose conduct an inquiry is contemplated, or is proceeding may be placed under suspension pending the conclusion of the inquiry in the discretion of the appointing authority:

Provided that suspension should not be resorted to unless the allegations against the employee are so serious that in the event of their being established may ordinarily warrant major penalty:

- (ii) An employee in respect of, or against whom an investigation, inquiry or trial relating to a criminal charge, which is connected with his position as an employee or which is likely to embarrass him in the discharge of his duties or which involves moral turpitude, is pending, may at the discretion of the appointing authority, be placed under suspension until the termination of all proceedings relating to that charge.
- (iii)(a) An employee shall be deemed to have been placed or, as the case may be, continued to be placed under suspension by

an order of the appointing authority, with effect from the date of his detention, if he is detained in custody, whether the detention is on criminal charge or otherwise, for a period exceeding forty-eight hours.

- (b) The aforesaid employee shall, after the release from the custody, inform in writing to the appointing authority about his detention and may also make representation against the deemed suspension. The appointing authority shall after considering the representation in the light of the facts and circumstances of the case as well as the provision contained in this regulation, pass appropriate order continuing the deemed suspension from, the date of release from custody or revoking or modifying it.
- (iv) An employee shall be deemed to have been placed, or as the case may be, continued to be placed under suspension by an order of the appointing authority, with effect from the date of his conviction if in the event of a conviction for an offence he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed consequent to such conviction.

Explanation.—The period of forty-eight hours referred to in sub-regulation will be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken to account.

- (v) Where a penalty of dismissal or removal from service imposed upon an employee is set aside in appeal under these regulations or under regulation rescinded by these regulations and the case is remitted for further inquiry or action or with any other directions:
 - (a) if he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any such directions as aforesaid, be deemed to have continued in force on and from the date of the original order of dismissal or removal;
 - (b) if he was not under suspension, he shall, if so directed by the appellate, be deemed to have been placed under suspension by an order of the appointing authority on and from the date of the original order of dismissal or removal:

Provided that nothing in this sub-regulation shall be construed as affecting the power of the disciplinary authority in a case where a penalty of dismissal or removal in service imposed upon an employee is set aside in appeal or under

these regulations on grounds other than the merits of the allegations which, the said penalty was imposed but the case is remitted for further inquiry or action or with any other directions to pass an order of suspension pending further inquiry against him on those allegations so, however, that any such suspension shall not have retrospective effect.

- (vi) Where penalty of dismissal or removal from service imposed upon an employee is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the appointing authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, whether the allegations remain in their original form or are clarified or their particulars better specified or any part thereof a minor nature omitted:
 - (a) if he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any direction of the appointing authority, be deemed to have continued in force on and from the date of the original order of dismissal or removal;
 - (b) if he was not under such suspension, he shall, if so directed by the appointing authority, be deemed to have been placed under suspension by an order of the appointing authority on and from the date of the original order of dismissal or removal.
 - (vii) Where an employee is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the employee shall continue to be under suspension till the termination of all or any of such proceedings.
 - (viii) Any suspension ordered or deemed to have been ordered or to have continued in force under these regulations shall continue to remain in force until it is modified or revoked by the competent authority.
 - (ix) An employee placed under suspension or deemed to have been placed under suspension under these regulations shall be entitled to subsistence allowance in accordance with the provisions applicable to State Government employees from time to time (Fundamental Rule 53 of the Financial Hand Book, Volume 11, Parts II to IV).
- (2) *Pav and allowances etc. of the suspension period*—After the

order is passed in the departmental enquiry or in the criminal case, as the case may be, under these regulation, the decision as to the pay and allowances of the suspension period of the concerned employee and also whether the said period shall be treated as spent on duty or not, shall be taken by the disciplinary authority after giving a notice to the said employee and calling for his explanation within a specified period under the provisions applicable to State Government employees from time to time (Rule 54 of the Financial Hand Book, Volume 11, Parts II to IV).

(3) *Disciplinary authority*—The appointing authority (as defined in Regulation 2(2) of Regulations 2010) of an employee shall be his disciplinary authority, who, subject to the provisions of these regulations, may impose any of the penalties specified in this Regulations on him:

Provided that no person shall be dismissed or removed by an authority subordinate to that by which he was actually appointed:

(4) *Procedure for imposing major penalties*—Before imposing any major penalty on an employee, an inquiry shall be held in the following manner:

(i) The disciplinary authority may himself inquire into the charges or appoint an authority subordinate to him as Inquiry Officer to inquire into the charges.

(ii) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge-sheet. The charge-sheet shall be approved by the disciplinary authority:

(iii) The charges framed shall be so precise and clear as to give sufficient indication to the charged employee of the facts and circumstances against him. The proposed documentary evidence and the name of the witnesses proposed to prove the same along with oral evidence, if any, shall be mentioned in the charge-sheet.

(iv) The charged employee shall be required to put in a written statement of his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge-sheet and to state whether he desires to cross-examine any witness mentioned in the charge-sheet and whether desires to give or produce evidence in his defence. He shall also be informed that in case he does not appear or file the written statement on the specified date, it will be presumed that he has none to furnish and Inquiry Officer shall proceed to complete the inquiry ex parte.

(v) The charge-sheet, along with the copy of the documentary

evidences mentioned therein and list of witnesses and their statements, if any shall be served on the charged employee personally or by registered post at the address mentioned in the official records. In case the charge-sheet could not be served in aforesaid manner, the charge-sheet shall be served by publication in a daily newspaper having wide circulation:

Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charged employee shall be permitted to inspect the same before the Inquiry Officer.

(vi) Where 'the charged employee appears and admits the charges, the Inquiry Officer shall submit his report to the disciplinary authority on the basis of such admission.

(vii) Where the charged employee denies the charges, the Inquiry Officer shall proceed to call the witnesses proposed in the charge-sheet and record their oral evidence in presence of the charged employee who shall be given opportunity to cross-examine such witnesses. After recording the aforesaid evidence, the Inquiry Officer shall call and record the oral evidence which the charged employee desired in his written statement to be produced in his defence:

Provided that the Inquiry Officer may for reasons to be recorded in writing refuse to call a witness.

(viii) The Inquiry Officer may summon any witness to give evidence or require any person to produce documents before him in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976.

(ix) The Inquiry Officer may ask any question he pleases, at any time of any witness or from person charged with a view to discover the truth or to obtain proper proof of facts relevant to charges.

(x) Where the charged employee does not appear on the date fixed in the inquiry or at any stage of the proceeding inspite of the service of the notice on him or having knowledge of the date, the Inquiry Officer shall proceed with the inquiry ex parte. In such a case the Inquiry Officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged employee.

(xi) The disciplinary authority, if it considers it necessary to do so, may, by an order appoint a employee other than charged or a legal practitioner, to be known as "Presenting Officer" to present on its behalf the case in support of the charge.

(xii) The employee may take the assistance of any other employee to present the case on his behalf but not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner of the disciplinary authority having regard to the circumstances of the case so permits:

Provided that this regulation shall not apply in following cases:

(a) Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or

(b) Where the disciplinary authority is satisfied that for reason to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these regulations; or

(5) *Submission of Inquiry Report*—When the inquiry is complete; the Inquiry Officer shall submit its inquiry report to the disciplinary authority along with all the records of the inquiry. The inquiry report shall contain a sufficient record of brief facts, the evidence and statement of the findings on each charge and the reasons thereof. The Inquiry Officer shall not make any recommendation about the penalty.

(6) *Action on Inquiry Report*—

(i) The disciplinary authority may, for reasons to be recorded in writing, remit the case for re-inquiry to the same or any other Inquiry Officer under intimation to the charged employee. The Inquiry Officer shall thereupon proceed to hold the inquiry from such stage as directed by the disciplinary authority, according to the provisions of Regulation 86(4).

(ii) The disciplinary authority shall, if it disagrees with the findings of the Inquiry Officer on any charge, record its own findings thereon for reasons to be recorded.

(iii) In case the charges are not proved, the charged employee shall be exonerated by the disciplinary authority of the charges and inform him accordingly;

(iv) If the disciplinary authority having regard to its findings on all or any of charges is of the opinion that any penalty specified in Regulation 85 should be imposed on the charged employee, he shall give a copy of the inquiry report and his findings recorded under clause (ii) sub-regulation (6) to the charged employee and require him to submit his representation if he so desires, within a reasonable specified time. The disciplinary authority shall, having regard to all the relevant records relating to the

inquiry and representation of the charged employee, if any, pass a reasoned order imposing one or more penalties mentioned in this regulations and communicate the same to the charged employee.

(7) Procedure for imposing minor penalties—

- (i)* Where the disciplinary authority is satisfied that good and sufficient reasons exist for adopting such a course, it may, subject to the provisions of clause (ii) of sub-regulation (7) impose one or more of the minor penalties mentioned in this Regulations.
- (ii)* The employee shall be informed of the substance of the imputations against him and called upon to submit his explanation within a reasonable time. The disciplinary authority shall after considering the said explanation, if any, and the relevant records, pass such orders as he considers proper and where a penalty is imposed, reason thereof shall be given. The order shall be communicated to the concerned employee.

(8) Inquiry in case of Retirement—

- (i)* If employee attains the age of superannuation and retires during the pendency of the disciplinary proceeding, then for causing financial losses to the Federation or Union by the employee, the pending enquiry for the purpose of recovery from retiral dues (earned leave encashment) may be continued as per procedure mentioned in Regulation 86, but no other penalty can be imposed on retired employee nor for the purpose of imposing other penalty enquiry can be initiated or continued.
- (ii)* If any fact appears after the retirement of employee then after retirement also the proceedings can be initiated as per procedure mentioned in Regulation 86 for recovery from the retired employee for causing financial losses to the Federation or Union with the approval of Chairman of the “Board” (as defined in Regulations 2(3) of Regulations, 2010), provided that the proceedings initiated with respect to any incident, should have taken place not beyond the period of four years from the date of initiation of proceedings.
- (iii)* If any facts appear after four years of retirement or before completion of twelve years after retirement, then the matter may be referred to “Registrar” under Section 65/68 of Uttar Pradesh Cooperative Society Act, 1965 for inquiry with the approval of Chairman of the “Board” (as defined in Regulations 2(3) of Regulations, 2010).

87. Appeal—

- (i) The employee shall be entitled to appeal to the “Registrar” from an order passed by the disciplinary authority.
- (ii) The appeal shall be addressed and submitted to the “Registrar”. An employee preferring an appeal shall do so in his own name. The appeal shall contain all material statements and arguments relied upon by the appellant.
- (iii) The appeal shall not contain any intemperate language. Any appeal, which contains such language may be liable to be summarily dismissed.
- (iv) The appeal shall be preferred within 90 days from the date of communication of impugned order. An appeal preferred after the said period shall be dismissed summarily.

88. *Consideration of Appeals*—The “Registrar” shall take cognizance of below mentioned basis for considering the appeal—

- (a) Whether the facts on which the order 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.

If “Registrar” on the basis of thoughtful opinion finds that on the base of above mentioned basis there is a need of review the penalty/ies, then orders can be passed as given herein after—

- (a) confirm, modify or reverse the order passed by such authority; or
- (b) direct that a further inquiry be held in the case, or
- (c) reduce or enhance the penalty imposed by the order; or
- (d) make such other order in the case as it may deem fit;

89. *Opportunity before imposing or enhancing penalty*—No order under Regulation 87 imposing or enhancing any penalty shall be made unless the employee concerned has been given a reasonable opportunity of showing cause against the proposed disposition or enhancement, as the case may be.

90. *Savings*—any inquiry or appeal pending on the date of coming into force of this Regulation shall be continued and concluded in accordance with the provisions of this Regulations. In case of any controversy or conflict regarding disciplinary proceedings, the provisions mentioned in “The Uttar Pradesh Government Servant (Discipline and Appeal) Rules, 1999” and amendment or Government Order issued from time to time by State Government regarding Rules, 1999 shall be implemented as directive principles.

¹ Dairy Development U.P. Office of Milk Commissioner & Registrar, Milk Cooperative Societies U.P., Noti. No. C-24/Dugdh-2/Saha.Co.Dai.Fe. Karmchari Sewa Vinyamawali-2010/Sanshodhan-2021, dated January 29, 2021 and published in the U.P. Gazette, Extra., Part 4, Section (Ka), dated 29th January, 2021, pp. 11-22.

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