

# GOVERNMENT OF KERALA

## Higher Education (B) Department

### \*NOTIFICATION

No. 48924/B2/76/H. Edn.

*Dated, Trivandrum, 19th April 1979.*

**S. R. O. No. 489/79** - In exercise of the powers conferred by Section 83 of the Kerala University Act, 1974, (17 of 1974) and in supersession of all Statutes on the subject, the Government of Kerala hereby make the following First Statutes in respect of the conditions of service other than pension, provident fund, gratuity, insurance and age of retirement of teachers and members of the non-teaching staff in Private Colleges namely:-

### FIRST STATUTES

#### CHAPTER I

#### Preliminary

1. *Short title, Commencement and Application:-* (1) These Statute may be called the Kerala University (Conditions of Service of Teachers and Members of Non-teaching Staff) First Statutes, 1979.

(2) They shall come into force at once.

(3) They shall apply to all the teachers and members of the non-teaching staff of Private Colleges.

2. *Definitions:-* (I) In these Statutes, unless the context otherwise requires-

(a) "Academic Year" means a period of twelve months commencing on the first day of June:

Provided that in the Case of teachers who are granted extension of service till the end of an academic year, the academic year shall mean a period of ten months commencing from the first day of June;

(b) "Act" means the Kerala University Act, 1974 (17 of 1974);

(c) "Chapter" means a chapter of these Statutes;

(d) "Direct Payment Scheme"" means the scheme introduced by the Government for the direct payment of salary to the teaching and

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under rule 77, Notes 2 and 6 to rule 81, 91, 91 A, clauses (a) to (c) and (g) of rule 103, 107 to 110 A. Note to rule 112, Note 5 to rule 117, 120, Government Decision under rule 125. exception (3) to rule 127, 135, Government Decision under rule 139 rules 157 to 159.

*Part II K. S. R. (Fourth Edition):-* Items (a) and (b) of rule 5 and Government Decision No. 2 thereunder, rules 6 to 11, Government Decision No. 2 under rule 34, rules 2 to 4 of rule 47, 53, 54, note 2 to rule 63, 93, Appendix I, Appendix IV, Appendix IV A, sub-rule (2) of rule I of Appendix VI, Appendix VIII, Appendix XII, Form No. 12, Form No. 14.

## CHAPTER 4

### Disciplinary Action Against the Teachers of Private Colleges

69. *Penalties:-* The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on teachers of Private Colleges, namely:-

- (i) Censure;
- (ii) Withholding of increments or promotion;
- (iii) (a) Recovery from pay of the whole or part of any pecuniary loss caused to the Private College by his 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.

*Explanation:-* In cases of stoppage of increments with cumulative effect the monetary value equivalent to three times the amount of increments ordered to be withheld may be recovered;

- (iv) Reduction to a lower rank in the seniority list or to a lower grade or post or time-scale or to a lower stage in a time scale;
- (v) Compulsory retirement;
- (vi) Removal from the Private College which shall not be a disqualification for future employment;
- (vii) Dismissal from the Private College which shall be a disqualification for future employment in any of the institutions maintained by or affiliated to the University.

70. *Disciplinary Authority:-* The Educational Agency shall be the disciplinary authority in respect of the teacher of a Private College in respect of the penalties specified in Statute 69.



71. *Procedure for imposing Major Penalties:-* (1) No order imposing any of the penalties specified in items (iv) to (vii) of Statute 69 Shall be passed except after an enquiry held in accordance with the provisions of this Statute.

(2) Whenever a complaint is received or on consideration of the report of an investigation or for other reasons, the Educational Agency is satisfied that there is a prima facie case for taking action against the teacher of a Private College, such authority shall frame definite charge or charges which shall be communicated to the teacher of a Private College, together with the statement of the allegations on which each charge is based, and of any other circumstances which it is proposed to take into consideration in passing orders on the case. The teacher concerned of the Private College shall be required to submit within a reasonable time to be specified in that behalf, a written statement of his defence and also to state whether he desires to be heard in person. The teacher of the Private College may on his request be permitted to peruse or take extract from the records pertaining to the case for the purpose of preparing his written statement provided that the Educational Agency may, for reasons to be recorded in writing, refuse him such access if in its opinion such records are not strictly relevant to his case. After the written statement is received within the time allowed, the Educational Agency is satisfied that a formal inquiry shall be held into the conduct of the teacher of the Private College, it may pass an order accordingly.

(3) The formal enquiry may be conducted by:-

- (i) the Educational Agency of the Private College; or
- (ii) any authority or person authorized by the Educational Agency.

(4) Any authority or person conducting the inquiry (hereinafter referred to as the Inquiring Authority) may, during the Course of the inquiry, if it seems necessary, add to, amend, alter, or modify the charges framed against the teacher concerned, in which case, the teacher shall be required to submit within a reasonable time to be specified in that behalf any further written statement of his defence.

(5) The teacher of the Private College, shall for the purpose of preparing his defence be permitted to inspect and take extract from such records as he may specify, provided that such permission may be refused if for reasons to be recorded in writing in the opinion of the Enquiry Authority such records are not relevant for the purpose. On receipt of the further written statement of defence under clause (2) or if no such statement is received within the time

specified therefor or in case where the accused is not required to file a written statement under the said clause, the Inquiring Authority may inquire into such of the charges as are not admitted.

(6) The Disciplinary Authority, if it is not the Inquiring Authority, may nominate any person to present the case in support of the charges before the Inquiring Authority. The teacher may engage a legal practitioner to defend his case if he so desires.

(7) The Inquiring Authority, shall, in the courses of the inquiry consider documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The teacher or his Advocate shall be entitled to cross-examine witness examined in support of the charges and to give evidence in person and to have such witnesses as may be produced, examined in his defence. The person presenting the case in support of the charges shall be entitled to cross-examine the teacher of the Private College and the witnesses examined in his defence. If the Inquiring Authority declines to examine any witness on the ground that his evidence is not relevant or material, it shall record its reasons in writing.

*Explanation:-* If the Inquiring Authority proposes to rely on the oral evidence of any witness, the Authority shall examine such witness and give an opportunity to the accused teacher of the Private College to cross-examine the witness.

(8) The teacher of the Private College may present to the Inquiring Authority a list of witnesses whom he desires to examine in this defence. The Inquiring Authority shall issue written request to secure the presence of such witnesses unless he is of the view that such witnesses evidence are irrelevant to the case of enquiry and shall arrange to examine such witnesses in accordance with the general principles of taking evidence.

(9) At the conclusion of inquiry, the Inquiring Authority shall prepare a report of the inquiry, recording its findings on each of the charges together with the reasons therefor. If, in the opinion of such Authority, the proceedings of the inquiry establish charges different from those originally framed, he may record his findings on such charges, provided that findings on such charges shall not be recorded unless the teacher of the Private College has admitted the fact constituting them or has had an opportunity for defending himself against them.

(10) The record of inquiry shall include:-

- (i) the charges framed against the teacher of the Private College and the statement of allegations furnished to him;



- (it) his written statement of defence, if any;
- (iii) the summary of the oral evidence considered in the course of the inquiry;
- (iv) the documentary evidence considered in the course of the inquiry;
- (v) the orders including order of refusal if any, made by the Disciplinary Authority or the Inquiring Authority in regard to the inquiry; and
- (vi) a report setting out the findings on each charge and the reasons therefor.

(11) The Disciplinary Authority, where it is not the Inquiring Authority shall consider the record of the inquiry and record its findings on each charge.

(12) If the Disciplinary Authority, having regard to the findings on the charges is of the opinion that any of the penalties specified in items (iv) to (vii) of Statute 69 shall be imposed, it shall-

- (a) furnish to the teacher of the Private 'College, a copy of the report of the Inquiring Authority and where the Disciplinary Authority is not the Inquiring Authority a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority; and
- (b) give him a notice stating the action proposed to be taken in regard to him and calling upon him to submit within a specified time which may not exceed one month, such representation as he may wish to make against the proposed action.

(13) The Disciplinary Authority shall consider the representation, if any, made by the teacher of the Private College in response to the notice under clause (12) and determine the penalty, if any, to be imposed on the teacher at the Private College and pass appropriate orders on the case.

(14) If the Disciplinary Authority having regard to its findings is of opinion that any of the penalties specified in item (i) to (iii) in Statute 69 shall be imposed, he shall pass appropriate orders in the case.

(15) Orders passed by the Disciplinary Authority shall be Communicated to the teacher.

72. *Procedure for imposing Minor Penalties:-* (1) No order imposing any of the penalties specified in items (i) to (iii) of Statute 69 shall be passed except after-

- (a) the teacher is informed in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken and given an opportunity of showing cause against the action proposed to be taken against him;
- (b) such representation, if any, is taken into consideration by the Educational Agency.
- (2) The record of proceedings in such cases shall include:-
  - (i) a copy of intimation to the teacher of the proposal to take action against him;
  - (ii) copy of the statement of allegations communicated to him;
  - (iii) his representation, if any;
  - (iv) the orders of the case together with the reasons therefor.

#### **\*CHAPTER 4A**

##### **Intra University Transfer of Teachers of Colleges under Corporate Managements having Colleges affiliated to the University**

72A. 1. The provisions of this Chapter shall apply to all teachers in Private Colleges under Corporate Managements within the jurisdiction of the Kerala University.

2. (a) A teacher working in a college under the Corporate Management as defined under Section 51 (a) of the Kerala University Act, 1974 shall specify the College, where he/she desires to get a posting. This college shall here in after be referred to as his/her "Home College".

(b) The teacher shall also specify a college as the college of least inconvenience to him/her.

(c) A teacher will be allowed to change his/her Home College for a maximum number of two times in his/her entire period of service.

3. A teacher shall be transferred and posted in his/her Home College in accordance with the provisions hereinafter prescribed.

4. A Corporate Management shall obtain option declaring, his/her Home College from all teachers of colleges under it affiliated to the Kerala University in the prescribed form given in Appendix within a period of one month from the date of commencement of these amendment Statutes. The option statement shall be posted in the Service Book of the teachers after

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\*Introduced vide: Amendment No. 28