

26. Appeals against Disciplinary Orders and Revisions

26:1 The revision, variation or cancellation of any disciplinary order by the Disciplinary authority itself, other than by the Cabinet of Ministers, after the order has been made, should be done only for the sole purpose of correcting an error or irregularity appearing on the face of such order. Whenever the Disciplinary Authority decides as stated above, to revise, vary or cancel a disciplinary order issued by itself, he should note clearly and specifically in the relevant disciplinary file all the reasons on which such decision was based.

26:2 Where an aggrieved officer appeals within the specified period against a disciplinary order made by a Disciplinary Authority, the Cabinet of Ministers or the Commission or a Committee thereof holding appellate authority, as the case may be may revise, vary or cancel such disciplinary order on the averments in the appeal.

26:3 A public officer aggrieved by any disciplinary order made by a Disciplinary Authority may appeal against such order in writing to either the Cabinet of Ministers or the Public Service Commission, as the case may be.

26:4 An appeal should be made by the aggrieved officer himself. An appeal made by any other person on his behalf will not be entertained or acknowledged by the relevant Appellate Authority.

26:5 An officer aggrieved by a disciplinary order imposed on him by a public officer holding delegated authority from the Public Service Commission or a Committee thereof has the right of making only one appeal to the Commission against such order.

26:6 An appeal made in terms of sub-section 26:5 above should be made within three months of the receipt of the disciplinary order. However, appeals received after three months but before six months may also be entertained, at the discretion of the Commission, if there are valid reasons.

26:7 An appeal to the Public Service Commission by an officer in service should be made through his Head of Institution and the Disciplinary Authority. Handing over of the appeal to the Head of Institution before the expiry of three months of the delivery of the disciplinary order will be deemed as the appeal has been forwarded within the specified period. It will be the responsibility of the Head of Institution as well as the Disciplinary Authority to deal with appeals received by them expeditiously and transmit them to the Commission, without delay, together with their observations and recommendations and all relevant files and documents in accordance with the provisions of this Code. An officer dismissed from the public service should forward his appeal direct to the Secretary to the Commission under registered post.

26:8 Where the appellant is no longer in service the decision of the Commission should be conveyed direct to him and where the appellant is in service such decision should be conveyed to him through the relevant Disciplinary Authority and Head of Department. In both instances, a copy of the decision should also be sent by the Secretary to the Commission to the relevant Disciplinary Authority.

26:9 A further appeal, if any, on a decision made by the Commission or a Committee thereof should be forwarded to Cabinet of Ministers. The Public Service Commission or a Committee thereof should not accept for adjudication any appeal made against a decision by them. As an exception the Public Service Commission or a Committee thereof may use its discretion only to correct an error or an irregularity in its earlier decision.

26:10 An officer not satisfied with the decision on an appeal made to the Public Service Commission in terms of sub-section 26:5 above has the right of making one appeal to the Cabinet of Ministers. Such appeals should be forwarded through the Minister in charge of the Ministry in which the officer now serves or had earlier served. In the case of officers in the Sri Lanka Administrative Service or the Combined Services the relevant Minister is the Minister in charge of the subject of Public Administration.

26:11 Appeals made in terms of sub-section 26:10 above should be forwarded to the Cabinet of Ministers by the relevant Minister in the form of a Cabinet Memorandum. Only one appeal in respect of a disciplinary order or of an appeal could be forwarded to the Cabinet of Ministers in terms of this section.

26:12 The Cabinet of Ministers may vary, revise or rescind a disciplinary order made by the Public Service Commission or a Committee thereof or an order made by it on an appeal.

26:13 When on examination of the report of the Inquiry and other documents by the appellate authority it is disclosed that an officer other than the accused officer is guilty of any act of misconduct or lapse, the appellate authority may direct or recommend to the disciplinary authority that necessary disciplinary action be taken against such an officer.

27. Procedure to be followed when Court of Law or a Statutory Authority proceeds against of Public Officer

27:1 When a criminal offence punishable under the Law of Sri Lanka by a Court of Law is disclosed, prima facie against an officer on facts or evidence led in the course of a preliminary investigation or in some other manner, such matter should, without delay, be reported by the Disciplinary Authority or Head of Institution of such officer to the Police or appropriate Statutory Authority for suitable action to be taken against the officer under the Law of Sri Lanka.

27:2 When an offence of bribery or corruption is disclosed, prima facie, against an officer on facts or evidence led in the course of a preliminary investigation or in some other manner, such matter should, without delay, be reported by the Disciplinary Authority or Head of Institution of such officer to the Commission to Investigate Allegations of Bribery or Corruption or to such other statutory authority empowered by law to investigate such allegations for suitable action to be taken against the officer under the appropriate law.

27:3 When an offence punishable through a duly authorized statutory authority or institution (e.g. Director General of Customs, Commissioner General of Income Tax) for violating any provision in an Act passed by the Legislature of Sri Lanka is disclosed, prima facie, against an officer on facts or evidence in the course of a preliminary investigation or

PSC
Ct
03/2003

PSC
Ct
03/2003