

Government of Pakistan

FEDERALLY ADMINISTERED TRIBAL AREAS
DEVELOPMENT AUTHORITY



NOTIFICATION

Peshawar, the 2nd November, 2011

No. Secy/FDA/5-54/2011. In accordance with Section 30 and in exercise of powers conferred by section 40 of the FATA Development Authority Regulation, 2006, the Board of Directors of the FATA Development Authority is pleased to make the following Standing Order, namely: -

“The FATA Development Authority Employees (Efficiency and Discipline) Standing Order, 2011”

1. Short title, enforcement and application: (1) This Standing Order may be called “The FATA Development Authority Employees (Efficiency and Discipline) Standing Order, 2011”

(2) This shall come into force with immediate effect.

2. Definitions: - In this Standing Order, unless there is anything repugnant in the subject or context: -

- (a) “accused” means an employee against whom action is taken under this Standing Order;
- (b) “Authority” means the Federally Administered Tribal Areas Development Authority, established under the Federally Administered Tribal Areas Development Authority Regulation, 2006.
- (c) “authority” means the appointing authority as prescribed in the FATA-DA Employees (Appointment, Promotion and Transfer) Rules, 2008.
- (d) “authorized officer” means an officer authorized by the authority to perform functions of an authorized officer under this Standing Order,

or if no officer is authorized, the authority.

- (e) “Board” means the Board of Directors of the Authority established under Section 5 of the Regulation.
 - (f) “Chief Executive” means Chief Executive of the Authority appointed under Section 5(1) of the Regulation.
 - (g) “Employee” means an employee of the FATA-DA to whom this Standing Order apply.
 - (h) “Governor” means the Governor of Khyber Pakhtoon Khwa.
 - (i) “Regulation” means the FATA Development Authority Regulation, 2006.
 - (j) “misconduct” means conduct prejudicial to good order or service discipline or contrary to the FATA-DA Employees (Conduct) Rules 2009, or unbecoming of an officer and a gentleman, and includes any act on the part of an employee of the FATA-DA to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Authority or an officer of the Authority in respect of any matter relating to the appointment, promotion, transfer, punishment, salary package, retirement or other conditions of service of an employee; making or joining any association against FDA, converging/communicating secret information under his control to unconcerned or for his personal use.
 - (k) “penalty” means a penalty which may be imposed under this Standing Order.
- (2) In case two or more employees are to be proceeded against jointly under this Standing Order, the authority or, as the case may be, the authorized officer, designated or authorized, for the employee senior most in rank shall be authority or, as the case may be, the authorized officer in respect of all such accused.
- (3) The inquiry officer or members of enquiry committee, as the case may be, shall be the officer(s) senior in rank to the accused officer.

3. **Grounds for penalty:** - Where an employee, in the opinion of the authority: -
- (a) is inefficient, or has ceased to be efficient; or unwilling workers, or
 - (b) is guilty of misconduct; or
 - (c) is corrupt or may reasonably be considered corrupt because: -
 - (i) he is or any of his dependents or any other person through him or on his behalf is, in possession (which he cannot reasonably account for) of pecuniary resources or property disproportionate to his known sources of income; or
 - (ii) he has assumed a style of living beyond his ostensible means; or
 - (iii) he has a persistent reputation of being corrupt; or
 - (d) is engaged or is reasonably suspected of being engaged in subversive activities or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is, therefore, prejudicial to the national security or the security of the Authority;
- the authority, may impose on him one or more penalties.
4. **Penalties:** - (1) The following are the minor and major penalties: -
- (a) **Minor Penalties:**
 - (i) censure;
 - (ii) withholding, for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement in accordance with the relevant rules or orders.
 - (iii) Recovery from pay of the whole or any part of any pecuniary loss caused to the Authority by negligence or breach of orders.
 - (b) **Major Penalties:**
 - (i) Reduction to a lower post or pay scale or to a lower stage in a pay scale;
 - (ii) Compulsory retirement.
 - (iii) Removal from service; and

(iv) Dismissal from service.

(2) Removal from service does not, but dismissal from service does disqualify for future service in the Authority and under the Govt.

(3) In this Standing Order, removal or dismissal from service does not include the discharge of an employee: -

(i) appointed on probation, during the period of probation or in accordance with the probation or training rules as applicable to him; or

(ii) appointed to hold a temporary appointment or a post otherwise than under a contract, on the expiry of the period of such appointment; or

(iii) appointed on contract, in accordance with the terms of the contract.

5. Inquiry procedure: - The following procedure shall be observed when an employee is proceeded against under this Standing Order: -

(i) In case where an employee is accused of subversion, corruption or misconduct, the authorized officer may require him to proceed on leave or, with the approval of the authority, suspend him, provided that any continuation of such leave or suspension shall require approval of the authority after every three months;

Provided further that where the authority is Governor, the power of the authority under this clause shall be exercised by the Chief Executive.

(ii) The authorized officer shall decide whether in the light of facts of the case or the interests of justice an inquiry should be conducted through an inquiry officer or inquiry committee. If he so decides, the procedure indicated in Para 6 shall apply.

(iii) If the authorized officer decides that it is not necessary to have an inquiry conducted through an inquiry officer or inquiry committee, he shall: -

(a) by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of the action; and

(b) give him a reasonable opportunity of showing cause against that

action;

Provided that no such opportunity shall be given where the authority is satisfied that in the interest of the security of Pakistan or any part thereof or of the Authority, it is not expedient to give such opportunity.

Provided further that if the authorized officer is satisfied in view of the preliminary inquiry report of Governor Inspection Team or any other Inquiry Committee or Inquiry officer, that responsibility has been fixed on the specified employee involved in the case and quantum of loss incurred by the Authority is also indicated therein, the authorized officer may dispense with formal inquiry under this Standing Order and serve a show cause notice upon the accused officer/ official stating therein the grounds of action to be taken and giving to the accused a reasonable opportunity of written defense and personal hearing.

(iv) On receipt of the report of the inquiry officer or inquiry committee, or where no inquiry officer or committee is appointed, on receipt of written defense or explanation of the accused to the show cause notice, the authorized officer shall determine whether the charge has been proved, and if so, shall also tentatively decide the imposition of major or minor penalty in relation to the accused in the light of the inquiry report or the defense/explanation of the accused, as the case may be, and serve him with a final show cause notice, communicating him the penalty to be imposed, alongwith a copy of inquiry report, if any, giving him a reasonable opportunity, which shall not be less than seven days or more than fourteen days, to defend himself against the proposed action.

(v) If on receipt of reply to the final show cause notice, and after hearing the accused if he so desired, it is proposed to impose a minor penalty, the authorized officer shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority alongwith the charge and statement of allegation served on the accused, the explanation of the accused to the show cause notice, the findings of the inquiry officer or inquiry committee, if appointed, and his own recommendations regarding the penalty to

be imposed. The authority shall pass such orders as it may deem proper.

(vi) While imposing a penalty under this Standing Order, the authorized officer, or the authority, as the case may be, shall ensure that the penalty corresponds to the degree of involvement of the accused officer/official with particular reference to the nature of guilt, i.e. corruption, negligence, inefficiency or misconduct and shall make a judicious decision, according to the facts of the case and extent of the employee's involvement in it;

Provided that if the authorized officer or the authority is not in agreement with the findings of the Enquiry Officer/Committee, he may order a fresh enquiry through another Enquiry Officer/Committee as deemed appropriate.

6. Procedure to be followed by the enquiry officer and the enquiry committee: -

(1) Where an Inquiry Officer or Inquiry Committee is appointed, the authorized officer shall: -

(a) Frame a charge and communicate it to the accused together with statement of allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration;

(b) Require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in a written defence and to state at the same time whether he desires to be heard in person.

(2) The Inquiry Officer or the committee, as the case may be after receipt of written defence, shall enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him.

(3) The Inquiry Officer or the Committee, as the case may be, shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing. However, every adjournment with reasons therefore, shall

be reported forthwith to the authorized officer. Normally no adjournment shall be for more than a week.

(4) Where the Inquiry Officer or the Committee, as the case may be, is satisfied that the accused is hampering, or attempting to hamper, the progress of the enquiry, he or it shall administer a warning, and if thereafter he or it is satisfied that the accused is acting in disregard of the warning he or it shall record a finding to that effect and proceed to complete the enquiry in such manner as he or it thinks best suited to do substantial justice.

(5) The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the grounds thereof to the authorized officer.

7. **Revision:** - (1) Subject to sub-para (2) the authority may call for the record of any case pending before or disposed of by the authorized officer and pass such orders in relation thereto as it may deem fit.

(2) No order under sub-para (1) shall be passed in respect of an accused unless the authorized officer to be designated by the authority has informed him in writing of the grounds in which it is proposed to make the order and has been given an opportunity of showing cause against it, including an opportunity of personal hearing if requested by the accused or is otherwise necessary in the interest of justice, in particular when the authority contemplates to pass an order adverse to the interest of the accused.

Provided that no such opportunity shall be given where the authority for reasons to be recorded in writing, is satisfied that, in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity.

8. **Powers of the enquiry officer or enquiry committee:** - (1) For the purpose of enquiry under this Standing Order, the enquiry officer and the enquiry committee shall have the powers of a civil court trying a suit under the code of Civil Procedure 1908 (Act V of 1908), in respect of the following matters, namely: -

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) requiring the discovery and production of documents;
- (iii) receiving evidence on affidavit;
- (iv) issuing commission for the examination of witnesses and documents.

(2) The proceedings under this Standing Order shall be deemed to be judicial proceedings within the meaning of Section 193 & 228 of Pakistan Penal Code (Act XLV of 1860)

9. Para 5 not to apply in certain cases: - Nothing in Para 5 shall apply to a case.

- (a) where the accused is dismissed or removed from service or reduced in rank, on the grounds of conduct which has led to a sentence of fine or of imprisonment by a competent court; or
- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

10. Action in respect of an employee required to proceed on leave: - If an employee proceeding on leave in pursuance of an order under sub-para (1) of Para 5 is not dismissed, removed from service, reduced in rank or compulsory retired, he shall be required to rejoin duty and the period of such leave shall be treated as duty on full pay.

11. Procedure in case of willful absence: - Notwithstanding anything to the contrary contained in this Standing Order, in case of willful absence from duty by an employee more than a week, a notice shall be issued by the authorized officer through registered acknowledgement due cover on his home address directing him to resume duty forthwith. If the same is received back as undelivered or no response is received from the absentee within the stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing

which an ex-parte action will be taken against him. On expiry of the stipulated period given in the notice, the authorized officer shall recommend his case to the authority for imposition of major penalty of removal from service.

12. Procedure of enquiry against the Govt. officers working on deputation

basis in the Authority: - When the Authority wants to initiate disciplinary proceedings under this Standing Order against a Govt. servant belonging to Federal/ Provincial services, or an autonomous body of the public sector, working in the Authority on deputation basis, it shall forward to the Government/lending authority a report with supporting documents on the basis of which the disciplinary proceedings are proposed, and if considered necessary, it may with the prior approval of the lending authority, place him under suspension or send him on forced leave or revert him to his parent organization, as the case may be. On receipt of report of the Authority, the lending authority shall take action as prescribed by the rules of the lending authority.

13. Procedure of enquiry against the Authority employees serving in Government or a Public Sector organization on deputation basis: -

In case of an employee of the Authority working on deputation basis in Federal/Provincial Govt. or in a public sector organization, if and when the borrowing authority wants to initiate disciplinary proceedings against him, it shall forward a report with supporting documents on the basis of which the disciplinary proceedings are proposed, and if considered necessary, it may with the approval of the Authority, place him under suspension or send him on forced leave. On receipt of report of the borrowing authority, the Authority shall take action as prescribed by this Standing Order.

14. Suspension on Committal to prison: - (1) An employee committed to prison,

either for debt or on a criminal charge, shall be considered under suspension from the date of his arrest, and shall not be allowed to draw any pay until the termination of proceedings against him, when an adjustment of his pay and allowances shall be made, with the approval of the competent authority according to circumstances of the case;

Provided that full amount of pay and allowances will be allowed only in the event of the employee being acquitted of the charge, or, if the imprisonment was for debt, on having been proved that the employee's liability arose from circumstances beyond his control.

(2) An employee, including an employee released on bail, against whom a criminal charge or a proceeding for arrest for debt is pending, shall also be placed under suspension by the competent authority by issuance of specific order to this effect, during the periods when he is not actually detained in custody or imprisoned, or while released on bail, if the charge made or proceeding taken against him, is connected with his official position as an employee, or is likely to embarrass him in the discharge of his duties as such or involves moral turpitude. In regard to his pay and allowances, the provisions in Para 14 read with Para 42 of the FATA-DA Employees (Pay, Allowances & other Financial Benefits) Standing Orders, 2010 shall apply.

(3) During suspension under sub-para (1) or (2) the employee shall be entitled to the subsistence grant at the rate admissible to the Govt. servants under FR-53.

15. Recovery of losses from gratuity etc: - The Board may order the recovery from the gratuity or other amount payable to an employee, of any amount on account of losses found in departmental or judicial proceedings to the Authority by negligence or fraud of such employee during his service; Provided that where such proceedings have not been instituted before his retirement, these may be instituted under express orders of the Board within one year of his retirement.

16. Holding of enquiry during criminal proceedings: - (1) A departmental enquiry may be held under this Standing Order against an employee who is being prosecuted in a criminal court;

Provided that where departmental proceedings impede the course of justice or seem to prejudice the trial in the court case, the enquiry may be deferred till the termination of the criminal proceedings.

(2) If the employee prosecuted under the criminal proceedings, is acquitted on technical grounds or on account of failure of prosecution to prove all the ingredients of the charge in the court, he may be proceeded departmentally under this Standing Order for the same charges and if found guilty, one or more penalties may be imposed on him.

(3) If for any reason, criminal proceedings cannot be instituted for technical reasons against an employee, he may be proceeded against under this Standing Order departmentally.

17. Appearance of Counsel: - No party to any proceedings under this Standing Order before the competent authority, enquiry officer or an enquiry committee, shall be represented by an advocate.

18. Authorized officer and authority: -

(1) Where the Governor or Board is the authority, the Chief Executive shall be the authorized officer.

(2) Where the Chief Executive is the authority, the Secretary or any other officer authorized by the Chief Executive shall be the authorized officer.

19. Appeal: - (1) An employee on whom a penalty is imposed shall have such right of appeal as prescribed in the FATA-DA Employees (Appeal) Standing Orders, 2010.

Sd/xxx

**Shahrukh Arbab
Chief Executive, FATA-DA**