

CHAPTER 13  
**APPEALS, PETITIONS AND REPRESENTATIONS**

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Sl. No. 1

**Civil Servants (Appeal) Rules, 1977**

In exercise of the powers conferred by section 25 of the Civil Servants Act, 1973 (LXXI of 1973), the President is pleased to make the following rules, namely:—

1. (1) These rules may be called the Civil Servants (Appeal) Rules, 1977.  
(2) They shall come into force at once.
2. In these rules unless there is anything repugnant in the subject or context,—
  - \*(a) Appellate authority means.—
    - (1) in cases relating to discipline.—
      - (i) where the order is made by the authorised officer, the officer designated as authority under the Government Servants (Efficiency and Discipline) Rules, 1973.
      - (ii) \*\*[where the order is made by the officer, designated as authority under the rules specified in paragraph (1), the officer or authority next above the authority; and].
      - (iii) where the order is made by the Prime Minister, the President; and
    - (2) in other cases, the officer or authority next above the authority against whose order the appeal is preferred and where the order is made by the Prime Minister, the President; and]
  - (b) \* [ ]
  - (c) "penalty" means a penalty provided for in the Government Servants (Efficiency and Discipline) Rules, 1973.
3. Every civil servant shall be entitled to appeal, to the appellate authority from an order passed by an authority \*\*\*[or an authorized officer] imposing upon him any penalty:

Provided that, where the penalty is imposed by an order of the President, the civil servant shall have no right to appeal but he may apply for review of the order.

4. (1) A civil servant shall be entitled to appeal to the appellate authority from an order passed by an authority which—

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\* Subs. and omitted *vide* Establishment Division Notification S.R.O.No.178(1)/99, dated 24-3-1999.

\*\* Subs. *vide* Establishment Division Notification SRO No.335(I)/2000, dated 14-6-2000.

\*\*\* Amended *vide* Establishment Division Notification No.3/7/79-DI, dated 28-1-1981.

- (a) alters to his disadvantage, his conditions of service, pay, allowances or pension; or
- (b) interprets to his disadvantage the provisions of any rules whereby his conditions of service, pay, allowances or pension are regulated; or
- (c) reduces or withholds the maximum pension, including an additional pension, admissible to him under the rules governing pensions; or
- (d) terminates his employment or gives notice of such termination otherwise than—
  - (i) on his reaching the age of superannuation, or
  - (ii) in accordance with the provisions of the Civil Servants Act, 1973 (LXXI of 1973):

Provided that a person appointed by the President shall have no right to appeal from an order passed by the President, but he may apply for review of the order:

Provided further that no appeal or review shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

(2) A member of an All-Pakistan Unified Grades serving under a Provincial Government may appeal, from the order of the Provincial Government, to the President.

(3) A civil servant appointed by the President may appeal to the President from an order passed by an authority subordinate to the President.

5. (1) Every person preferring an appeal should do so separately and in his own name.

(2) Every appeal preferred under these rules shall contain all material statements and arguments relied upon by the appellant, shall contain no disrespectful or improper language, and shall be complete in itself.

(3) Every appeal shall be submitted through the Head of the office to which the appellant belongs or belonged, and through the authority from whose order the appeal is preferred.

(4) Every appeal shall be submitted within a period of thirty days of the communication of the order appealed against.

6. (1) In the case of an appeal under rule 3, the appellate authority shall consider—

- (a) Whether the facts on which the order appealed against 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, and, after such consideration shall confirm, set aside or modify the previous order,\*[and the appellant shall be informed of the reasons for passing such order].

(2) In the case of an appeal under rule 4, the appellate authority shall pass such order as, having regard to all circumstances of the case, appears to it just and equitable.\*[and the appellant shall be informed of the reasons for passing such order].

(3) The authority from whose order an appeal is preferred under these rules shall give effect to any order made by the appellate authority.

7. (1) An appeal may be withheld by an authority not lower than the authority from whose order it is preferred if:—

- (a) it is an appeal in a case in which no appeal lies under these rules; or
- (b) it does not comply with the provisions of sub-rule (1), (2) or (3) of the rule 5; or
- (c) it is not preferred within the time specified in sub-rule (4) of rule 5 and no reasonable cause is shown for the delay; or
- (d) it is addressed to an authority to which no appeal lies under these rules; or
- \*\*[(e) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided, and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case]:

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it:

Provided further that an appeal withheld on account only of failure to comply with the provisions of sub-rule (2) or (3) of rule 5 or clause (d) may be resubmitted within one month of the date on which the appellant is informed of the withholding of the appeal and, if resubmitted in a form which complies with those provisions or is addressed to the proper appellate authority, as the case may be, shall not be

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\* Added *vide* Establishment Division Notification S.R.O. No.582 (1)/93, dated 26-6-1993.

\*\* Added *vide* Establishment Division Notification No. 5/1/81-R.I., dated 26-12-1981.

withheld.

(2) No appeal shall lie against the withholding of an appeal by an authority competent to do so.

8. (1) Every appeal which is not withheld under these rules shall be forwarded to the appellate authority with an expression of opinion by the authority from whose order the appeal is preferred.

(2) Every appeal by a civil servant serving under a Provincial Government or a local authority, which is not withheld under these rules shall be forwarded by the Provincial Government or the local authority to the Federal Government with an expression of its opinion.

(3) A list of appeals withheld under rule 7, with reasons for withholding them, shall be forwarded quarterly by the withholding authority to the appellate authority.

(4) An appellate authority may call for any appeal admissible under these rules which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

9. (1) Nothing in these rules shall operate to deprive any person of any right of appeal which he would have had if these rules had not been made, in respect of any order passed before they came into force.

(2) All appeals pending immediately before the coming into force of these rules shall be deemed to be appealed under these rules.

10. The Civil Services (Classification, Control and Appeal) Rules, 1930, are hereby repealed, but the repeal thereof shall not affect any action taken or anything done thereunder.

*[Authority.—Establishment Division Notification S.R.O. No. 54(I)/77, dated 17-1-1977].*

Sl. No.2

### **Guidelines for Submission of Appeals/Representations to the Chief Executive/President**

It has been observed that Ministries/Divisions/Departments generally do not forward to the Establishment Division complete/ comprehensive references on the appeals/representations filed by the aggrieved civil servants before the Chief Executive/President, for orders in the capacity of the appellate authority. It results in back-referencing and inordinate delay in processing/finalization of such cases.

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\* Add/Substitute 'Prime Minister', as the case may be.

2. In order to facilitate objective analysis and speedy disposal, the appeals/representations preferred by the civil servants under the Civil Servants (Appeal) Rules, 1977 (Sl.No. 1), or section 9 of the Removal from Service (Special Powers) Ordinance, 2000 (Chapter 9, Sl.No. 185), as the case may be, should invariably be submitted in the form of self contained Summary supported by copies of the following essential documents as annexures:-

- (i) charge sheet;
- (ii) reply of the accused to the charge sheet;
- (iii) inquiry report;
- (iv) Show Cause Notice;
- (v) reply of the accused to the Show Cause Notice;
- (vi) recommendations/order of the 'Authorized Officer' or the 'Authority', as the case may be, regarding the imposition of penalty upon the accused;
- (vii) notification of the penalty;
- (viii) appeal/representation (in original) alongwith its enclosures; and
- (ix) detailed parawise comments of the Ministry/Division/Department concerned on the appeal/representation, in juxtaposition as per prescribed format, *annexed* herewith.

2. All Ministries/Divisions/Departments and Provincial Governments are requested to bring these guidelines to the notice of all concerned for guidance/compliance.

*[Authority.-Establishment Division O.M.No.5/4/94/Rev/D.3 dated 19-9-2001].*

**(Annex)**

(Prescribed Format)

(See para 2(ix))

PARAWISE COMMENTS ON THE APPEAL SUBMITTED

BY.....

(NAME, DESIGNATION, OFFICE, BPS), AGAINST MINOR/MAJOR PENALTY

OF .....

Sl. No.	Contention of the Accused (Relevant paras in Appeal to be Reproduced.	Comments of the Ministry/Division/ Department.	Comments to be Offered by Establishment Division.

Sl. No. 2-A

**Forwarding of Advance Copies of the Appeals/Representations/ Petitions etc.**

Civil servants are not to send advance copies of their

appeals/representations/petitions etc. direct to the higher authorities without going through proper channel which is a clear violation of the government instructions on the subject.

2. Ministries/Divisions/Departments are, therefore, to instruct their staff to refrain from sending advance copies of their appeals/petitions/representations direct to the higher authorities.

*[Authority: Estab. Div.'s OM No. 4/3/95-D-3, dated 26<sup>th</sup> July, 2002]*

Sl. No. 3

### **Submission and Transmission of Petitions (on Service Matters) to the President**

The following instructions for the submission, receipt and transmission of petitions to the President are published for general information in supersession of all previous orders on the subject:-

#### **PART I.- PRELIMINARY**

1. **Definitions.-** In these instructions:-

- (1) "Provincial Government" includes the authorities mentioned in the Schedule to these instructions; and
- (2) "Petition" includes memorials, letters and applications of the nature of petitions.

2. **Scope of instructions:-**

- (1) Save as hereinafter provided, these instructions shall apply, so far as may be, to all petitions addressed to the President by persons who are, or have been, members of an All Pakistan Service\* or of a civil service of the \*\*Centre or who hold, or have held, a civil post in connection with the affairs of the \*\*Centre or a civil post where appointment is made by or with the approval of the President, in respect of matters arising out of such employment or in respect of termination of such employment.
- (2) Notwithstanding anything contained in clause (1), the instructions shall not apply to persons who are, or have been, civilian employees in the Defence Services, nor shall they affect any rules or orders made by competent authority in respect of representations submitted by recognized associations of Government servants.

#### **PART II.- FORMS AND MANNER OF SUBMISSION OF PETITIONS**

3. **Form of Petition.-**

- (1) A petition may be either in typescript or in print.

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\* All Pakistan Unified Grades (APUG).

\*\* Federation; Federal Government.

- (2) Every petition shall be authenticated by the signature of petitioner, and submitted by the petitioner in his own behalf.
- (3) Every petition, and the document accompanying it, shall be in English or accompanied by a translation into English.

**4. Contents of Petition.-** Every petition shall -

- (1) contain all material statements and arguments relied upon by the petitioner;
- (2) be complete in itself;
- (3) if any recorded order of a public authority is complained against, be accompanied by a copy of the order and by a copy of any order in that case passed by a subordinate authority; and
- (4) end with a specific prayer.

**5. Method of submission.-** (1) Every petition shall be submitted through -

- (a) the Provincial Government mentioned in the Schedule in respect of the petitioner; or
- (b) if no Provincial Government is mentioned in the Schedule in respect of the petitioner, the Provincial Government of the Province in which the petitioner is or has last been residing or employed, and shall be accompanied by a letter requesting the Provincial Government to transmit the petition to the President.

(2) If there is no Provincial Government within the meaning of clause (1), the petition shall be submitted to the President direct.

6. (1) Every petition shall be submitted through the superiors under whom the petitioner is serving, or if he has left the service, under whom he last served before leaving.

(2) The superiors, on receipt of any petition submitted through them in accordance with clause (1), shall forward the petition through the proper official channel to the authority provided in paragraph 5.

**PART III.- WITHHOLDING OF PETITIONS BY THE  
PROVINCIAL GOVERNMENTS**

**7. Circumstances in which Petitions may be withheld.-** The Provincial government may, at discretion, withhold a petition when:-

- (1) the petitioner has not complied in full with the provisions of Part II of these instructions;
- (2) the petition is illegible or unintelligible or contained language which is, in the opinion of the Provincial Government, disloyal, disrespectful or improper;
- (3) a previous petition from the petitioner on the same subject has been disposed of by the President and the petitioner, in the opinion of the Provincial Government, discloses no new facts or circumstances which afford grounds for a reconsideration of the subject;
- (4) the petition is a representation against a decision which is declared to be final by any law or statutory rule;
- (5) the petition is:-
  - (a) an application for employment in Government service not made in pursuance of any rule or announcement regarding applications for such employment; or
  - (b) a request for exemption from the provisions of any law or rule prescribing qualifications to be possessed by persons in the service of Government or by persons engaging in any profession or employment;
- (6) the petition relates to a subject on which the Provincial Government is competent to pass orders, and no application for redress has been made to the Provincial Government by the petitioner;
- (7) the petition is a representation against an order communicated to the petitioner more than six months before the submission of the petition, and no satisfactory explanation of the delay is given;
- (8) the petition is a representation against a failure to exercise a discretion vested in the Provincial Government:
 

Provided that no petition which is a representation against such failure and is submitted by an officer appointed by the President or by an Officer appointed substantively to a listed post<sup>\*</sup>, shall be withheld;
- (9) the petition is a representation against the discharge of a person -
  - (a) appointed on probation, during such probation;
  - (b) appointed, otherwise than under contract, to hold a temporary appointment, or the expiration of the period of

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<sup>\*</sup> Listed Posts: Posts not exceeding 25% of the superior posts allocated to the provinces were treated as 'Listed Posts' which officers of the then Civil Service were eligible to hold. For details, see Chapter V, O & M Establishment Manual Vol. I, O & M Wing Establishment Division (1968), pp 173-236; Index, page 521.

- such appointment; or
- (c) engaged under contract, in accordance with the terms of such contract;
- (10) the petition is a representation against the reduction to a lower post of a person promoted to a post on probation, during such probation;
- (11) the petition is a representation against an order -
- (a) from which the petitioner has exercised, or possesses a right of appeal under -
- (i) rules or orders regulating his conditions of service; or
- (ii) the terms of his contract of service;
- (b) passed by any authority in the exercise of appellate or revisional powers conferred by any rule or order regulating his conditions of service or by any term of his contract of service such as is referred to in sub-clause (a); or
- (c) from which, not being an order of punishment passed by the President or an officer appointed by the President, an appeal is expressly barred by any rule, order or contract such as is referred to in sub-clause (a);
- (12) the petition is a representation relating to:-
- (a) the application of -
- (i) rules or orders made by the President; or
- (ii) the terms of the contract of service of the petitioner; or
- (b) an order of the Provincial Government refusing to grant or to recommend -
- (i) a special pension;
- (ii) a compassionate pension; or
- (iii) any pecuniary or other concession to which the petitioner is not entitled under any law or statutory rule:

Provided that no petition which is a representation relating to the application of the rules, orders or terms of the contract of service referred to in sub-clause (a) or to an order

referred to in sub-clause (b), and is submitted by an officer appointed by the President or by an officer appointed substantively to a listed post, shall be withheld;

- (13) the petition is submitted, otherwise than in accordance with any rule, order or contract such as is referred to in sub-clause (a) of clause (11) with regard to the prospective claim of the petitioner to pension;
- (14) the petition is a representation against the withholding of the petition by an authority competent to do so; [ ]
- (15) the petition is submitted by a member of an All-Pakistan Service serving in connection with the affairs of a Province, against the orders of the Provincial Governor in matters relating to transfer, promotion *etc.*, on which he is competent to pass orders [;or]
- \*[(16) after examination, in consultation with the \*\* [ ] the Law Division and/or the Ministry of Finance, where necessary, it is unanimously agreed between the Ministry/Division *etc.*, in Provincial Governments and the Establishment Secretary that prayer is not covered by the existing rules/ instructions];
- \*\*[(17) the petition is a representation relating to the expunction of adverse remarks in the Confidential Report of the person concerned].

**8. Petitioner to be informed when petition is withheld.**- The Provincial Government shall, when it withholds a petition under paragraph 7, inform the petitioner of the withholding and the reason therefor.

**\*9. List of petitions withheld.**- (1) The Provincial Government shall send a quarterly return to the President in the months of January, April, July and October each year, specifying all petitions from officers serving under, or under the rule making control of the authority or an authority subordinate thereto withheld under paragraph 7 and the reasons for withholding them.

(2) The President may call for any petition specified in the quarterly return mentioned in clause (1), together with full facts of and all the papers relevant to the case to which the petition relates.

#### PART IV.- TRANSMISSION OF PETITIONS BY THE PROVINCIAL GOVERNMENT

**10. Procedure for Transmission.**- The Provincial Government shall transmit, within two months of receipt, all petitions not withheld under paragraph 7, together with a concise statement of facts material thereto, to the Cabinet

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\* `Or' Omitted and added *vide* Estt.Division Notification No.12/3/57-F1,dated 5-11-1970.

\*\* "CPSC" (FPSC) Omitted and added *vide* Estt. Division Notification No.12/3/57-F1, dated 11-2-1974.

Secretariat (Establishment Division), Government of Pakistan. The Provincial Governments shall also express its opinion on the petition while transmitting it, unless there are special reasons to the contrary. If, in any case, the Provincial Government is unable to transmit the petition with the specified period, a report to that effect, with reasons for the delay and an estimate of any further time required, shall be forthwith submitted to the Cabinet Secretariat (Establishment Division), Government of Pakistan.

11. **Submission to the President.**- When a petition is transmitted in accordance with paragraph 10 the Cabinet Secretariat (Establishment Division), Government of Pakistan, shall submit the petition and other papers received therewith, together with an expression of its own opinion on the petition, to the President for orders.

12. Notwithstanding anything contained in paragraph 11, if Provincial Government, while transmitting a petition in accordance with paragraph 10, recommends its acceptance and the Secretariat (Establishment Division), Government of Pakistan, agrees that the petition should be accepted, that Secretariat shall return the petition to the Provincial Government for issue of an order in accordance with its own and the Provincial Government's agreed opinion.

### **SCHEDULE**

#### LIST OF AUTHORITIES INCLUDED IN THE TERM "PROVINCIAL GOVERNMENT" [See paragraph 1 (1).]\*

1. The Provincial Governments.
2. Secretaries of Ministries/Divisions under the Government of Pakistan or Joint Secretary where there is no Secretary.
3. Heads of departments of the status of Secretary to the Government of Pakistan, in respect of the non-gazetted staff working under their administrative control.

*[Authority.- Estt. Division Notification No. S.R.O. 1313 (K)/67, dated 27-7-1967].*  
*Estt. Division Endorsement No. 12/3/57-F.I, dated 27-7-1967].*

Sl. No. 4

#### **Determination of the `Appellate Authority' in Terms of Civil Servants (Appeal) Rules, 1977**

It has been observed that Ministries/Divisions/Departments do not generally follow the prescribed procedure regarding submission of appeals/petitions to the Establishment Division, for obtaining orders of the Prime Minister or the President, as the case may be in terms of Civil Servants (Appeal) Rules, 1977 (Sl.No. 1) read with rule 15-A of Rules of Business, 1973. In a number of cases, the appeals/petitions processed by the respective Ministries/ Divisions *etc* have been

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\* See also para 5 (1) (a) &(b).

found to have not been addressed to the proper appellate authority. In such a case, to avoid delay, the receiving authority should withhold the appeal and simultaneously inform the appellant to re-submit the same duly addressed to the proper appellate authority to be indicated, as required under rule 7 of the said rules. The case relating to an appeal should invariably be submitted to the Establishment Division in the form of a Summary titled as "Summary for the Prime Minister" seeking orders of the President where the President is an appellate authority, alongwith the appeal (in original) with parawise comments to be given in juxta position in the form of a statement as indicated therein (*Annex*).

2. In this connection, it may be pointed out that an appeal from a civil servant in BPS 17 and above against imposition of any minor penalty, as prescribed in rule 4(i) (b) of Government Servants (E&D) Rules, 1973 (Chapter 9, Sl.No. 85)\*, by an authorised officer or a major penalty by the authority *i.e.* the Prime Minister under rule 4(1)(a) shall lie to the President, in his capacity as the appellate authority, and shall be processed in accordance with rule 15-A of the Rules of Business, 1973.

3. All Ministries/Divisions/Provincial Governments are requested to bring the said position to the notice of all concerned for their information and guidance.

[*Authority.- Estt. Division O.M.No.5/4/94-Rev./D.3, dated 17-3-1997*].

**(Annex)**

(See para 1, Sl. No. 4)

**Statement**

Parawise Comments on the Appeal Submitted By.....  
(Name, Designation, Office, BPS), .....Against Minor/Major Penalty  
of.....

Sl.	Contention of the Accused (Relevant in Appeal to be Reproduced)	Comments of the Ministry/Division/ Department	Comments to be Offered No. by Establishment Division
1	2	3	4

**Note:** With reference to para 2, see also [Removal from service (Special Powers), Ordinance, 2001 (Sl. No. 185, Chapter 9).

Sl. No. 5

**Petitions Not to be Transmitted to the President**

Instances have come to notice in which petitions which do not either conform to the provisions of Part II of the Petition Instructions (Sl.No. 3) or which do not lie under rule 7\*, and should be withheld, are often transmitted to the Establishment Division for submission to the President. In such cases, the Ministry/Division concerned is advised to withhold the petition and inform the petitioner accordingly. This creates an anomalous position in that the discretion to

\* See also Sl. No. 185, chapter 9.  
Sl. No. 1.

withhold a petition rests with the Provincial Government as defined in the Petition Instructions (Sl.No. 3) and once a petition has been transmitted to the Establishment Division that discretion has been exercised and it should be submitted for the orders of the President which may not be justified in the circumstances of the case.

2. All Ministries/Divisions are, therefore, requested to exercise greatest care to see whether, in any case, a petition to the President is or not and only such petitions should be transmitted to the Establishment Division as strictly conform to the provision of Petition Instructions and should not be withheld under rule 7, *ibid*.

[*Authority*. - Estt. Division O.M. No. 1/5/64-D.II, dated 7-8-1974].

Sl. No. 6

### **General Instructions Regarding Appeals/Petitions/Representations on Service Matters Submitted by the Civil Servants**

It has been observed that the civil servants have been sending their appeals/petitions/representations without regard to the prescribed channel of communication to authorities other than the authorities designated in various rules for this purpose. Such appeals/representations, on the one hand, create avoidable work load for the authorities to whom these are addressed and, on the other, delay the redressal of the grievances of officials concerned. This course of action is also a violation of the Government Servants (Conduct) Rules, 1964 (Chapter 9, Sl.No.1). In order to ensure speedy redressal of their grievances and to maintain the sanctity of the rules, it is imperative that the civil servants address their appeals/representations *etc.* to the authorities designated in the rules with due regard to the prescribed channels of communication.

2. Instructions issued from time to time, indicating authorities for submission of appeals/representations/petitions and their mode of submission *etc.*, are given below -

- (a) *APPEAL (Civil Servants/Appeals) Rules, 1977 (Sl.No.1).*- A civil servant is entitled to appeal to the appropriate appellate authority. In terms of Civil Servants (Appeal) Rules, 1977 (Sl.No. 1), through proper channel within a period of thirty days of the communication of the order passed by an authority or an authorised officer imposing upon him any of penalty under Government Servants (E&D) Rules, 1973 (Chapter 9, Sl.No. 85) or otherwise as provided in rule 4 of the Appeal Rules. In case the penalty is imposed by an order of the President, the civil servant has no right to appeal but he may apply, through proper channel, for review of the order;
- (b) *REPRESENTATION (Section 22 of the Civil Servants Act, 1973, (Chapter 1, Sl. No. 2, Vol. I).*- Where no provision for appeal or review exists under the rules, in respect of any order or class of orders, a civil servant aggrieved by any such order, may within thirty days of communication to him of such order, make a representation

against it, through proper channel, to the authority next above the authority which made the order provided that no such representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

- (c) *PETITION, (Petition Instructions) (Sl.No. 3).*- A civil servant may also submit a petition which includes memorials, letters, and application of the nature of the petitions to the President in accordance with the instructions contained in Notification No. SRO. 1313(k)/67, dated 27.7.1967 (Sl.No. 3).
- (d) GENERAL INSTRUCTIONS.

3. In addition to the above laws and rules/instructions, the following general guidelines are issued for compliance by all civil servants:-

- (i) All civil servants should refrain from sending advance copies of their appeals/petitions/ representations, direct to higher authorities and that appeals/petitions/representations should be addressed only to the prescribed authority and submitted through proper channel;
- (ii) The appeal/petition/representation should be in their own behalf only and that joint representation by government servants shall not be entertainable under the rules;
- (iii) The civil servants should discourage their wives/wards and relations to address the petitions/ applications in respect of service matter on their behalf;
- (iv) The civil servants should refrain from using intemperate and in-appropriate language in their petitions/representations *etc.* as use of such language constitutes misconduct and order\* them liable to disciplinary action against them;
- (v) The Civil Servants Act, 1973 (Chapter 1, Sl. No. 2, Vol. I) as well as Civil Servants (Appeal) Rules, 1977 (Sl.No.1) and the instructions issued on the subject from time to time envisage only one appeal/petition/representation *etc.* from a civil servant in respect of particular order by which he is aggrieved. Once an appeal or representation *etc.* is rejected by the competent authority, the civil servant can go to Federal Service Tribunal but he has no right under these rules to submit further appeal/petition/representation/application or a service of it to the appellate authorities; and
- (vi) Each representation appeal petition *etc.* should be accompanied by

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\* render.

a prescribed proforma (*Annex*) duly completed by the civil servant, making the representation/appeal/petition. This will enable the competent authority to properly attend to and finalize the matter quickly. In cases where the competent authority has already rejected the first appeal/petition/representation on the subject case, the second or subsequent appeal/petition/ representation need not necessarily be replied to;

3. All Ministries/Divisions/Departments *etc.* are requested to circulate these instructions to all concerned for their guidance/ strict compliance.

4. The Secretary/Head of the Departments are also requested to devise an appropriate mechanism to ensure and monitor expeditious disposal of representations/appeals/petitions of civil servants to eliminate the root-cause of each appeal. This will also enable the officials to devote their assignments besides effecting economy in public expense on account of available litigations.

*[Authority.- Estt. Division letter No.5/4/94-Rev.D.3, dated 21-6-1997].*

**(Annex)**  
(See para 3(vi))

PROFORMA

1. Name of the Ministry/Department/Office.
2. Name of the applicant.
3. Designation and grade\* of the applicant.
4. Number and date of the order against which aggrieved.
5. Brief subject matter of the order giving to the applicant's grievances.
6. Date on which the first appeal/application for review or representation was filed.
7. Particulars of the authority to which the first appeal, application for review or representation mentioned in column 6 was addressed.
8. Whether any reply to the appeal, review application or representation mentioned in column 6 has been received. If so, on what date?
9. Number of appeals,  
review applications, or  
representations  
submitted subsequent
 

(i) Appeal	}	In red ink
(ii) Application for review		

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\* BPS.

to the one mentioned (iii) Representation  
in column 6 and the  
date on which these were  
submitted.

10. Authority to which the appeals, review applications or representations mentioned in column 9 were submitted.
11. Whether any reply to appeal, application for review or representation mentioned in column 9 was received. If so, indicate the date or dates.
12. Date of present appeal/review/application/representation.

Sl. No. 7

### **Bar Against Making Joint Representations**

According to the existing instructions a petition, memorial or a representation should be submitted by a government servant in his own behalf only. An implication of these instructions is that joint representations cannot be made to the government. It has been observed that some government servants have submitted representations in contravention of the spirit of these instructions in that they have individually signed copies of petitions containing the same text. Government is of the view that although these petitions are signed and sent separately, they are, in effect, tantamount to joint representations. No action can, therefore, be taken on such representations.

2. The correct procedure is that, if any category of government servants have a grievance of a common nature, they should bring the matter to the notice of the head of the department concerned so that he may take such action, as may be necessary in the circumstances of the case.

3. Ministries/Divisions are requested to advise officers and members of the staff under their control to keep these instructions in mind while making representations in respect of a common grievance. As joint representations are not permitted, a breach of these instructions will amount to an act of indiscipline.

*[Authority.- Estt. Division O.M.No.3/1/67-D.II, dated 18-2-1967].*

Sl. No. 8

### **Appeals/Petitions/Representations by the Civil Servants Addressed to the Prime Minister**

The Prime Minister's Secretariat have pointed out that disciplinary action has been initiated and explanations have been called for in respect of officials whose applications were forwarded by that Secretariat to different Ministries and agencies for consideration and redressal. While this may well be within the existing rules, it is not in harmony with demands of a democratic order as it infringes upon the privilege of Prime Minister's Secretariat to forward grievances and requests to the quarters concerned for action and redressal under the directives of the Prime Minister as, indeed, it takes away, from the civil servants an opportunity of access to the Chief Executive of the country through the quickest means possible.

2. It is, therefore, advised that steps may please be taken whereby officials whose cases are referred for redressal by Prime Minister's Secretariat are not victimized and harassed on that account.

*[Authority.- Estt. Division O.M.No.6/3/89-D.3, dated 12-10-1989].*

Sl. No. 9

### **Disposal of Appeals/Petitions of Section Officers**

The Ministries/Divisions are requested that they should themselves examine the appeals/petitions of Section Officers posted therein and should try to redress their grievances promptly. It will be appreciated if, in future, only those appeals/petitions are referred to the Establishment Division which merit consideration by Establishment Division.

*[Authority.- Estt. Division O.M. No. 1/6/85-OMG1 dated 6-10-1985].*

Sl. No. 10

### **Defence of Cases Before Service Tribunals and Law Courts by Ministries/Divisions**

The following guidelines and instructions are to be observed by the Ministries/Divisions/Attached Departments in regard to Appeals/Writ Petitions/Suits preferred by the aggrieved civil servants before Service Tribunals, High Courts and civil law courts against final orders affecting the terms and conditions of service, including cases where penalty has been awarded under the Government Servants (Efficiency and Discipline) Rules, 1973 (Chapter 9, Sl.No. 85):-

- (i) After the promulgation of the Service Tribunals Act, 1973\*, the jurisdiction in all matters pertaining to the terms and conditions of the Civil Servants, including orders passed under Government Servants (Efficiency and Discipline) Rules 1973 (Chapter 9, Sl.No.85) rest with the Tribunal and to that extent, the jurisdiction of the High Courts and the Civil Courts has been ousted. In cases where Writ Petitions/Civil Suits are filed, they should be contested on the point of jurisdiction.
- (ii) In Appeals/Writ Petitions/Civil Suits against orders passed by the Ministries/Divisions, the responsibility of defending such cases is of the Ministry/Division/Attached Department concerned. However, in view of the fact that Establishment Division is made proforma party in most of the cases, the cases are referred routinely to Establishment Division which results in loss of time. It is clarified that where the final orders have been passed by the Ministry/Division other than the Establishment Division no reference should be made to the Establishment Division unless there is a specific point of reference, in which case the issue should be clearly specified and necessary papers supplied as annex in a self contained reference. It would not be possible for the Establishment Division to respond to general

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\* Chapter 15, Sl.No.2.

queries or a general request for advice in such cases.

- (iii) In cases where the Ministries/Divisions are the principal respondent, arrangement for submission of parawise comments well in time and appointment of counsels to defend the case should be made in consultation with the Law Division. The Federal Service Tribunal is presently not happy about the delays in filing parawise comments and the proper defence of the cases before them by the Ministries/Divisions.
- (iv) In defending the appeals before the Service Tribunals, the question of limitation should be carefully examined, and the appeals contested on this ground where appeals are time barred.
- (v) The Ministries/Divisions are also required to examine those cases which are decided against the government by the Service Tribunal in their capacity as the main respondent, with a view to filing an appeal before the Supreme Court in consultation with the Law Division directly. Such cases need not to be referred to this Division for examination.

*[Authority.- Estt. Division O.M. No. 14/5/80-Lit.Misc., dated 7-3-1982].*

Note.- For detailed instructions regarding the conduct of cases of the Federal Government in courts (including service appeals before the Service Tribunal), see *Appendix 'F'* of the Secretariat Instructions (2004 Edition Pages 119-129).

Sl. No. 10-A

### **Consideration of Cases of Government Servants Who Have Filed Civil Suits**

In some cases government servants file civil suits in courts of law against government for the redress of their grievances. It has been noticed that the Ministries/Divisions *etc.* do not deal with such cases on the plea that the government servants have filed suits and the matter is 'subjudice'.

2. A civil suit or a civil petition by a government servant does not preclude redress for the aggrieved government servant. It has, therefore, been decided that the Ministries/Divisions should not refrain from considering the cases of government servants who have filed civil suits against government for redress of their grievances. Cases of such government servants should continue to be considered by the Ministries/Divisions and the grievances of the government servants removed if the merits of their cases so warrant.

*[Authority.- Estt. Division O.M. No. 2/24/72-D.I dated 28-10-1972].*

[Note:- For details regarding terms admissible to government servants reinstated under Martial Law Order No.23 please see Section-C of Chapter-I of the Estacode (Edition 1989) reproduced below as **Annex**].

#### **(Annex)**

(See Sl. No. 10-A)

[Extracts from Estacode, 1989].

## SECTION C

TERMS ADMISSIBLE TO GOVERNMENT SERVANTS  
REINSTATED UNDER MARTIAL LAW ORDER NO. 23

*Sl. No. 16:* Reinstatement of Government servants(–) Martial Law Order No. 23 – This Martial Law Order shall come into force at once and shall have effect notwithstanding anything contained in the Laws (Continuance in Force) Order, 1977 (CMLA Order No. I of 1977), or in any Martial Law Order or Martial Law Regulation or in any other law for the time being in force.

2. In this Martial Law Order, unless there is anything repugnant in the subject or context-

- (a) “competent authority” means the Chief Martial Law Administrator and where, in relation to any person or class of persons the Chief Martial Law Administrator authorizes a Martial Law Administrator of a Zone to exercise the powers of ‘competent authority’ under this Martial Law Order, includes such Martial Law Administrator,
- (b) “person who was in Government service” includes every person who was, on or after the first day of January, 1972, a member of an All-Pakistan Service or of a Civil Service of the Federation or who held a civil post in connection with the affairs of the Federation and every person who was a member of a Civil Service of a Province or who held a civil post in connection with the affairs of a Province, but does not include a Judge of the Supreme Court or of a High Court,
- (c) “person who was in Corporation Service” means every person who was, on or after the first day of January, 1972, in the employment of a Corporation or other institution set up or established by the Federal Government or a Provincial Government or by or under any law for the time being in force and includes the Chairman and the Managing Director of, and the holder of any other office in, such Corporation or Institution,
- (d) “compulsorily removed” means dismissed or removed or prematurely retired from service and includes premature retirement ordered on completion of twenty-five years service but does not include termination of service on giving notice as provided in the terms and conditions of service of the affected person.

3. (1) Any person who was in Government service and was compulsorily removed from such service between the first day of January, 1972, and the fifth day of July, 1977, and every person who was in Corporation Service and was removed from service under the Removal from Service (Special Provisions) Regulation, 1972, may submit a review petition to the competent

authority.

(2) A person referred to in sub-paragraph (1) whose appeal or petition against compulsory removal from service is, on the date of coming into force of this Martial Law Order, pending in a Court or with a Service Tribunal, may submit a review petition under that sub-paragraph only after he has withdrawn his appeal or petition from the Court or Service Tribunal, as the case may be.

(3) A petition under sub-paragraph (1) shall be accompanied by a copy of the order of compulsory removal from service passed against the petitioner and the grounds on which he seeks review of that order.

(4) All petitions under this Order shall reach the Secretary, Cabinet Secretariat, Pakistan Secretariat No. 1, Rawalpindi, or the Chief Secretary of a Province in case the Martial Law Administrator in that Province has been authorised by the Chief Martial Law Administrator to exercise the powers of competent authority, on or before the date to be notified in this behalf.

(5) A petition submitted by any person referred to in sub-paragraph (1) at any time after the fourteenth day of August, 1977, but before the commencement of this Order shall be deemed to be a review petition submitted under this Order.

4. A competent authority may set up such number of Review Boards consisting of such members as it may deem fit.

5. A Review Board, on receipt of a review petition forwarded to it by the competent authority, shall review the said petition and, after giving an opportunity to the petitioner of being heard, and making such further enquiry as it may deem appropriate, submit its report together with its recommendations to the competent authority who may pass such order as he may deem appropriate:

Provided that any order passed on a petition, including an order of reinstatement, shall not entitle the petitioner to any damages, compensation or arrears of emoluments or other benefits for the period he remained out of service.

6. A Review Board shall determine its own procedure and shall, in the performance of its functions, be guided by such directions as the competent authority may issue from time to time.

7. All Heads of Departments and Offices, and other authorities who possess any records or information in respect of persons who submit petitions under this Order shall, on receipt of request from the Review Board, provide it with all such record and information and render all other possible assistance in the disposal of petitions as may be required of them.

dated 22nd October, 1977].

**Government orders instructions regarding terms admissible to Government servants reinstated under MLO No.23**

*SL. No. 17:* Creation of supernumerary posts, fixation of pay, grant of leave TA etc.—The issues arising out of the reinstatement of Government Servants/Corporation employees under Martial Law Order No. 23 have been considered in consultation with the Ministry of Finance. The following decisions have been taken by the Government—

- (a) *Creation of vacancies.*— Pending posting of reinstated persons to regular posts, supernumerary posts of OSDs may be created provided that all efforts to absorb them in equivalent posts fail.
- (b) *Fixation of pay on reinstatement.*—The pay of reinstated persons as on the date of reinstatement may be fixed in the corresponding Revised National Pay Scale of the post held on the eve of dismissal/removal/retirement at the stage which would have been reached if they had continued to remain in service and held the same post. The period of absence may be treated as Extraordinary Leave which, in the special circumstances of the situation, would count towards increment for fixation of pay.
- (c) *Leave.*— The reinstated persons may be allowed to carry forward the leave at their credit on the date of dismissal/removal/retirement. No leave will be earned for the period of absence. In the case of those persons who have already availed themselves of leave preparatory to retirement, the period of LPR may be regularized by the grant of such leave as might be due and admissible under the normal rules on the date of retirement. Any over payment involved as a result of above adjustment may be recovered from the persons concerned in 3 equal monthly instalments.
- (d) *Seniority in Grade.*— The reinstated persons may be allowed normal seniority in the grade in which they were serving at the time Of retirement. In other words, they would be placed in the same position in that grade, which they would have enjoyed had there been no retirement,
- (e) *Promotion and Seniority in Higher Grade.*—The persons reinstated in service may be considered for promotion on the basis of their seniority in the grade held by them in accordance with the normal rules. On promotion to higher grade, they may be allowed pay and seniority from the date of their regular appointment to posts in the higher grade. There will be no automatic promotion on the principle of 'next below' \* rule.

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\* For next below rule, see footnote \*\* on para 5, Sl. No. 33, Chapter 3, Vol. I.

- (f) *T.A. on Retirement.*— Options should be given to the persons either to retain the amount of T.A. on retirement already paid to them or to refund the amount already drawn and retain their title for payment of T.A. on final retirement according to rules. In the former case, T.A. on final retirement shall not be admissible. In the latter case, the reinstated persons will be entitled to T.A. on retirement as admissible under normal rules.
- (g) *TA. on Joining After Reinstatement.*— The reinstated persons may be granted T.A. as on transfer from the station of their residence to the station of their posting to join the post to which they may be appointed.
- (h) *G.P. Fund.*— The reinstated persons who have not, so far, drawn the amount of G.P. Fund shall not be paid that amount after reinstatement.

Those who have already drawn the amount of G.P. Fund standing to their credit may be allowed to retain it and start subscribing to G.P. Fund afresh,

[*Authority.*—O.M. No. 3/3/78—R. II. dated 5th July, 1978].

*Sl. No. 18 :* Confidential reports which should be taken into account for determining suitability for promotion.—A question has been raised as to the 4 Annual Confidential Reports which should be taken into account in determining the suitability of those government servants who were retired and were subsequently reinstated under MLO-23 and who would have become eligible to move-over to the next higher grade, in terms of Ministry of Finance O.M. No. F. (2) NG-Tmp. 1/72, dated the 27th December, 1972 and F. 1(36) MG-Imp. 1/73 dt. 18th August, 1973 on completion of the prescribed service at the maximum of the scale during the period intervening between their date of retirement and reinstatement. The point has been considered in consultation with the Ministry of Finance and it has been held that for purposes of move-over to higher National Pay Scale, such a Civil Servant reinstated under MLO-23, would be required to complete the prescribed period as from the date (prior to reinstatement) on which he reached the maximum without taking into account the intervening period between the date of retirement and reinstatement and that the 4 Annual Confidential Reports relating to the years following that date would be taken into account without taking into account the intervening period between the date of retirement and the date of reinstatement. The shortfall in the required number of ACRs is to be made good by ACRs for the required number of years following reinstatement. The benefit of move-over to the next NPS should not be allowed to the reinstated Government Servants under MLO-23 during the period they remained out of service.

[*Authority.*—O.M. No. 3/10/79—It. II, dated 14th July, 1979]

*Sl. No. 19* : The intervening period between the compulsory retirement and reinstatement under MLO 23 of the government servants was treated as extraordinary leave without pay *vide* Establishment Division's O.M. No. 3/3/78-R. II, dated the 5th July, 1978. This decision did not provide the intended relief to those government servants who, although reinstated, could not join their posts because during the intervening period they had already attained the age of superannuation. In certain cases, the service qualifying for pension fell short of 30 years resulting in the loss of pension to the individuals. The President has, therefore, been pleased to decide, as a special case, that the intervening period in such cases, which has been treated as extraordinary leave, shall be computed towards qualifying service for the purpose of pension.

*[Authority—Finance Division O.M. No. F. 11(9)-Reg. (6)/79, dated 5th October, 1980.]*

*Sl. No. 20* : Allowing benefits of increments which accrued during the intervening period towards pension.—In accordance with the decision contained in Finance Division's O.M. No. 1 I(9)-Reg. (6)/79, dated 5th October, 1980, in the case of officers, who were compulsorily retired, removed or dismissed from service and were later reinstated under MLO-23, but could not join their posts because they had already attained the age of superannuation, the intervening period between the date of compulsory retirement, removal or dismissal and the date of superannuation has already been treated as qualifying service for the purpose of pension. It has further been decided that such officers would be allowed, for the purpose of calculation of pension, the benefit of increments for the intervening period as if they were not retired, removed or dismissed from service, and the average emoluments for their pension should be calculated on the basis of pay so arrived at.

*[Authority—Finance Division O.M. No. II(9)-Reg. (6 )J79, dated 3rd September, 1981.]*

*Sl No. 21* : No decision was taken in respect of the following issues in the orders earlier issued on the subject of reinstatement of Government servants/corporation employees under MLO No. 23 (Sl. Nos. 17–20) :-

- (i) How the intervening period between the date of retirement and the date of reinstatement of the affected employees who actually resumed their duties should be treated for the purpose of pension; and
- (ii) How pension/gratuity and commuted value of pension already drawn by such employees should be adjusted.

2. The intervening period in the case of those who actually resumed their duties has been treated as extraordinary leave as per the Establishment Division orders mentioned above. Keeping in view this position, it has been decided that gratuity and commuted value of pension drawn during the intervening period shall be recovered/adjusted in the following manner:—

- (i) Such of the employees who have been reinstated and have already drawn their pension plus gratuity and the commuted value

of pension may be allowed to retain the equivalent of full amount of gross pension *i.e.* the amount which would have been payable before surrender of 1/4th portion thereof and commutation, without further adjustment at the time of final retirement. However, 50% of the balance of the amount of gratuity and commuted value of pension may be recovered from such reinstated employees in monthly installments not *exceeding* 60. The remaining 50% may be adjusted against their dues at the time of their final retirement as illustrated below:

		<u>(Rs.)</u>
(a)	Gross pension	<u>160,000</u>
(b)	Gratuity equal to 25% of gross pension	40,000
(c)	Commutation of 25% of gross pension at (say) 51 years of age	46,443
(d)	Pension drawn at the rate of Rs. 500/- p.m. (for 5 years)	<u>30,000</u>
	<u>Total</u> ((b) + (c) + (d))	<u>116,443</u>
(e)	Amount of gross pension for (say) 5 years at the rate of Rs. 1000/- p.m. [item (a) above]	60,000
(f)	Excess amount drawn [difference of items (b) + (c) + (d) and (e)] [116,443-60,000]	56,443
(g)	Amount to be recovered in 60 installments (The balance of Rs. 28,222/- to be adjusted on final retirement) or 470/-p.m.	28,222
(ii)	In order to bring at par those who have not drawn pension with those reinstated employees who have drawn pension, subsistence allowance for the intervening period may be sanctioned for the former. Such reinstated employees who were entitled to pension but have not actually drawn it before reinstatement may be paid, in lieu thereof, a subsistence allowance at the rate of 50% of the pay (inclusive of dearness allowance, if any) drawn at the time of retirement, subject to the condition that it would not be more than the amount of gross pension that would have been otherwise admissible on that date.	
(iii)	The employees, who were dismissed or removed from service and who were not entitled to any pension and gratuity on account of such dismissal, may also be treated at par with other reinstated employees and may be paid subsistence allowance as in subparagraph (ii) above.	

- (iv) The subsistence allowance as in sub-paragraph (ii) above may also be paid to such reinstated employees who on retirement were entitled to the grant of gratuity only on account of their service being between 5 and 10 years subject to the condition that the amount of gratuity already drawn may be adjusted against the amount of subsistence allowance. Any excess amount over and above the amount of subsistence allowance may be recovered in easy instalments.
- (v) In the case of reinstated employees who were not entitled to any pension or gratuity on account of their service being less than 5 years, no subsistence allowance will be paid. In their case the past non-qualifying service will, however, be allowed to count towards pension/gratuity that may be admissible to them on final retirement.

*[Authority:- Finance Division O.M. No. F, II (9)-Reg. (6)/79, dated 20th Sep., 1981].*

Sl. No. 22: A reference is invited to the Finance Division's O.M. of even number dated the 20th September, 1981\* and it is stated that the decisions contained therein did not provide the intended relief for the intervening period to those government servants who, although reinstated, could not join their posts because, during the intervening period, they had already attained the age of superannuation. The President has, therefore, been pleased to decide that such government servants whose compulsory retirement, removal, etc. was converted into normal retirement from the date of their attaining the age of superannuation, shall also be granted, for the intervening period, a subsistence allowance at the rate of 50% of the pay (inclusive of dearness allowance if any) drawn at the time of retirement, subject to the condition that it would not be more than the amount of gross pension that would have been otherwise admissible on that date. The amount of pension drawn during the intervening period including the gratuity and commuted value of pension, if any, shall be adjusted against the subsistence allowance and any balance still outstanding shall be recovered in cash in lump sum.

*[Authority:- Finance Division O.M. No. F-II (9)-Reg. (6)/79, dt. 13-9-82].*

Sl. No. 11

### **Withholding of Appeals Under the Civil Servants (Appeal) Rules, 1977**

Appeals which do not lie under rule 7 of the Civil Servants (Appeal) Rules, 1977 (Sl. No. 1) and the same are not to be transmitted to the Prime Minister under rule 8 of these rules with the recommendations of the authority to reject the appeal.

2. As per provisions of rule 8(I) of the Civil Servants (Appeal) Rules,

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\* Sl. No. 21 of Annex to Sl. No. 10-A.

1977 (Sl.No.1), an appeal which is not withheld under rule 7, is required to be forwarded to the appellate authority with an expression of opinion by the authority in the form of a speaking order foregoing his prerogative to withhold the appeal. Moreover, it would not be fair and proper to submit such cases to the appellate authority for rejection which could have been withheld by the authority. An appeal which is not entertainable, if transmitted to and rejected by the appellate authority, would clearly mean that the appeal has been entertained.

3. All Ministries/Division are to exercise greatest care while transmitting appeals to the appellate authority under rule 3 of the Civil Servants (Appeal) Rules, 1977 (Sl.No. 1). The appellant should be informed accordingly where appeal is withheld under rule 7 of the Civil Servants (Appeal) Rules, 1977 (Sl. No. 1).

*[Authority:- Estab. Div.'s OM No. 8/13/2003-D.3, dated 9<sup>th</sup> September, 2004]*

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