

NOTIFICATION

New Delhi, the 11th April, 2017

G.S.R. 354(E).—In exercise of the powers conferred by clause (i) of sub-section (2) of section 56 of the Metro Railways (Operation and Maintenance) Act, 2002 (60 of 2002), and in supersession of

(i) the Delhi Metro Rail (Procedure for Investigation of Misbehaviour or incapacity of Claims Commissioner) Rules, 2007,

(ii) the Bangalore Metro Rail (Procedure for investigation of Misbehaviour or Incapacity of Claims Commissioner) Rules, 2011 and

(iii) The Chennai Metro Rail (Procedure for Investigation of Misbehaviour or Incapacity of Claims Commissioner) Rules, 2014, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.- (1) These rules may be called the Metro Railways (Procedure for Investigation of Misbehaviour or Incapacity of the Claims Commissioner) Rules, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Metro Railways (Operation and Maintenance) Act, 2002 (60 of 2002);

(b) "section" means a section of the Act;

(c) "Judge" means the Judge of the Supreme Court appointed for conducting the inquiry under sub-rule (3) of rule 3.

(2) Words and expressions used in these rules and not defined, but defined in the Act, shall have the meanings, respectively assigned to them in the Act.

3. Committee for investigation of complaints.- (1) The Central Government, on receipt of a complaint alleging any definite charges of misbehavior in respect of or incapacity to perform the functions of the office in respect of the Claims Commissioner, shall make a preliminary scrutiny of such complaint.

(2) If, on preliminary scrutiny, the Central Government, considers it necessary to investigate into the allegation, it shall place the complaint together with supporting material, as may be available, before a Committee consisting of the following persons to investigate the charges of allegations made in the complaint, namely:-

(i) Secretary (Co-ordination and Public Grievances) Cabinet Secretariat —Chairman.

(ii) Secretary, Ministry of Urban Development —Member

(iii) Secretary, Department of Legal Affairs, Ministry of Law and Justice —Member

(3) The Committee shall devise its own procedure and method of investigation which may include recording of evidence of the complainant and collection of material relevant to the inquiry which may be conducted by a Judge of the Supreme Court of India under these rules.

(4) The Committee shall submit its findings to the Central Government as early as possible within a period as may be specified by the Central Government in this behalf.

4. Judge to conduct inquiry.- (1) If the Central Government is of the opinion that there are reasonable grounds for making an inquiry into the truth of any imputation of misbehaviour or incapacity of Claims Commissioner, it shall make reference to the Chief Justice of India requesting him to nominate a Judge of the Supreme Court to conduct the inquiry.

(2) The Central Government shall, by order, appoint the Judge of the Supreme Court nominated by the Chief Justice of India (hereinafter referred to as Judge) for the purpose of conducting the inquiry.

(3) Notice of appointment of a Judge under sub-rule (2) shall be given to the Claims Commissioner.

(4) The Central Government shall forward to the Judge a copy of-

- (a) the articles of charges against the Claims Commissioner concerned and the statement of imputation;
 - (b) the statement of witnesses, if any; and
 - (c) material documents relevant to the inquiry.
- (5) The Judge shall complete the inquiry within such time or further time as may be specified by the Central Government.
- (6) The Claims Commissioner concerned shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified in this behalf by the Judge.
- (7) Where it is alleged that the Claims Commissioner is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the judge may arrange for the medical examination of the Claims Commissioner by such Medical Board as may be appointed for the purpose by the Central Government and the Claims Commissioner concerned shall submit himself to such Medical Examination within the time specified in this behalf by the Judge.
- (8) The Medical Board shall undertake such medical examination of the Claims Commissioner as may be considered necessary and submit a report to the Judge stating therein whether the incapacity is such as to render the Claims Commissioner unfit to continue in office.
- (9) If the Claims Commissioner refuses to undergo such medical examination as considered necessary by the Medical Board, the Board shall submit a report to the Judge stating therein the examination which the Claims Commissioner has refused to undergo and the Judge may on receipt of such report presume that the Claims Commissioner suffers from such physical or mental incapacity as is alleged in the complaint.
- (10) The Judge may, after considering the written statement of the Claims Commissioner and the Medical Report, if any, amend the charges referred to in clause (a) of sub-rule (4) and in such a case the Claims Commissioner shall be given a reasonable opportunity of presenting a fresh written statement of defence.
- (11) The Central Government shall appoint an officer of that Government or any Advocate to present the case against the Claims Commissioner.
- (12) Where the Central Government has appointed an Advocate to present its case before the Judge, the Claims Commissioner shall also be allowed to present his case by an Advocate chosen by him.
5. Inquiry report.- After the conclusion of the investigation, the Judge shall submit his report to the Central Government stating therein his findings and the reasons thereof on each of the articles of charge separately with such observations on the whole case as he thinks fit.
6. Provisions of Civil Procedure Code not binding.- The Judge, while conducting an inquiry under rule 4, shall not be bound by the procedure laid down by the Civil Procedure Code, 1908 (5 of 1908), but shall be guided by the principles of natural justice and shall have power to regulate his own procedure including the fixing of places and times of his inquiry.
7. Suspension of Claims Commissioner.- Notwithstanding anything contained in rule 4 and without prejudice to any action being taken in accordance with the said rule, the Central Government, keeping in view the gravity of charges, may suspend the Claims Commissioner against whom a complaint is under investigation or inquiry.
8. Subsistence allowance.- The payment of subsistence allowance to Claims Commissioner under suspension shall be regulated in accordance with the rules and orders for the time being applicable to an officer of the Government of India drawing an equivalent pay.

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