**Appeal under Rule 23 of CCS (CCA) Rules 1965**

To,
\_\_\_\_\_\_\_\_\_\_\_\_\_

(Through Proper Channel)

Subject: Appeal under Rule 23 of CCS (CCA) Rules 1965 against the impugned order passed by the Disciplinary Authority dated \_\_\_\_\_\_\_\_\_\_\_\_ (received by the appellant on \_\_\_\_\_\_\_\_\_\_\_\_), whereby it has been ordered that \_\_\_\_\_\_\_

Sir,

With due respect and humble submissions the appellant begs to submit the following few lines for your kind consideration and necessary actions please.

1. That the appellant joined service in the department in the year \_\_\_\_\_\_\_\_\_\_ as a \_\_\_\_\_ . Ever since the appellant has been discharging his duties to the entire satisfaction of his superiors with the best of his abilities and the whole service record till now has been unblemished \_\_\_\_\_\_.

2. That on \_\_\_\_\_

3. That a charge sheet was issued to the appellant on \_\_\_\_\_\_\_\_\_ to which the appellant filed a detailed reply on \_\_\_\_\_\_.

4. That the said impugned order is illegal, arbitrary and non-speaking and deserves to be quashed.

5. That none of the charge against the appellant was proved.

6. That the impugned order \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ issued by the Disciplinary Authority is arbitrary, malafide, illegal, ultra vires, against the Articles 14 and 16 of the Constitution of India, dehors the rules and regulations and against the natural justice.

7. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

8. That it is submitted that the initiation of the impugned disciplinary proceedings by issuing a charge-sheet levelling charges which were stale and on materials gathered as an afterthought was an action tainted with malice and such proceedings are liable to be quashed as being mala fide and malicious in law.

9. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_That as per the settled principle of law, the alleged misconducts pertaining to the period prior to the promotion of the applicant stands condoned. As such the misconducts in Articles of Charges Nos. \_\_\_\_\_\_ cannot be made grounds for punishment of the applicant. The Disciplinary Authority was prejudiced against the applicant and due to malafide intention and for the extraneous reasons has awarded impugned punishments on the applicant.

10. \_\_\_\_\_That on \_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_), the applicant was served with charge sheet by the Disciplinary Authority for the following four charges:-

11. \_\_\_\_\_\_That the applicant submits that on \_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_\_) the applicant has prayed for copy of \_\_\_\_\_\_ mentioned in the Annexure A-III with the Charge Sheet so as to enable the applicant to submit his written statement of defence as sought for by the Disciplinary Authority.

12. \_\_\_\_\_\_ That it is against well established principles of law, rules and regulations that the person who happens to be witness cannot be appointed as Presenting Officer and vice versa.

13. \_\_\_\_\_\_That the applicant submits that on \_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_) the applicant made a representation to the Disciplinary Authority with a copy of the same endorsed to and got received on the same date by the Inquiry Officer, praying therein that the applicant is entitled to seek assistance of a defence assistant in his disciplinary case as per the relevant provisions and therefore the applicant may be granted permission to engage Defence Assistant, Sh. \_\_\_\_\_\_, who is an advocate. It was also stated therein that Sh. \_\_\_\_\_\_ has also consented to assist the applicant in the afore-mentioned case in the inquiry. It was obligatory on the part of the Disciplinary Authority to allow Defence Assistant to the applicant and further proceedings could be proceeded only after the Defence Assistant has been allowed to the applicant.

14. \_\_\_\_\_\_That the applicant further submits that the said charge sheet was further amended on \_\_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_) without affording the opportunity to the applicant to file reply to the said amendment. The Disciplinary Authority has not observed the mandatory principles of law, rules and regulations to seek the further written statement from the applicant with regard to the amended charge sheet.

15. \_\_\_\_\_That on \_\_\_\_\_\_, (Annexure A-\_\_\_\_\_) the applicant made a detailed reply to the show cause notice, raising therein various legal objections to the enquiry. Non-consideration of those points is indicative of non-application of mind by the Disciplinary Authority.

16. \_\_\_\_\_\_\_That the penalty of \_\_\_\_\_\_\_ imposed by the Disciplinary Authority on the applicant is disproportionate to the alleged misconduct and shocking the conscience as well as indicative of arbitrariness and malafide intention on the part of the Disciplinary Authority.

17. \_\_\_\_\_\_\_\_\_That the Applicant further submits that on \_\_\_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_\_\_\_) the applicant applied to the Disciplinary Authority to supply day-to-day proceedings of order sheet, witnesses examined in the inquiry and other documents related to inquiry placed on the file so that the applicant could file the appeal. The Disciplinary Authority has flatly denied the same to the applicant on \_\_\_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_\_\_\_\_). The applicant submits that such denial amounts to denial of natural justice to the applicant and such an action on the part of the respondent Disciplinary Authority is against the well-settled principle of law, rules and regulations.

18. \_\_\_\_\_\_\_\_\_That the inquiry officer is stated to have conducted the hearings in the case on \_\_\_\_\_\_\_ without any Defence Assistant having been allowed to the applicant and without giving notice to the applicant, which is against the provisions of Rule 14 of the CCS (CCA).

19. \_\_\_\_\_\_\_\_ That the applicant has thus been deprived of his legitimate rights of cross-examining the witnesses and put his own defence and give defence witnesses. The witnesses were thus examined at the back of the applicant without affording opportunity to the applicant to establish the veracity of their false statements. The witnesses were tutored on the behest of the Disciplinary Authority as they all are the subordinates of the Disciplinary Authority.

20. \_\_\_\_\_\_\_\_That the applicant was legitimately expecting that after the application of the applicant for Defence Assistant is decided by the Disciplinary Authority, the further disciplinary proceedings will be proceeded in accordance with the law.

21. \_\_\_\_\_\_\_That the defence of the presenting officer was recorded in utter violation of Rules 14 (15) of CCS (CCA) Rules 1965, which interalia provides that Presenting Officer appointed in a case cannot be examined as a witness at the enquiry.

22. \_\_\_\_\_\_\_\_\_ The Disciplinary Authority was required to entrust the enquiry to the Director Departmental Enquiries \_\_\_\_\_\_ as per State Govt. orders vide notification No. \_\_\_\_\_\_ dated \_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_\_\_) and \_\_\_\_\_\_ (Annexure A-\_\_\_\_\_\_\_\_). Vide Annexure A-\_\_\_\_\_\_\_, it is clearly envisaged that:-

"All fresh inquiries in disciplinary proceedings to be initiated against Gazetted Officers (Class-I & Class-II) will be entrusted to the Commissioner Departmental Enquiries and those against the Non-Gazetted Officers/officials will be entrusted to the Director of Departmental inquiries."

23. \_\_\_\_\_\_That it is apparent from the above that the Disciplinary Authority has purposely and malafide violated the above instructions of the state Government.

24. \_\_\_\_\_\_\_That the day to day proceedings including copies of depositions of witnesses and the written briefs of the Presenting Officer were not supplied to the applicant as required under Rule 14 Note 6 of CCS (CCA) Rules 1965.

25. \_\_\_\_\_\_\_That the Disciplinary Authority has not indicated the proposed penalty in the show cause notice which is mandatory requirement.

26. \_\_\_\_\_\_\_That the Inquiry Officer has never served the applicant with the notice of ex-parte proceedings, which was obligatory on the part of the Inquiry Officer. It is mandatory under the Government Instructions that the notices of all hearings should be served on the accused or communicated to him unless the first notice says that the inquiry will continue from day to day.

27. \_\_\_\_\_\_\_That the respondents have not even afforded opportunity to the applicant to see the relevant record being used against the applicant before starting of inquiry. Neither has the applicant been supplied with the Presenting Officer's briefs.

28. \_\_\_\_\_\_\_ That the punishment as awarded by the Disciplinary Authority is not competent as much as the Disciplinary Authority is not the appointing authority of the applicant.

29. \_\_\_\_\_\_\_That the Charge sheet has been issued by the incompetent authority. No tenable oral or documentary evidence was brought on record before the Disciplinary Authority. Disciplinary Authority has based its decision on extraneous matters. Similarly the Appellate Authority has rested its decision on the extraneous matters. The Appellate Authority has not applied its own mind. The appellate authority has not supplied the copy of comments sought for from the department to the applicant and thus the decision of the appellate authority has been prejudiced and vitiated.

30. That the respondents are estopped due to their own act, deed and conduct. The principle of the Promissory Estopple applies against the respondents.

31. That the impugned order is against the well settled principles of the law as laid down by the Hon'ble Supreme Court and this Hon'ble Tribunal in catena of cases.

32. In view of above submissions, it is respectfully submitted that the impugned order dated \_\_\_\_\_\_ passed by the Disciplinary Authority may kindly be quashed and set aside and the department may kindly be directed to \_\_\_\_\_\_ in the interest of justice. For this act of kindness, the appellant shall remain lifelong indebted to you sir.

Thanking you sir.

Yours faithfully,

Dated: \_\_\_\_\_\_

Encls: \_\_\_\_\_\_\_

(ADVANCE COPY FORWARDED)