

CHAPTER J.I
PART III
GRIEVANCES AND REPRESENTATIONS

1. **INTRODUCTION**

The Public Service Commission (hereafter referred to as Commission) is a statutory body which is empowered in terms of section 6(3) of the Public Service Act, 1980 (Act 2 of 1980), as amended, with the necessary authority and powers to enquire into grievances of staff members. The Commission is aware of the fact that cases occur where staff members harbour grievances and that they sometimes seek assistance outside the Public Service – either because of ignorance in regard to existing machinery or for other reasons. Surveys and investigations by recognized organizations indicate that a disturbing percentage of staff members fell aggrieved over matters concerning their positions or circumstances in the Public Service. The grievance is frequently based on ignorance and in many cases does not concern salaries or other conditions of services, but points to other factors in the work situation, e.g. the need for closer contact between staff members and Office/Ministry/Agency, sounder staff relations, etc. The Commission feels obliged to request each Permanent Secretary of an office/ministry/agency to make a sustained and meaningful attempt to bring about efficient personal administration and sound staff member relations in the Public Service in those areas where they may possibly be lacking and to contribute, in this way to the most efficient utilization of the available manpower.

2. In view of the foregoing, the Commission wishes to emphasize that by settling the grievances of staff members as a domestic matter within the Public Service, and by invoking a more positive attitude in those officers lacking it. Offices/Ministries/Agencies can undoubtedly make a considerable contribution in this regard. The personnel officer mentioned in paragraph 4.(2)(a) can also make a point of emphasizing to all officers in the personnel section, in a purposeful and systematic manner, that it is an extremely important part of their tasks as personnel administrators to handle personnel matters in a caring and helpful manner so that they may, in every possible way, contribute towards sound staff relations and by their actions, always engender confidence in their colleagues by the manner in which they handle personnel matters.

3. The Commission is of the opinion that all cases of serious grievances which may occur in offices/ministries/agencies should be brought to the personal attention of the Permanent Secretary and the Under Secretary: Public Service Management, in those cases where the staff member concerned desires to have their representations submitted to the Commission, Office/Ministries/Agencies should not hesitate to forward the representations.

4. **PROCEDURES FOR DEALING WITH GRIEVANCES AND REPRESENTATIONS.**

- (1) (a) If a staff member is dissatisfied or discontented with an official action or omission, he/she may raise the matter with his/her supervisor.
- (b) It is the responsibility of the supervisor to determine the cause of the dissatisfaction or discontent.
- (c) After the supervisor has interviewed the staff member he/she shall, if it is in his/her power and within his/her competence to dispose of the dissatisfaction, take active steps in the matter within five working days.
- (d) Supervisors should also be prepared to consider complaints about their own official actions or omissions, which harm or may harm the material or spiritual well being of the staff member under their supervision or the interests of the country.
- (e) If the supervisor finds that the dissatisfaction or discontent has arisen from a matter, which is not within his/her power or competence to deal with, he/she shall within five working days of the interview referred to in subparagraph (c), inform the staff member concerned of his/her right to make representations about the matter to a higher authority.
- (f) If the supervisor finds that the dissatisfaction or discontent stems from a matter which is within his/her power or competence to deal with, but he/she does not succeed in disposing of the complaint, he/she shall, if the staff member concerned has notified him/her that he/she is still dissatisfied or discontented, inform the latter within five working days of such notification of his/her right to make representations to a higher authority.

- (2) (a) If a staff member complaints concerns a matter which cannot be dealt with by his/her supervisor, or if he/she has a complaint about the supervisor himself/herself, or if the circumstances contemplated in subparagraph (1)(f) are present, he/she may make representations about the matter to the personnel officer in charge of personnel services in the office/ministry/agency or another competent senior officer specifically designated by his/her Permanent Secretary to deal with complaints and grievances.
- (b) The designated officer contemplated in subparagraph (a) shall –
- (i) act without delay as provided in subparagraphs (1)(b), (c), (e) and (f); or, within 10 working days of receipt of such representation, refer the matter to an officer who is employed to act as prescribed in the said sub-paragraphs; and
- (ii) satisfy himself/herself that the provisions of subparagraph (1)(g) have been compiled with and that the aggrieved staff member has been fully acquainted with his/her rights.
- (c) If the designated officer contemplated in subparagraph (a), or the officer to whom the representations have been referred in accordance with subparagraph (b)(i), is not stationed at the same place as the staff member making the representations, the procedure laid down in subparagraph (1)(b),(c),(e) and (f) may be pursued by correspondence or through the agency of a local or other supervisor designated for the purpose by his/her Permanent Secretary of the relevant office/ministry/ agency, in which case the periods determined in subparagraph (1)(c),(e) and (f) may be extended to a maximum of ten working days in each case.
- (3) (a) If the staff member's complaint cannot be disposed of to his/her satisfaction in accordance with the procedure laid down in subparagraphs (1) and (2) or within the periods specified therein, he/she may make written representations about the matter to the designated officer contemplated in subparagraph (2)(a)
- (b) Written representations shall contain the following information:
- (i) Name and rank of the staff member
- (ii) Full details of reasons for this/her dissatisfaction or discontent.
- (iii) Steps already taken to dispose of the complain and the outcome.
- (iv) Statements by other persons or other evidence, if any, in sport of the contention of the staff members concerned.
- (c) Within ten working days of receiving the written representations, the designated officer contemplated in subparagraph (2)(a) shall submit such representations together with any comments, explanations, statements or evidence that may be required, via the aggrieved staff member's head of office or division and Permanent Secretary of the relevant office/ministry/agency to the Under Secretary: Department of Public Service Management
- (d) (i) On receipt of the representations the Under Secretary: Department of Public Service Management shall within ten working days and in writing, notify the staff member making the representations that an investigation is being conducted regarding his/her complaint, given the names of three officers not involved in the matter relative to the representations, one of whom may be chosen by the staff member and who will be designated by the Under Secretary: Department Public Service Management to conduct the investigation.
- (ii) The staff member shall exercise his/her right of choice within ten working days of receiving the notification and shall notify the Under Secretary: Department Public Service Management in writing.
- (iii) If the staff member fails to do so, the Under Secretary: Department Public Service Management may designates any one of the three officers mentioned in the notification to conduct the investigation.

- (iv) If, after being designated, the investigating officer becomes incapacitated or for some reason is unable to proceed with the investigation, another officer may be designated (in the same manner set out above) to proceed with the investigation.
- (e)
 - (i) Upon being designated, the investigating officer shall begin or continue the investigation of the complaint within five working days and shall complete the investigation within a period to be specified by the Under Secretary: Department of Public Service Management who may extend such period.
 - (ii) The investigating officer shall be permitted to peruse relevant official documents and files and to obtain information necessary for the investigation from the staff member.
 - (iii) The investigating officers shall verbally or in writing request the staff member who has made the representations to indicate whether he/she wishes to furnish further information and may also, if necessary, obtain further information from him/her.
 - (iv) During the investigation the aggrieved staff member may, if he/she so desires, be assisted by an official of a staff association / union which is recognized by the Commission and of which the staff member is a member. While rendering assistance to an aggrieved staff member, such official of the staff association / union shall be regarded as being on official duty.
 - (v) The investigating officer shall keep detailed minutes of the investigation and of information obtained during the investigation.
 - (vi) After the investigating officer has thoroughly investigated the complaint, he/she shall record his/her findings and submit those together with the minutes of the investigation, evidence (if any) and his/her recommendations in the matter, to the Under Secretary: Department Public Service Management within the period determined by the latter in terms of subparagraph (e)(i)
- (e)
 - (i) Upon being designated, the investigating officer shall begin or continue the investigation of the complaint within five working days and shall complete the investigation within a period to be specified by the Under Secretary: Department of Public Service Management who may extend such period.
- (f)
 - (i) On receipt of the documents referred to in subparagraph (e)(vi), the Under Secretary: Department Public Service Management shall make a decision in regard to the representations without delay and advise the staff member who made the representations in writing.
 - (ii) If the Under Secretary: Department Public Service Management decided that the complaints, is without foundation or that for some reason the representations have to be rejected, the reasons for the decision shall be given to the staff member concerned in as much detail as possible and he/she shall be informed of his/her right to demand that his/her representations be submitted to the Commission.
 - (iii) All documents and evidence relating to the investigation and the decision taken in the matter shall be retained in a separate appendix to the staff member's personal file.
- (4)
 - (a) If a staff member's complaint cannot be disposed of to his/her satisfaction by following the procedures laid down in subparagraph (3), he/she may within ten working days of receipt of the notification referred to in subparagraph (3)(f)(i), require, in terms of Regulation A6.1, that all the documents relating to the complaint be submitted to the Commission. Such a requirement shall be submitted to the Under Secretary: Department Public Service Management through official channels within ten working days.
 - (b) Within ten working days of receiving the request the Under Secretary: Department Public Service Management shall forward all the files and documents referred to in subparagraph (3)(f)(iii) to the Commission and advise the staff member in writing that this has been done.

- (c) The Commission shall –
- (i) Consider the said files and documents and if it is deemed expedient designate in terms of section (8)(2) of the Public Service Commission Act, 1990 one of its members or an officer to investigate the matter within a period to be specified by the Commission, who may extend such period; and
 - (ii) Advise the Permanent Secretary of the relevant office/ministry/agency and the staff member who has made the complaint accordingly through the official channels.
- (d) (i) The investigating officer thus designated, how shall have the powers contemplated in section 8(7) of the Public Service Act, 1980, shall commence his/her investigation within five working days of his/her being informed of his/her designation and shall complete his/her investigation within the period determined by the Commission in terms of subparagraph (c)(i). If the investigating officer becomes incapacitated for some reason or if he/she is not available to complete the investigation, the Commission shall, within ten working days of being informed thereof, designate another member or officer to proceed with the investigation.
- (ii) If necessary the investigation officer shall obtain further verbal or written information from the aggrieved staff member.
 - (iii) The investigation officer shall keep detailed minutes of the investigation and of information obtained during the investigation.
 - (iv) After the investigating officer has thoroughly investigated the complaint, he/she shall record his/her findings and submit those, together with the minutes of the investigation, evidence (if any) and his/her recommendations on the matter to the Commission within the period determined by the Commission in terms of subparagraph (c)(i)
- (e) On receipt of the documents referred to in subparagraph (b) and if further investigation has been ordered in terms of subparagraph (c)(i), the documents mentioned in subparagraph (d)(iv), the Commission shall –
- (i) consider the representations and make a recommendation in terms of section 6(a)(b) of the Public Service Act, 1980, or
 - (ii) Refer the matter to the investigating officer for further investigation.
- (5) (a) The provisions of section 7 of the Act shall apply to the recommendation made by the Commission in terms of subparagraph (4).
- (b) After the Cabinet has taken a decision on the recommendation made by the Commission in terms of subparagraph (4), the Under Secretary: Department Public Service Management shall advise the aggrieved staff member accordingly through the official channels

5. **PROCEDURE FOR DEALING WITH GRIEVANCES OF STAFF MEMBERS IN CASES WHERE THE COMMISSION HAS MADE A RECOMMENDATION IN THIS MATTER**

- (1) (a) If, as a result of a decision taken on the recommendation of the Commission, a staff member has sound and legitimate reasons for dissatisfaction or discontent he/she may, with due regard to the official channels contemplated in Refutation A6. submit representations in writing to the Commission. Such representations shall be submitted through the official channels to the Under Secretary: Department Public Service Management within ten working days of the date of receipt of the decision.
- (b) The written representations shall contain the following information:
- (i) Full name, rank station and post occupied.

- (ii) Full details of the reasons for the dissatisfaction or discontent. Allegations shall, where possible, be supported by reference to specific instances, persons, incidents, etc.
 - (iii) Statements by other person or other evidence, if any, which support the staff member's contention.
- (c) Within ten working days of receipt of such representations the Under Secretary: Department Public Service Management shall submit them to the Commission together with –
- (i) his/her comments on the representations and

Statements, documents or files relating to the representations which may enable the Commission to judge the case on its merit.
- (d) If the Under Secretary: Department Public Service Management is unable to submit all the documents within the prescribed period, he/she shall submit the available documents and ask the Commission for an extension of time for the submission of the remainder. The Under Secretary: Department Public Service Management shall notify the staff member concerned of such extension if it is granted for a period in excess of ten working days.
- (e) Immediately the representations and all the documents are received by the commission, the Commission shall institute an enquiry into the representations in such manner as it may decide.
- (f) If the Commission decides that an investigation by an investigating officer is necessary, is shall –
- (i) in terms of section 8(2) of the Public Service Commission Act, 1990, designate one of its members or an officer who is not attached to the division which dealt with the case when the original recommendation was made or an officer of another office/ministry/agency to investigate the matter; and
 - (ii) advise the Permanent Secretary of the relevant office/ministry/agency and the aggrieved staff member accordingly through official channels.
- (g) The provisions of paragraph 5(4)(d) shall *mutatis mutandis* apply to such an investigation.
- (h) The Commission shall consider the representations with due regard to the documents referred to in subparagraph (a) and (b) and if an investigating officer was appointed, the documents referred to in paragraph 5(4)(d)(iv), and shall –
- (i) make a recommendation in terms of section 6(3)(b) of the Public Service Act, 1980 and advise the aggrieved staff member through the official channels that such a recommendation has been made in the matter ; or
 - (ii) refer the matter to the investigating officer for further investigation.
- (2) (a) The provisions of section 7 of the Public Service Act, 1980, shall apply to the recommendation made by the commission in terms of subparagraph 1.
- (b) After the Cabinet has made a decision of the recommendation of the Commission in terms of subparagraph (1), the Under Secretary: Department Public Service Management shall advise the aggrieved staff member accordingly through the official channels
6. The respective investigation officers referred to in paragraph 4(3)(d)(iv) and 4(4)(d)(i), and consequently paragraph 5(1)(g), who have to proceed with investigations if the investigating officer originally designated becomes incapacitated for some reason or if they are not available to complete the investigation, must fully acquaint themselves with all relevant facts, information and representations, and must recall witnesses who have, for example, already testified orally to testify again.