MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 30th May, 1994

G.S.R. 480(E).--In exercise of the powers conferred by Section 156 of Indo-Tibetan Border Police Force Act, 1992 (35 of 1992), the Central Government hereby makes the following rules namely:--

CHAPTER I
PRELIMINARY

1. **Short title, commencement and application**.--(1) These rules may be called the Indo-Tibetan Border Police Force Rules, 1994.

(3) These rules shall apply to all persons subject to the Act.

2. **Definitions**.--In these rules, unless the context otherwise requires:--

(a) "Act" means the Indo-Tibetan Border Police Force Act, 1992 (35 of 1992) ;

(b) "Appendix" means an Appendix annexed to these rules,

(c)"Appointment" means appointment of a person to the Force and includes enrolment,

(d) "Commandant" means a person appointed by the Central Government as a Commandant (Non Selection Grade) or Commandant (Selection Grade) to the Force under section 5.

(e) "Court" means the Force Court,

(f) "Detachment" includes any part of a battalion or a unit of the Force required or ordered to proceed on duty away from headquarters;

(g) "Force authority" when used in relation to any power, duty, act or matter, means such Force authority as, in pursuance of these rules exercises, or performs that power or duty or is concerned with that matter;

(h) "Section" means a section of the Act;

(i) "All other words and expressions used in these rules and not defined but defined in the Act, shall have the same meaning as respectively assigned to them in the Act.

3. **Reports and applications**.--Any report or application required to be made under these rules to a superior authority, or to a Force authority shall be made in writing through proper channel unless the said authority on account of exigencies of service or otherwise, dispenses with the writing.

4. **Forms in appendices**. -- (l) The forms set forth in the appendices, with such variations as the circumstances of each case may require, may be used for the respective purposes therein mentioned, and if used shall be sufficient, but a deviation from such Forms shall not, by reason only of such deviation, render invalid any charge, warrant, order, proceedings or any other document relevant to these rules.

2) Any omission of any such Form shall not, by reason only of such omission render any act or thing invalid.

(3) The directions in the notes to and the instructions in the form shall be duly complied with in all cases to which they relate but any omission to comply with any such direction in the notes or instructions shall not, merely by reason of such omission, render any act or thing invalid.

5. **Exercise of power vested in holder of an office in the Force**.--Any power or jurisdiction given to any person holding any office in the Force to any act or thing to, or before, any person, may, for the purposes of these rules, be, exercise by any other person who may, for the time being, be performing the functions of that office in accordance with the *rules* and practice of the Indo-Tibetan Border Police Force.

6. **Case unprovided for**.--In regard to any matter not specifically provided for in these rules, it shall be lawful for the competent authority to do such thing or take such action as he may deem fit in accordance with exigencies and circumstances of the Case.

CHAPTER II
ORGANISATION

7. **Constitution of the Force**.--(1) The Indo-Tibetan Border Police Force shall consist of :--

(a) Indo-Tibetan Border Police Force (Regular) (b) Indo-Tibetan Border Police Force (Auxiliary)

(2) Officers, subordinate officers and enrolled persons appointed to or enrolled into the Indo-Tibetan Border Police Force (Regular) shall be liable for continuous service for the term mentioned in their enrolment form, letter of appointment or in the rules made in this behalf.

(3) Officers, subordinate officers and enrolled person appointed to or enrolled into the Indo-Tibetan Border Police Force (Auxiliary) shall serve as and when they are called out for service by the Director General with the consent of the Central Government or for training under the orders of the Director General.

8. **The task of the Force and Command and Control thereto**.--(l) For the purpose of sub-section (1) of section 4, the Force shall :

(i) safeguard the security of borders of India and promote sense of security among the people living in border areas;

(ii) prevent trans-border crimes, smuggling, unauthorised entry into or exit from the territory of India and any other illegal activity;

(iii) provide security to sensitive installations, banks, persons of security risk;

(iv) restore and preserve order in any area in the event of disturbance therein.

(2) In discharging the functions under sub-rule (1), the responsibility for the command, discipline, administration, morale and training shall,--

(a) in the case of Additional Director-General extend to all battalions; units, headquarters, establishments and Force Personnel placed under him and within the area that may be assigned to him;

(b) in the case of Inspector-General extend to all battalions, units, headquarters, establishments and the Force Personnel placed under him and within the area that may be assigned to him ;

c) in the case of Deputy Inspector General and Additional Deputy Inspector General extend to battalions, units and other personnel placed under him and within the area that may be assigned to him;

(d) in the case of Commandant extend to the battalion or unit placed under him and within the area assigned to him.

(3) During hostilities, the Inspector General, the Deputy Inspector General, Additional Deputy Inspector General and the Commandant shall discharge such functions as may be assigned by their respective superiors.

(4) The command, discipline, administration, morale and training of battalion, units and establishment not placed under an Additional Deputy Inspector General, Deputy Inspector General or an Inspector General shall be carried out by such officers and in such manner as may be laid down by the Director General from time to time.

(5) Any member of the Force shall be liable to perform any duties in connection with the task of the Force mentioned in rule 8(1), the administration, discipline, training and welfare of the Force and such other duties as he may be called upon to perform in accordance with any law for the time being in force. Any order given in this behalf by a superior officer shall be a lawful command for the purpose of the Act.

9. **Command**.-- (l) An officer appointed to command shall have the power of command over all officers and men, irrespective of seniority placed under his command.

(2) (a) In the contingency of an officer being unable to exercise the command, to which he has been appointed, due to any reason, the command shall devolve on the second-in-command, if one has been so appointed.

(b) If no second-in-command has been appointed, it shall devolve on the officer who may be appointed to officiate by the immediate superior of the officer unable to exercise command. (c) If no such officer has been so appointed, command shall devolve on the senior most officer present.

(d) The inability of an officer to exercise command and its assumption by any other officer in accordance with this sub-rule shall be immediately reported to the next higher authority by the officer who has assumed such command.

(3) If persons belonging to different units are working together :--

(i) in regard to the specific task on which they are engaged, the officer appointed to command or in his absence the senior most officer present shall exercise command over all such persons,

(ii) in all other matters the senior officer belonging to each unit shall exercise command over persons belonging to his unit.

(4) When officers and other persons belonging to the Force are taken prisoner by an enemy the existing relations of superior and subordinate and the duty of obedience shall remain unaltered and any person guilty of indiscipline or insubordination in this behalf shall, after his release, be liable for punishment.

(5) Subject to the provisions of the Act, disciplinary powers over a person subject to the Act shall be exercised by the Officer not below the rank of Commandant of the battalion or unit to which such a person belongs or the officer on whom command has devolved in accordance with sub-rule (2).

(6) Where such a person is doing detachment duty, including attendance at a course of instruction an officer not below the rank of Commandant of the unit, centre or establishment with which he is doing such duty shall also have all the disciplinary powers of a Commandant.

(7) The Director-General the Additional Director General, the Inspector General, the Deputy Inspector General and the Additional Deputy Inspector General may specify one or more officers of the staff who shall exercise the powers of the Commandant respectively in respect of persons belonging to or doing detachment duty at his Headquarters.

(8) The Director General may also specify officers who shall exercise the disciplinary powers of an Inspector General, and Deputy Inspector General or Additional Deputy Inspector General respectively in respect of persons belonging to or doing detachment duty at his Headquarters.

(9) An Inspector General may specify an officer who shall exercise the disciplinary powers of a Deputy Inspector General or Additional Deputy Inspector General in respect of persons belonging to or doing detachment duty at his Headquarters.

Explanation.--In sub-rules (1*),* (2) officer and an under officer.

and (3) word "officer" shall include a subordinate

CHAPTER III
RECRUITMENT

10. **Ineligibility.**--(l) No person, who has more than one wife living or who having a spouse living marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse, shall be eligible for appointment, enrolment, or employment in the Force.

(2) Any person subject to the Act, who contracts or enters into a second marriage during the life time of his first spouse shall render himself ineligible for retention in service and may be dismissed, removed or retired from service on ground of unsuitability:

Provided that the Central Government may, if satisfied that there are sufficient grounds for so ordering, exempt any person from the operation of this rule.

11. **Ineligibility of aliens**.--No person who is not a citizen of India shall, except with the consent of the Central Government signified in writing, be appointed, enrolled or employed in the Force:

Provided that nothing contained in this rule shall bar the appointment or employment of a subject of Nepal or Bhutan in the Force.

12. **Appointment of officers**.--The Central Government may appoint such persons as it considers to be suitable as officers in the Force in the following manner, and their conditions of service shall be such as may be provided in the rules made in this behalf by the Central Government:

(a) by direct recruitment ;

(b) by transfer on deputation from the All India Services. Defence Forces, any other armed forces of the Union, State Police, any other department of the Central Government or of the State Government or autonomous bodies ;

(c)by promotion as may be prescribed from time to time ;

(d) by transfer ;

(e) by re-employment.

13. **Appointment of Subordinate Officers and Enrolled Persons**:--Appointment to the posts of Subedar-Majors or Subedars may be made by the Inspector-General of Sub-Inspectors by the Deputy Inspector-General. or Additional Deputy Inspector General, and of enrolled persons by the Commandant or any other officer of the Force who may be appointed as enrolling officer by the Director General, respectively in the following manner and their conditions of service shall be such as may be provided in the rules by the Central Government in this behalf:

(a) by direct recruitment ;

(b) by transfer on deputation from the Defence Forces, any other armed forces of the Union, State Police, any other department of the Central Government or of the State Government or autonomous bodies;

(c)By promotion as may be prescribed from time to time;

(d) By transfer;

(e) By re-employment.

14. **Probation**.--(l) A person appointed through direct recruitment as an officer, subordinate officer, or enrolled person shall be on probation for a period of two years.

(2) The Central Government in the case of officers and the authority prescribed in rule 13 in the case of subordinate officers and enrolled persons may, for the reasons to be recorded in writing, extend the period of probation for such further period or periods not exceeding two years or may during the period of probation, terminate his services without assigning any reasons.

(3) The provision of sub-rules (1) and (2) shall also be applicable to a person on his initial promotion as an officer. Persons who do not complete the period of probation satisfactorily are liable to be reverted to their former rank.

15. **Procedure for enrolment, mode of enrolment and other matters connected therewith**.--(1) Before a Force is enrolled as a member of the Force, the Commandant of a unit or any other officer who may be detained as an Enrolling Officer by the Director General, shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of service of the post to which he is to be enrolled and shall put to him the questions contained in the form of enrolment as set out in Appendix I and shall, after having cautioned him that if he makes a false answer to any such question he shall be liable to punishment under the Act, record or cause to be recorded his answer to each such question.

(2) If, after complying with the provisions of sub-rule (1) and such other directions as may be issued in his behalf by the Director General from time to time, the enrolling officer is satisfied that the person desirous of being enrolled, fully understands the questions put to him and consents to the condition of service, and if the said officer is satisfied that there is no impediment, he shall sign and shall also cause such person to sign the enrolment form and such person shall thereupon be deemed to be enrolled.

(3) (a)Every person enrolled as a member of the Force under sub-rule (2) shall be administered an oath or affirmation in the form set out in Appendix I.

(b)The oath or affirmation shall as far as possible be administered by an officer not below the rank of Commandant or an officer authorised in writing by such officer in this behalf.

(c)The oath or affirmation shall be administered when the person to be attested has completed his training.

16. **Liability of Service**.-(1) All Officers are liable for service with any other Armed Force of the Union as may be directed by the Government. In selecting officers for such service preference may be given to volunteers but if the requisite number of suitable volunteers is not forthcoming Officers may be sent on transfer on deputation or detailed otherwise as considered necessary, by the Central Government.

(2) The provisions of this rule shall apply to and in relation to subordinate officers and enrolled persons as they apply to and in relation to any officer of the Force and the powers vested in the Central Government under sub-rule (1) shall be exercised by the Director General.

CHAPTER IV
TERMINATION OF SERVICE

17. **Termination of service**.-Authorities specified in the headings of columns 3 to 6 of the Table given below shall be competent to dismiss, remove, discharge, retire or release a member of the Force specified in the columns, on the grounds stated in the corresponding entries in column 2, in accordance with the procedure laid down in this chapter. Any power conferred by this rule or any

provision of this chapter on any of the aforesaid authorities may also be exercise by any other authority superior to it.

Provided that the provisions of this chapter shall not apply to the persons on deputation with the Force.

TABLE

SI. No	Grounds on which service can be terminated.	Central Government	Inspector General.	DIG/ADIG	Commandan t
1	2	3	4	5	6
(i)	Misconduct	Officers	Sub-Major & Subedar/Inspector	Sub-Inspector.	Enrolled Person
(ii)	Unsuitability	Officers	Sub-Major & Subedar/Inspector	Sub-Inspector.	Enrolled Person.
(iii)	Unsatisfactory progress in training.	Officers	Sub-Major & Subedar/Inspector	Sub-Inspector.	Enrolled Person.
(iv)	Furnishing False/Wrong information at the time of appointment.	Officers	Sub-Major & Subedar/Inspector	Sub-Inspector.	Enrolled Person.
(v)	Physical unfitness	Officers	Sub-Major & Subedar/Inspector	Sub-Inspector	Enrolled Person
(vi)	On own request	Officers	Sub-Major & Subedar/Inspector	Sub-Inspector	Enrolled Person

18. **Termination of service of officers by the Central Government on account of mis-conduct**.--(1) When it is proposed to terminate the service of an officer under section 10 on account of mis-conduct, he shall be given an opportunity to show cause in the manner specified in sub-rule (2) against such action:

Provided that this sub-rule (1) shall not apply :--

(a)where the service is terminated on the ground of conduct which has led to his conviction by a criminal court or a Force court; or

(b)where the Central Government is satisfied that for reasons to be recorded in writing, it is not expedient or reasonably practicable to give to the officer an opportunity of showing cause.

(2) When After considering the reports on an officer's misconduct, the Central Government or the Director General is satisfied that the trial of the officer by a Force Court is in expedient or impracticable, but is of the opinion, that the further retention of the said officer in the service is undesirable, the Director General shall so inform the officer together with particulars of allegations and report of investigation (including the statement of witnesses, if any, recorded and copies of documents, if any, intended to be used against him) in cases where allegations have been investigated and he shall be called upon to submit in writing, his explanation and defence:

Provided that the Director General may withhold disclosure of such report or portion thereof if, in his opinion, its disclosure is not in the interest of the security of the State.

(3) In the event of the explanation of the Officer being considered unsatisfactory by the Director General, or when so directed by the Central Government, the case shall be submitted to the Central Government with the Officer's defence and the recommendation of the Director General as to the termination of the Officer's service in the manner specified in sub-rule (4).

(4) When submitting a case to the Central Government under the provisions of sub-rule (2) or sub-rule (3), the Director-General shall make his recommendation whether the officer's service should be terminated, and if so, whether the officer should be :--

(a) dismissed from the service; or

(b) removed from the service; or

(c) retired from the service; or

(d) called upon to resign;

(5) The Central Government, After considering the reports and the officer's defence, if any, or the judgment of the criminal court, as the case may be, and the recommendation of the Director General, may remove or dismiss the officer or retire or get his resignation from service, and on his refusing to do so, the officer may be compulsorily retired or removed from the service.

19. **Termination of service of Officers by the Central Government on grounds of un-suitability.**--(l) When the Director General is satisfied that an officer is unsuitable to be retained in service, the officer--

(a) shall be so informed;

(b) shall be furnished with the particulars of all matters adverse to him; and

(c) shall be called upon to urge any reasons he may wish to put forward in favour of his retention in the service :

Provided that clauses (a), (b) and (c) shall not apply, if the Central Government is satisfied that for reasons, to be recorded by it in writing, it is not expedient or reasonably practicable to comply with the provisions thereof:

Provided further that the Director-General may not furnish to the officer any matter adverse to him, if in his opinion, it is not in the interest of the security of the State to do so.

(2) In the event of the explanation being considered by the Director General unsatisfactory, the matter shall be submitted to the Central Government for orders, together with the officer's explanation and the recommendation of the Director General.

(3) The Central Government after considering the reports, the explanation, if any, of the officer and the recommendation of the Director General, may call upon the officer to retire or resign and on his refusing to do so, the officer may be compulsorily retired from the service.

20. **Termination of service of persons, other than officers on account of misconduct**.-(I) When it is proposed to terminate the service of a person subject to the Act other than an officer, he shall be given an opportunity by the authority competent to dismiss or remove him to show cause in the manner specified in sub-rule (2) against such action:

Provided that this sub-rule shall not apply :--

(a) where the service is terminated on the ground of conduct which has led to his conviction by a criminal court or a Force Court: or

(b) where the authority as specified in rule 17 is satisfied that, for reasons to be recorded in

writing, it is not expedient or reasonably practicable to give the person concerned an opportunity of showing cause.

(2) When After considering the reports on the misconduct of the person concerned, the authority as specified in rule 17 is satisfied that the trial of such a person by the Force Court is inexpedient or impracticable, but is of the opinion, that his further retention in the service is undesirable, it shall so inform him together with all reports adverse to him and he shall be called upon to submit, in writing, his explanation and defence:

Provided that the authority as specified in rule 17 may withhold from disclosure any such report or portion thereof, if in his opinion, its disclosure is not in the interest of security of the state.

(3) The authority as specified in rule 17 after considering his explanation and defence, if any, or the judgment of the criminal court, as the case may be, may dismiss or remove him from the service.

(4) All cases of dismissal or removal, under this rule, shall be reported to the Director General.

21. **Discharge from service on grounds of unsatisfactory progress in training**.--When it is proposed to discharge a person subject to the Act from service on account of unsatisfactory progress in training, the Commanding Officer of training establishment where the person is undergoing training, shall make recommendation for suitable action to the Commanding Officer of the Battalion/Unit to which such person belongs for his discharge from service.

(2) In all cases of recommendations for discharge of a person, the Commanding Officer of the training establishment shall establish clearly the fact that the person has been given suitable warning and sufficient time to show progress, documentary evidence to this effect shall accompany the recommendation.

(3) The Central Government or as the case may be the authority as specified in rule 17, on receipt of recommendation under sub-rule (1), may discharge or release the person concerned from the service.

22. **Termination of service on grounds of furnishing false/ incorrect information at the time of appointment**.— The Central Government, or as the case may be, the authority as specified in rule 17, may terminate the service of a person subject to the Act on grounds of furnishing false/incorrect information at the time of appointment of that person in the service. A show cause notice giving one month's time shall be issued to the individual before termination of his service.

23. **Retirement/discharge/release of officers on grounds of physical unfitness**.--(1) Where an officer not below the rank of Additional Deputy Inspector General considers that an officer of the Force is unfit *to* perform his duties because of his physical condition, the officer shall be brought before a medical board.

(2) The medical board shall consist of such officers and shall be constituted in such manner as may, from time to time, be laid down by the Director General.

(3) Where the medical board considers the officer to be unfit for service the Central Government shall, if it agrees with the findings of the Medical Board, communicate to the said officer the findings of the medical board and thereupon, within a period of thirty days of such communication, the officer may make a representation against it to the Central Government supported by a prima-facie evidence of error of judgment in the opinion expressed by the medical board. Such an evidence should be from a government doctor not below the status of civil surgeon and should contain specific

mention that he has taken into consideration the finding of the medical board before giving his opinion.

(4) The Central Government may, on receiving the representation from the officer, refer the case to be reviewed by a fresh medical board constituted for the purpose and order the retirement/discharge/release of the said officer if the decision of the fresh medical board is adverse to him.

24. **Termination of service of subordinate officers by the authorities as specified in rule 17 on the grounds of unsuitability**.--Where a Commanding Officer not below the rank of Commandant is satisfied that a Subordinate Officer is unsuitable to be retained in service, the subordinate officer shall be--

(a) so informed ;

(b) furnished with the particulars of all matters adverse *to* him ; and

(c) Called upon to urge any reasons he may wish to put forward in favour of his retention in the service:

Provided that clauses (a), (b) and (c) shall not apply, if the authority as specified in rule 17, is satisfied that for reasons to be recorded by it in writing, if is not expedient or reasonably practicable to comply with the provisions thereof :

Provided further that such competent authority may not furnish to the subordinate officer any matter adverse to him, if in his opinion, it is not in the interest of the security of the state to do so.

(2) In the event of the explanation being considered by the Commanding Officer not below the rank of Commandant unsatisfactory, the matter shall be submitted to the authority as specified in rule 17 for orders together with the subordinate officer's explanation and the recommendation of such Commanding Officer.

(3) The authority as prescribed in rule 17 after considering the report and the explanation, if any, of the subordinate officer and the recommendations of the Commanding Officer not below the rank of Commandant, may call upon the subordinate officer to retire or resign and on, his refusing to do so, the subordinate officer may be compulsorily retired or discharged from the service.

25. **Termination of service of enrolled (persons on the grounds of unsuitability**.--Where a Commanding Officer not below the rank of Commandant is satisfied that an enrolled person is unsuitable to be retained in the Force, the enrolled person shall be--

(a) so informed ;

(b) furnished with the particulars of all matter adverse to him ; and

(c) called upon to urge any reasons he may wish to put forward in favour of his retention in the service;

Provided that clauses (a) (b), and (c) shall not apply, if the Commanding Officer not below the rank of Commandant is satisfied that for reasons to be recorded by it in writing, it is not expedient or reasonably practicable to comply with the provisions thereof;

Provided further that such competent authority may not furnish to the enrolled person any matter adverse to him, if in his , it is not in the interest of the security of the state to do so.

(2) After considering the explanation, if any, the Commanding Officer not below the rank of Commandant, may call upon the enrolled person to retire or resign and on his refusing to do so, the enrolled person may be compulsorily retired or discharged from the service.

26. **Retirement / discharge of subordinate officers and enrolled persons on grounds of physical unfitness**.--(1) Where a Commanding Officer not below the rank of Commandant is satisfied that a subordinate officer or an enrolled person is unable to perform his duties by reason of any physical disability, he may direct that the said subordinate officer or enrolled person, as the case may be, be brought before a Medical Board.

(2) The Medical Board shall consist of such officers and shall be constituted in such manner as may, from time to time, be laid down by the Director General.

(3) Where the said subordinate officer or the enrolled person is found by the Medical Board to be unfit for further service in the Force, as the case may be, the authority as specified in rule 17, if he agrees with the finding of the Medical Board, communicate to the said person the findings of the Medical Board and thereupon, within a period of 30 days of such communication, the person may make a representation against it to the competent authority supported by a prima-facie evidence of error of judgement in the opinion expressed by the Medical Board. Such an evidence should be from a government doctor not below the status of Civil Surgeon and should contain specing mention that he has taken into consideration the findings of the Medical Board before giving his opinion.

(4) Where the person declared to be unfit for further service makes a representation under sub-rule (3) the same shall be awarded to the next superior officer, who shall have the case referred to be reviewed by a fresh Medical Board, which shall be constituted in such manner as may

from time to time, be laid down by the Director General.

The superior officer may, having regard to the findings of the fresh Medical Board, pass such order as he may deem fit.

(5) Where no representation is made against the decision of the Medical Board under sub-rule (3), the authority as specified in rule 17, as the case may be, may (if he agrees with the findings of the Medical Board) order the retirement/discharge of person declared to be unfit for further service in the Force.

27. **Resignation**.--(l) The Central Government may, having regard to the special circumstances of any case, permit any officer of the Force to resign from the Force before the attainment of the age of retirements or before putting in such number of years of service as may be prescribed by the government.

Provided that while granting such permission the Central Government may require the officer to refund to the Government 3 months pay and allowances or the cost of training given to that officer, whichever is more.[1&2]

(2) The Central Government may accept the resignation under sub-rule (1) with effect from such date as it may consider expedient.

(3) The Central Government may refuse to permit an officer to resign,-

(a) if an emergency has been declared in the country either due to internal disturbance or external aggression; or

(b) if it considers it to be inexpedient so to do in the interest of the discipline of the Force; or

(c) if the officer has specifically undertaken to serve for a specified period and such period has not expired.

(4) The provisions of this rule shall apply to and in relation to subordinate officers and enrolled persons as they apply to and in relation to any officer of the Force and the powers vested in the Central Government under sub-rule (1) and (2) shall be exercised in the case of a Subedar-Major and

Subedar /Inspector by an Inspector General, in the case of a Sub-Inspector by an officer not below the rank of Additional Deputy Inspector General, and in the case of an enrolled person by a Commandant.

28. **Appeal against orders of dismissal, removal or retirement**.--A person subject to the Act other than an officer who has been dismissed, removed or compulsorily retired from service, shall have the right to put in an appeal against the termination of his service to any of the authority, higher than the one who has passed the termination order within ninety days of the termination of service.

(2) In the case of officers, appeal shall lie to the Central Government and such appeal shall be filed within ninety days of the termination of service.

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[1] **New Delhi, Wednesday, October 11, 1995 *vide* notification No. G.S.R. 681 (E). Dated 11 October, 1995**

2.New Delhi, Monday, May 13, 1996 *vide* notification No. G.S.R. 206 (E). Dated 13 May, 1996.

(3) Where the appellate authority sets aside the order of dismissal, removal or retirement under this rule, such authority shall pass such orders as may be necessary in respect of the period of absence from duty of the person whose dismissal. removal or retirement has been set aside:

29. (1) **Date of dismissal, removal, discharge or retirement**.--The effective date of dismissal, removal. discharge, retirement shall be :--

(a) the date mentioned in the order of dismissal or removal or discharge or retirement, or

(b) if no such date is mentioned, the date on which the person concerned is relieved from duties.

(2) The dismissal, removal, discharge or retirement of a person subject to the Act shall not be from retrospective effect.

CHAPTER V
ARREST AND SUSPENSION

30. Forms of arrest.--(1) Arrest may be either open or close arrest.

(2) An arrest, unless otherwise specified, shall mean an open arrest.

(3) An order imposing arrest may be communicated to the person to be arrested either orally or in writing,

31. Authority to order arrest.--(1) No person subject to the Act shall be arrested on a charge under the Act except under and in accordance with the orders of a superior officer having power of command over him.

(2) Notwithstanding anything contained in sub-rule (1) any person subject to the Act may be placed under arrest by any superior officer:

(a) if he commits an offence against such superior officer; or

(b) if he commits an offence in the view of such superior officer, or

(c) if he is behaving in a disorderly manner and the said superior officer considers it necessary to place such a person under arrest with a view to stop such disorderly behaviour.

(3) A superior officer effecting arrest under sub-rule (2) shall as soon as possible, and in any case within twenty four hours of such arrest send a report to the Commanding Officer of the battalion or unit of which the person arrested is a member and in case of the arrest of an officer of and above the rank of Commandant, to his immediate superior officer.

32. **Arrest, how imposed**.--(A) **Close arrest**.--(l) (a) Close arrest in the case of enrolled persons shall be imposed by informing the person to be arrested and ordering him to be marched to the place of confinement under an escort of person of similar of superior rank.

(b) Where no such escort is available the person arrested shall be ordered to report himself immediately to the quarter guard or other place of confinement.

(2)(a) Close arrest in the case of officers, subordinate officers and under officers, shall be imposed by placing such officer, subordinate officer or under officer under the custody of another person of similar or superior rank and wherever considered necessary such officer, subordinate officer, or under officer may be confine under charge of a guard.

(b) The person under arrest shall not leave the place of his confinement without permission of his Commanding officer or a superior officer designated by the Commanding Officer in this behalf.

(B) Open arrest.--(3) (a) Open arrest shall be imposed by informing the person to be arrested that he is under open arrest and that he shall confine himself within such limits as may be specified in this behalf by the concerned superior officer effecting such arrest.

(b) The Commanding Officer may, from time to time, vary the limits referred to in clause (a) above.

33. **Release from arrest during investigation**.--(l) Any person arrested under rule 31 may be released from arrest under the order of an officer:

Provided that in case of a person placed under arrest by an officer, such person shall be released from arrest under the order of an officer superior to the officer ordering arrest.

34. **Release without prejudice to re-arrest**.--Pending the completion of the investigation or convening of a Court, any person, who has been placed under arrest, may without prejudice to re-arrest be released by his Commanding Officer or by any officer superior to such Commanding Officer.

35. Arrest, when to be imposed.--(1) Any person charged with:

(i) an offence under section 16 or clause (a) or clause (b) of section 18 or section 19 or section 22 or subsection (1) of section 23.

(ii) a civil offence punishable with death or imprisonment for life;

(iii) any other offence under the Act:--

(a) if the interest of discipline so require, or

(b) if the person concerned deliberately undermines discipline, or

(c) if the person concerned is of violent disposition; or

(d) if the person concerned is likely to absent himself with a view to avoid trial; or

(e) if the person concerned is likely to interfere with witnesses or tamper with evidence;

shall be placed under arrest.

(2) Where any person arrested shows symptoms of sickness, medical assistance shall be provided for such person.

36. **Special provision in case of arrest of a drunken person**.--(1) Where a drunken person has been arrested, he shall, as far as possible, be confined separately and shall be visited by duty officer or duty subordinate officer or duty under officer or under officer in-charge of the guard, once every two hours.

(2) A drunken person shall not be taken before a superior officer for investigation of his case until he has become sober.

37. Arrest in case of persons whose trial has been ordered.--(1) Unless the convening officer has otherwise directed, on the commencement of the trial of a person by the Court, the said person shall be placed under arrest by his commanding Officer and shall remain under arrest during the trial.

(2) Where a sentence lower than that of imprisonment is passed by a Court, the arrested person may be released by his Commanding Officer pending confirmation of the finding and sentence:

Provided that the convening officer may rescind, vary or modify the order passed by a Commanding Officer under sub-rule (1) or sub-rule (2) and where no such order is passed by a commanding Officer, the convening officer may pass such order as it may deem proper:

Provided further that a person who has been sentenced to be dismissed shall not, except while on active duty, be put on any duty.

38. **Delay Report**.--(1) (a) The report on reason for delay as required under section 71 of the Act shall be in the Form set out in Appendix II and it shall be sent by the Commanding Officer to the Deputy Inspector General or Additional Deputy Inspector General under whom the accused may be serving.

(b) A copy of the eighth delay report and every succeeding report thereof shall also be sent to the Inspector General under whom the accused may be serving.

(2) Where the accused is kept under arrest for a period exceeding three months without being brought to trial, a special report regarding the action taken and the reasons for the delay shall be sent by the Commanding Officer to the Director General with a copy each to the Deputy Inspector General or Additional Deputy Inspector General and the Inspector General concerned.

39. Rights of a person under arrest.--(1) (a) Any person placed under arrest shall, at the time of being placed under arrest, be given in writing by the officer effecting the arrest of the particulars of the charges against him.

(b) Notwithstanding anything contained in clause (a), where during the investigation other offences committed by the accused are discovered, it shall be lawful to charge such person with those offences.

(2) (a) The duty officer or duty subordinate officer shall every day make a visit to the person under arrest and take the orders of the Commanding Officer on any request or representation made by the person under arrest.

(b) The request or representation made by the person under arrest shall be entered in the Form set out in Appendix III.

40. Suspension.--(1) Notwithstanding anything contained in these rules the appointing authority may, at its discretion, place a person serving under him, under suspension:--

(i) where disciplinary action under the Act against him is contemplated or is pending; or

(ii) where in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or

(iii) where a case against him in respect of any civil offence is under investigation, inquiry or trial.

(2) A person subject to the Act shall be deemed to have been placed under suspension by an order of the appointing authority:--

(i) with effect from the date of his detention by civil police on a criminal charge or otherwise for a period exceeding 48 hours, or

(ii) with effect from the date of his conviction by a criminal court on a criminal charge, if the sentence awarded is imprisonment for a term exceeding 48 hours.

(3) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(4) An order of suspension made or deemed to have been made under this rule, may, at any time, be modified or revoked, by the authority which made the order or by any authority to which that authority is subordinate.

(5) During the period of suspension powers vested in a person shall be in abeyance, but he shall be subject to same responsibilities, discipline, penalties and all other conditions of service to which he would have been subject if he were on duty and cannot leave headquarters declared by the competent authority without prior permission.

(6) When a person remains under suspension for more than 90 days, a report giving reasons for delay in the finalization of his case shall be submitted to the Director General by the Commanding Officer of the accused, and thereafter, subsequent reports shall be submitted every month till the case is finalized or the order of suspension is revoked, whichever is earlier.

6(i) The order of suspension made or deemed to have been made under sub-rule(1) or sub-rule(2) shall be reviewed by the authority competent to modify or revoke the suspension, before expiry of ninety days from the date of order of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension.

(ii) The Second or subsequent reviews shall be made before expiry of the extended period of suspension which shall not exceed one hundred and eighty days at a time.

(iii)The review committee shall consist of such officers and shall be constituted in such manner as may, from time to time, be laid down by the Director General." [2]

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[2] **Foot Note- The principal rules were published in the Gazette of India, Extraordinary vide number G.S.R 480(E), dated the 30th May, 1994 and subsequently amended vide notification number G.S.R 681(E), Dated the 11th October, 1995, G.S.R 206(E) dated the 13th May, 1996 and G.S.R 731 (E), dated the 5th November, 2004**

2.New Delhi, Friday, 30 November, 2012 *vide* notification No. G.S.R. 857 (E). Dated 7th November, 2012.

CHAPTER VI

CHOICE OF JURISDICTION BETWEEN FORCE COURT AND CRIMINAL COURT

41. **Trial of cases either by Force Court or Criminal Court**.--(l) Where an offence is triable both by a criminal court and a Force Court, an officer referred to in section 92 may,

(i) (a) where the offence is committed by the accused in the course of the performance of his duty as a member of the Force; or

(b) where the offence is committed in relation to property belonging to the Government or the Force, or a person subject to the Act; or

(c) where the offence is committed against a person subject to the Act,

direct that any person subject to the Act who is alleged to have committed such an offence, be tried

by a Force Court; and

(ii) in any other case, decide whether or not it would be necessary in the interests of discipline to claim for trial by a Force Court any person subject to the such an offence.

Act who is alleged to have committed

(2) In taking a decision to claim an offender for trial by a Force Court an officer referred to in section 92 may take into account all or any of the following factors, namely:

(a)the offender is on active duty or has been warned for active duty and it is felt that he is trying to avoid such duty;

(b) the offender is a young person undergoing training and the offence is not a serious one and the trial of the offender by a criminal court would materially affect his training ;

(c) he offender can, in view of the nature of the case, be dealt with summarily under the Act.

42. Cases which may not be tried by Force Court- Without prejudice to the provisions of sub-rule (1) of rule 41, an offender may not normally be claimed for trial by a Force Court:--

(a) where the offence is committed by him along with any other person not subject to the Act whose identity is known; or

(b) where the offence is committed by him while on leave or during absence without leave.

CHAPTER VII
INVESTIGATION AND SUMMARY DISPOSAL

43. **Statement of allegations**.--Where it is alleged that a person subject to the Act has committed an offence punishable under the Act, the allegation shall be reduced to writing in the Form set out in Appendix IV in the case of persons of and below the rank of Head Constable and in the Form set out in Appendix V in the case of officers and subordinate officers.

44. **Hearing by an officer not below the rank of Assistant Commandant.--(**l) (a) In the case of a person, subject to the Act, other than an officer and a subordinate officer, the case may, in the first instance, be heard by an officer not below the rank of Assistant Commandant;

(b) the witnesses shall be heard in the presence of the accused who shall have the right to cross examine them;

(c) the accused shall have the right to call witnesses in defence and to make a statement,

(2) After hearing the accused under sub-rule (1), such officer may award any punishment which he is empowered to award, or dismiss the charge when the charge is not proved, or refer the case for disposal by the Commanding Officer:

Provided that he shall not dispose of the case which has been reserved by the Commanding Officer for disposal by himself or if the accused is under close arrest.

45. **Hearing by the Commanding Officer**.--(1) The Commanding Officer of and above the rank of Commandant may hear the charge against the persons under his command in accordance with the provisions of sub-rule (1) of rule 44 and may;

(i) award any punishment which he is empowered to award in respect of persons of and below the rank of Head Constable, or

(ii) dismiss the charge; or

(iii) remand the case for preparing a record of evidence or an abstract of evidence against the accused; or

(iv) in the case of an accused of and below the rank of a Head-Constable remand the accused for trial by Summary Farce Court;

Provided that:

(a) in the case of an officer, the evidence of witnesses demands;

shall be reduced to writing if he so

(b) the Commanding Officer shall dismiss the charge, if in his opinion, the charge is not proved or may dismiss it if he considers that because of the previous character of the accused and the nature of the charge against him, it is not advisable to proceed further with it. In case of an officer, he shall record reasons for dismissing the charge;

(c) Where a case in respect of an officer has been referred to the Commanding Officer by a superior authority for initiation of disciplinary action, the Commanding Officer shall not dismiss the charge without reference to such authority;

(d) in case of all offences punishable with death, a record of evidence shall be prepared.

(2) Where the Commanding Officer is of the opinion that the charge against an officer or a subordinate officer is of a serious nature, he may, without hearing the charge in accordance with the provisions of sub-rule (1), straightaway order a record of evidence or an abstract of evidence to be prepared in the case.

(3) Where the Commanding Officer is of the opinion that the charge against an officer or a subordinate officer does not deserve to be dismissed, and the charge is also not so serious as may warrant trial by a Force Court, he may, in the case of a subordinate officer, either dispose of the

case himself or refer it to the appropriate authority for disposal under the provisions of section 58. In the case of an officer, he may refer the case to the appropriate authority for summary disposal under the provisions of section 58.

(4) Where disciplinary action is intended to be taken against a Commanding Officer of a battalion or a unit, or a headquarters, such officer shall be removed from the command of the battalion, the unit, or the headquarters, as the case may be, and for the purpose, shall be attached to or posted to a battalion, unit or a headquarters under the command of an officer senior to the officer to be so attached or posted.

46. **Procedure for summary disposal of charge against officers.--(**l) Where an Officer is remanded for the summary disposal of a charge against him, he shall be provided sub-stance of evidence available against him or a copy of the record or abstract of evidence, if prepared, alongwith a copy of the charge-sheet as soon as practicable and in any case not less than 24 hours before the commencement of the proceedings.

(2) The officer dealing with the case under section 58 shall, unless the accused has consented in writing to dispense with the attendance of witnesses, hear the evidence in the presence of the accused who shall have the right to cross examine witnesses. The accused shall have the right to call any witness and make a statement in his defence.

(3) Proceedings shall be recorded as far as practicable in accordance with the Form in Appendix XIV, and in every case in which the punishment is awarded, the proceedings along with substance of evidence or record or abstract of evidence, as the case may be, shall be forwarded to the next higher authority through the Judge Attorney-General or any officer authorised by him who may, if the punishment awarded appears to him to be illegal, unjust, excessive or inadequate, vary or remit the

punishment or set aside the proceedings or enhance the punishment, or make such other directions as may be appropriate in the circumstances of the case:

Provided that before enhancing the punishment the accused shall be given an opportunity to show cause why his punishment should not be enhanced.

(4) An officer who considers himself aggrieved by any decision given under this rule, may submit one petition through his Commanding Officer, within one month of the disposal of the case, to the Director General who may pass such order or direction as may be appropriate in the circumstances of the case.

47. **Summary disposal of charges against subordinate officer**.--(I) Where a subordinate officer is charged with an offence under the Act, he shall be dealt with by the authority empowered under section 58 in the same manner as nearly as circumstances admit, as provided in rule 46.

(2) Proceedings shall be recorded as soon as practicable in accordance with the Form in Appendix XIV and in every case in which the punishment is awarded, the proceedings along with substance of evidence or record or abstract of evidence, as the case may be, shall be forwarded to the next higher authority through the Judge Attorney-General or any officer authorised by him who may, if the punishment awarded appears to him to be illegal, unjust, excessive or inadequate vary or remit the punishment or set-aside the proceedings or enhance the punishment or make such other directions as may be appropriate in the circumstances of the case:

Provided that before enhancing the punishment the accused shall be given an opportunity to show cause why his punishment should not be enhanced.

(3) A subordinate officer who considers himself aggrieved by any decision given under this rule, may submit one petition through his Commanding Officer, within one month of the disposal of the case, to the authority superior to the one who awarded the punishment, and such authority may pass such order or direction as may be appropriate in the circumstances of the case

48. **Attachment to another unit--**The Commanding officer shall not deal with any case:

(i) where the offence with which the accused is charged is against the Commanding officer himself, or

(ii) where the Commanding Officer is himself a witness in the case against the accused, or

(iii) where the Commanding Officer is otherwise personally interested in the case.

The accused shall be attached to another battalion or unit or a headquarter for disposal of the case under the order of the competent authority:

Provided that a Commanding Officer shall not be disqualified from hearing a charge merely because the offence was committed against the property of a Force mess, band or institution of which the Commanding Officer is a member or trustee or because the offence is one of disobedience of such Commanding Officer's orders.

49. **Charges not to be dealt with summarily**:--A charge for an offence under section 16 or clause (a) and (b) of section 18 or section 19 or clause (a) of sub-section (l) of section 20 or clause (a) of section 22 or clause (a) of section 27 or section 49 (other than that for simple hurt or theft) or a charge for abetment of or an attempt to commit any of these offences, shall not be dealt with summarily.

50. **Record of evidence**.--(1) The Commanding Officer may either prepare the record of evidence himself or detail another officer to do so.

(2) The witnesses shall give their evidence in the presence of the accused and the accused shall have right to cross examine all witnesses who give evidence against him.

(3) After all the witnesses against the accused have been examined, he shall be cautioned in the following terms; "You may make a statement if you wish to do so, you are not bound to make one and whatever you state shall be taken down in writing and may be used in evidence". After having been cautioned in the aforesaid manner whatever the accused states shall be taken down in writing.

(4) The accused may call witnesses in defence and the officer according the Evidence may ask any question that may be necessary to clarify the evidence given by such witnesses.

(5) All witnesses shall give evidence on oath or affirmation :

Provided that no oath or affirmation shall be given to the accused nor shall he be cross-examined.

(6)(a) The statements given by witnesses shall ordinarily be recorded in narrative form and the officer recording the evidence may, at the request of the accused, permit any portion of the evidence to be recorded in the form of question and answer.

(b) The witnesses shall sign their statements after the same have been read over and explained to them.

(7) The provisions of section 101 shall apply for procuring the attendance of witnesses before the officer preparing the record of evidence. Witnesses shall be summoned as per Forms given in Appendix XV.

(8) Where a witness cannot be compelled to attend or is not available or his attendance cannot be procured without anundue wastage of time or expenditure of money and after the officer recording the evidence has given a certificate in this behalf, a written statement signed by such witness may be read to the accused and included in the record of evidence.

(9) After the recording of evidence is completed the officer recording the evidence shall give a certificate in the following Form:--

Certified that the record of evidence ordered by..... was made in the presence and hearing of the accused and the provisions of rule 50 have been complied with.

(10) No counsel or legal practitioner shall be permitted appear before the officer making the record of evidence.

51. Abstract of evidence.--(1) An abstract of evidence shall be prepared either by the Commanding officer or an officer detailed by him.

(2) (a) The abstract of evidence, shall include:

(i) signed statements of witnesses wherever available or a precis thereof, and

(ii) copies of all documents intended to be produced at the trial.

(b) Where signed statements of any witnesses are not available, a precis of the evidence that the witnesses are likely to give shall be included.

(3) A copy of the abstract of evidence shall be given by the officer making the same available to the accused and the accused shall be given an opportunity to make a statement if he so desires after he has been cautioned in the manner laid down in sub-rule (3) of rule 50.

Provided that the accused shall be given such time as may be reasonable in the circumstances but in no case less than twenty four hours after receiving the abstract of evidence to make his statement.

52. **Investigation of cases by Police**.--Where the commanding officer considers it necessary so to do, he may lodge a report with the Police for investigation of any case.

53. **Disposal of case by Commanding Officer after record or abstract of evidence**.--(l) Where an officer has been detailed to prepare the record of evidence or to make an abstract thereof he shall forward the same to the Commanding Officer.

(2) The Commanding Officer may, after going through the record or abstract of evidence prepared by him or by another officer,--

(i) remand the case for recording additional evidence, if required; or

(ii) dismiss the charge provided that where disciplinary action has been initiated against an officer on a reference from a superior authority, the charge shall not be dismissed without reference to such an authority, or

(iii) rehear the charge and award one of the Summary /minor punishments; or

(iv) try the accused summarily under section 56 or by a Summary Force Court where he is empowered to do so; or

(v) remand the case for summary disposal by the competent authority in the case of an officer or a subordinate officer; or

(vi) apply to a competent officer or authority to convene a Court for the trial of the accused.

54. **Application for a Court**.--An application for a Court shall, as far as possible be made by the Commanding Officer in the Form set out in Appendix VI and shall be accompanied by five copies of the record or abstract of evidence and charge-sheet and such other documents as are mentioned in that application form.

CHAPTER VIII

ON CHARGES AND MATTERS ANTECEDENT TO TRIAL

55. **Charge-sheet**.--(1) A charge sheet shall contain the whole of the issue or issues to be tried one time and may contain more than one charge, if the charges are founded on the same facts or form part of a series of offences of same or similar character;

Provided that a charge under sections 20, 21, 32 and 35 may be included in any charge-sheet, notwithstanding that other charges in that charge-sheet are not founded on the same facts or do not form part of a series of offences of the same or similar character.

(2) Every charge sheet shall, as far as possible, be prepared as per Form set out in Appendix V.

56. **Charges**.--(1) There shall be a separate charge for each offence.

(2)(a) If a single act or series of acts is of such a nature that it is doubtful which of several offences, the facts which can be proved, will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once or he may be charged in the alternative with having committed some one of the said offences.

(b) The charge for the more serious offence shall precede the one for the less serious offence.

(3) Each charge shall consist of two parts, namely: (a)
statement of the offence, and

(b) particulars of the offence.

(4) The offence shall be stated, if not a civil offence, as nearly as practicable, in the words of the Act, and if a civil offence, in such words as would sufficient describe that offence.

(5) (a) The particulars shall state the time and place of the alleged offence and the person (if any) against whom, or the thing (if any), in respect of which it was committed and these should be sufficient to give the accused notice of the matter with which he is so charged.

(b) In case such particulars are not sufficient to give the accused notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the offence was committed as will be sufficient for that purpose.

57. **Joint Charges**.--(1) Any number of accused may be charged jointly and tried together for an offence averred to have been committed jointly by them.

(2) Any number of accused through not charged jointly may also be tried together for an offence averred to have been committed by one or more of them and abetted by other or others.

(3) Where the accused are so charged under sub-rule (l) or sub-rule (2), any one or more of them may be charged with, and tried for, any other offence with which they could have been charged under sub-rule (1) of rule 55.

58. **Validity of charge-sheet**.-A charge-sheet shall not be invalid merely by reasons of the fact that, it contains any mistake in the name or description of the accused, and in the construction of a charge sheet there shall be presumed in favour of supporting it every proposition which may reasonably be presumed to be impliedly, included, though not expressed therein, and the statement of the offence and the particulars of the offence shall be read and construed together.

59. **Amendment of the charge by the Force Court**.--(l) At any time during a trial, if it appears to the Court that there is in the charge-sheet;

(a) a mistake in the name or description of the accused, or

(b) a mistake which is attributable to a clerical error or omission;

the Court may amend the charge-sheet so as to correct the mistake.

(2) If at any time during a trial, at which there is a Judge Attorney, it appears to the Court, before it closes to deliberate on its findings, that it is desirable in the interest of justice to make any addition to, omission from or alteration in, a charge which cannot be made under sub-rule (1), it may, if such addition, omission, or alteration can be made without unfairness to the accused, and with the concurrence of the Judge Attorney, so amend the charge sheet.

(3) If at any time during a trial, at which there is no Judge Attorney, it appears to the Court, before it closes to deliberate on its findings, that in the interest of justice, it is desirable to make any addition to, omission from or alteration in a charge, which cannot be made under sub-rule (1), it may adjourn and report its opinion to the convening officer, who may : --

(a) amend the charge if permissible under rule 60 and direct the Court to try it as amended After due notice of the amendment has been given to the accused; or

(b) direct the Court to proceed with the trial of the (c) convene a fresh Court to try the accused.

charge without amending it; or

60. **Amendment of Charge by Convening Officer**.-When a Force Court reports to the convening officer either under rule 59 or rule 75 he may amend the charge in respect of which the Court has reported to him, by making any addition to, omission from or alteration in the charge which, in his opinion, is desirable in the interest of justice and which he is satisfied can be made without unfairness to the accused.

Convening of General and Petty Force Courts.

61. **Action by a Superior Authority on receiving an application for convening a Court**.--(1) As soon as a superior officer receives an application for convening a court, he shall scrutinize the charge and the evidence against the accused, where necessary, in consultation with the Judge Attorney General or an officer detailed for the purpose, by the Judge Attorney-General and he,

(i) shall direct the Commanding Officer to dismiss the charge where the evidence against the accused is insufficient and further evidence is not likely to be available and may direct him to do so if he considers it inadvisable to proceed with the trial; or

(ii) may return the case to the Commanding Officer for being tried by a Summary Force Court or being dealt with summarily if he considers that the same can be adequately so tried or dealt with; or

(iii) may dispose of the case administratively and if he is not competent to do so, may forward the case to higher authority with his recommendation; or

(iv) may return the case for recording further evidence, if he considers the evidence recorded insufficient but considers that further evidence may be available.

(2) (a) In any other case he may either himself convene a Court or if he considers that a higher type of Court should be convened and he is not empowered to convene such a Court, forward the case to a higher authority with recommendation that such, Court may be convened.

(b) The higher authority on receiving the case may exercise any of the powers given in sub-rule (1):

Provided that a superior officer or higher authority before convening a General Force Court or a Petty Force Court shall take the advice of the Judge Attorney-General or an officer detailed for the purpose of the Judge Attorney General:

Provided further that the superior authority or higher authority while convening a Court may reframe the charge sheet on which the accused is to be tried.

62. **Disqualification of officers for serving on General and Petty Force Cour**ts.--An Officer shall be disqualified from serving on a Court, if he;

(i) is an officer who convened the court; or

(ii) is the prosecutor or a witness for the prosecution; or

(iii) has taken any part in the investigation of the case, which would have necessitated applying is mind to any part of the evidence or to the facts of the case; or

(iv) is the Commanding Officer of the accused, Deputy Inspector General or the Additional Deputy Inspector General under whose command the unit in which the accused was serving at the time the alleged offence was committed; or

(v) has a personal interest in the case.

63. **Composition of General and Petty Force Courts**.--(1) A Court shall consist as far as practicable, of officers of different units.

(2) The members of a Court for the trial of an officer shall be of a rank not lower than the rank of that officer, unless in the opinion of the convening officer, officers of such rank are not, having due regard to the exigencies of public service, available. Such opinion shall be recorded in the convening order.

64. **Duties of convening officer when convening courts,-- When an officer convenes a Court he shall:--**

(a) issue a convening order in the appropriate Form set out in Appendix-VII;

(b)direct upon what charges the accused is to be tried and ensure that the accused has been remanded , trial by a Court upon these charges, by his commanding Officer;

(c) if he is of the opinion that charges shall be put in separate charge sheets, so direct and shall also direct the order in which they are to be tried;

(d) direct, if there is more than one accused whether the accused are to be tried jointly or separately;

(e)appoint members of the Court and any waiting members;

(f)If convening a General Force Court, or a Petty Force Court which he considers should be attended by a Judge Attorney, take action the necessary steps to procure the appointment of Judge Attorney by or on behalf of the Judge Attorney-General and may also appoint an officer to be under his instructions at the trial;

(g)appoint an officer, subject to the Act or a counsel assigned by such an officer to prosecute:

Provided that the convening officer may appoint more than one such officer or counsel to prosecute if he thinks fit;

(h) appoint an interpreter wherever necessary;

(i)send to the senior member the charge-sheet, the convening order and a copy of the record or abstract of evidence from when any evidence which in his opinion would be inadmissible at the trial, has been expurgated;

(j) forward to each member of the Court and to each waiting member a copy of charge sheet and the convening order;

(k)forward to the prosecutor copies of the charge-sheet and convening order and the original record or abstract of evidence together with an unexpurgated copy thereof showing the passages (if any) which have been expurgated in the copy sent to the senior member;

(1) forward to the Judge Attorney (if any) copies of the charge sheet and convening order and an unexpurgated copy of the record or abstract of evidence showing the passages (if any) which have been expurgated in the copy sent to the senior member;

(m) ensure that the Commanding Officer has summoned all the prosecution witnesses and such defence witnesses as the accused may have requested to be summoned under rule 66.

65**. Preparation of defence by the accused--(l**) An accused, who has been remanded for trial, shall be afforded proper opportunity for preparing his defence and shall be allowed proper communication with his defending officer or counsel and with his witnesses.

(2) A defending officer, as far as possible of the choice of the accused, shall be appointed to defend an accused who has been remanded for trial unless the accused states in writing that he does not wish such an appointment to be made.

(3) If the prosecution is to be undertaken by a legally qualified officer or by a counsel the accused shall be notified of this fact in sufficient time to enable him, if he so desires, to make arrangements for a legally qualified officer or counsel to defend him.

(4) As soon as practicable After a decision has been taken to place the accused on trial and in any case not less than four days before his trial he shall be given:

(a) a copy of the charge-sheet;

(b) an unexpurgated copy of the record or abstract of evidence showing the passages (if any) within, which have been expurgated in the copy sent to the senior member;

(c) notice of any additional evidence which the prosecution intends to adduce; and

(d) if the accused so requires, a list of the ranks, names, and units of the members who are to form the Court and of any waiting members.

(5) When an accused is given a copy of the charge-sheet and of the record or abstract of evidence in accordance with this rule, he shall:

(a) have the charge explained to him; and

(b) be informed that, upon his making a written request to his Commanding Officer not less than twenty four hours before his trial requiring the attendance at his trial of a witness (other than a witness for the prosecution) whom he desires to call in his defence (such witness to be named by him), reasonable steps will be taken in accordance with these rules to procure the attendance of any such witness at his trial.

(6) The provisions of sub-rules (2) and (3) shall not apply in relation to a trial before a Summary Force Court and in relation to such a trial the period of four days referred to in sub-rule (4) shall be construed as twenty four hours.

(66) **Summoning of Defence Witnesses**.--(l) Subject to the provisions of sub-rules (2) and (3), the Commanding Officer shall, on a request made in this behalf by the accused, summon such witnesses as are specified by the accused.

(2) Where the Commanding Officer is satisfied that the evidence to be given by any witness is not likely to be of material assistance at the trial, he may refuse to summon such witness and while doing so shall record in writing the reasons for not calling the witness.

(3) The Commanding Officer may, before summoning any witness, require the accused to defray or undertake to defray the cost of attendance of such witness and if the accused refuses to defray or undertake to defray the cost aforesaid, the Commanding Officer may refuse to procure the attendance of that witness.

(4) Where the Commanding Officer has refused to summon the witness under sub-rule (2) or sub-rule (3), the accused may make an application to the Court for the summoning of such witness and the Court may, if it considers it to be expedient in the interests or justice, order the summoning of such witness and, if necessary, adjourn the proceedings for the attendance of such witness. For summoning witnesses, summons as per Form given in appendix XV shall be issued.

CHAPTER IX

PROCEDURE FOR GENERAL AND PETTY FORCE COURTS

67. Assembly and swearing of Court.--(l) Upon a Force Court assembling, the Court shall, before beginning the trial, satisfy itself in closed Court:-

(a)that the Court has been convened in accordance with the Act and these rules;

(b) that the Court consists of not less than the minimum number of officers required by law;

(c) that the members are of the required rank;

(d) that the members have been duly appointed and are not disqualified under the Act;

(e) that if there is a Judge Attorney, he has been duly appointed:

(f) that the accused appears, from the charge-sheet, to be subject to the Act and to be subject to the jurisdiction of the Court (and)

(g) that each charge is correct in law and framed in accordance with these rules.

(2)(a) Where a vacancy occurs through a member of the Court being disqualified under the Act, or being absent when the Court assembles, the presiding officer may appoint a duly Qualified waiting member to fill that vacancy.

(2) (a) Where a vacancy occurs through a member of the so require, substitute a duly qualified waiting member for a member appointed by the convening officer.

(3) If the Court is not satisfied on any of the matters mentioned in sub-rule (1) and is not competent to rectify such matter itself under the Act or these rules, if shall, before commencing the trial, report thereon to the convening officer.

(4) When the Court has complied with this rule and is ready to proceed with the trial, the presiding officer shall open the Court and the trial shall begin.

68. Commencement of Trial--(1) The order convening the Court and the names of the officers appointed to try the accused shall be read in the hearing of the accused who shall be given an opportunity to object to any of those officers in accordance with the provisions of section 96.

(2) When a Court is to try more than one accused whether separately or jointly, each accused shall be given an opportunity to object to any officer on the Court in accordance with sub rule (1) and shall be asked separately whether he has any such objection.

(3) An accused shall state the names of all the officers to whom he objects before any objection is disposed of.

(4) If more than one officer is objected to, the objection to each officer shall be disposed of separately and the objection to the lowest in rank shall be disposed of first.

(5) An accused may make a statement and call any person to make a statement in support of his objection.

(6) An officer to whom the accused has objected may state in open Court anything relevant to the objection of the accused whether in support or in rebuttal thereof.

(7) An objection to any officer shall be considered in closed Court by all the other officers on the Court and the officer objected to shall not be present at that time.

(8) When an objection to an officer is allowed under subsection (3) of section 96 that officer shall forthwith retire and take no further part in the proceedings.

(9) When an officer objected to retires and there is duly qualified waiting member in attendance, the presiding officer shall immediately appoint him to take the place of the officer who has retired.

(l0) The Court shall satisfy itself that a waiting member who takes the place of a member of the Court is of the required rank and not disqualified under the Act and shall give the accused an opportunity to object to him and shall deal with any such objection in accordance with the Act and these rules.

(11) If as the result of the allowing of an objection to a member there are insufficient officers available to form a Court in compliance with the provisions of the Act, the Court shall report to the

convening officer without proceeding further with the trial and the convening officer may either appoint an officer as a member to fill the vacancy or convene a fresh Court to try the accused.

69. **Swearing or affirming of members**.--As soon as the Court is constituted with the proper number of officers who are not objected to or objections in respect of whom have been overruled on oath or affirmation shall be administered to every member in presence of the accused in one of the following Forms or in such other form to the same purport as the Court ascertains to be according to his religion or otherwise binding on his conscience.

FORM OF OATH

I,. . . . . swear by Almighty God that I will, well and truly, try the accused (or accused persons), before the Court, according to the evidence, and that I will, duly administer justice, in accordance with the provisions of the Indo-Tibetan Border Police Force Act, 1992 without partiality, favour or affection; and I do further swear that I will not, on any account, at any time, whatsoever, disclose or discover, the vote or opinion of any particular member of the Court unless required to give evidence thereof by a court of law.

FORM OF AFFIRMATION

I, ... do, solemnly, sincerely and truly, declare and affirm that I will, well and truly, try the accused (or accused persons), before the Court according to the evidence, and that I will, duly administer justice in accordance with the provisions of the Indo-Tibetan Border Police Force Act, 1992, without partiality, favour or affection; and I do further solemnly, sincerely and truly declare and affirm that I will not, on any account, at any time, whatsoever, disclose or discover, the vote or opinion of any particular member of this Court unless required to give evidence thereof by a Court of Law.

70. Swearing or affirmation of Judge Attorney and other officers.--After the members of the Court are all sworn or have made affirmation, on oath or affirmation, shall be administered to the following persons or such of them as are present at the Court in such of the following Forms as shall be appropriate, or in such other Form to the same purport as the Court ascertains to be according to the religion or otherwise binding on the conscience of the person to be sworn or affirmed.

JUDGE ATTORNEY

FORM OF OATH

I,---------- swear by Almighty God that I will, to the best of my ability, carry out the duties of Judge Attorney, in accordance with the provisions of the Indo-Tibetan Border Police Force Act, 1992 and the rules made thereunder without partiality, favour or affection, and I do further swear that I will not, on any account, at any time, whatsoever, disclose or discover the vote or opinion on any matter of any particular member of this Court, unless required to give evidence thereof by a Court of Law.

FORM OF AFFIRMATION

I, ---------- do hereby, solemnly, sincerely and truly declare and affirm that 1 will, to the best of my ability, carry out the duties of Judge Attorney in accordance with the provisions of the Indo-Tibetan Border Police Force Act, 1992 and the rules made thereunder without partiality, favour or affection, and I do further solemnly, sincerely and truly declare and affirm, that I will not, on any account, at any time, whatsoever, disclose or discover the vote or opinion, on any matter of any particular member of this Court, unless required to give evidence thereof by a Court of Law.

(B) OFFICER ATTENDING FOR THE PURPOSE OF INSTRUCTION

FORM OF OATH

1, …….. swear by Almighty God that I will not on any account, at any time, whatsoever, disclose or discover the vote or opinion of any particular member of this Court unless required to give evidence thereof by a Court of Law.

FORM OF AFFIRMATION

I,…… do solemnly, sincerely and truly declare and affirm that I will not on any account, at any time, whatsoever, disclose or discover the vote or opinion of any particular member of this Court unless required to give evidence thereof by a Court of Law.

(C) SHORTHAND WRITER

FORM OF OATH

I, ... , - swear by Almighty God that I will truly take down to the best of my power, the evidence to be given before this Court and such other matters as I may be required to take down and will, when required, deliver to the Court a true transcript of the same.

FORM OF AFFIRMATION

I, ... do solemnly, sincerely and truly declare and affirm, that I will truly take down to the best of my power the evidence to be given before this Court and such other matters as I may be required to take down and will, when required. deliver to the Court a true transcript of the same.

(D) INTERPRETER

FORM OF OATH

I, ...swear by Almighty God that I will faithfully, interpret and translate, as I shall be required to do, touching the matter before this Court.

FORM OF AFFIRMATION

I, ... do solemnly, sincerely and truly declare and affirm that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this Court.

71. **Objection to Interpreter or Shorthand Writer**.--A person shall not be sworn or affirmed as an interpreter or shorthand writer, if he is objected to by the accused unless the Court, after hearing the accused and the prosecutor, disallows such objections as being unreasonable.

72. **Objection to Judge Attorney and Prosecutor**.-The accused shall not be permitted to object to the Judge Attorney or the prosecutor.

73. **Arraignment-**(l) When the Court and the Judge Attorney (if any) have been sworn, the charge will be read to the accused and he shall be asked whether he pleads guilty or not guilty to the charge or charges.

(2) If there is more than one charge against the accused he shall be required to plead separately to each charge.

(3) If there is more than one change-sheet against the accused before the Court, the Court shall proceed with the charges in the first of such charge-sheets and shall announce its finding thereon and if the accused has pleaded guilty, comply with rule 80, before it arraigns him upon the charges in any subsequent charge-sheet.

74. **Plea to Jurisdiction**.-(1) The accused, before pleading to the charge, may offer a plea regarding the jurisdiction of the Court, and in such a case--

(a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto: and

(b)the prosecutor may address the Court in answer to the plea and the accused may reply to the prosecutor's address.

(2) If the Court allows the plea it shall adjourn and report to the convening officer.

(3) When the Court reports to the convening officer under this rule, the convening officer shall :--

(a)if he approves the decision of the Court to allow the plea, dissolve the Court;

(b) if he disapproves the decision of the Court;

either :--

(i) refer the matter back to the Court and direct them to proceed with the trial; or

(ii) convene a fresh Court to try the accused.

75. **Objection to the charge**.--(1) An accused before pleading may object to the charge framed against him on the grounds that it is not correct in law or is not framed in accordance with the provisions of these rules. If he does so, the prosecutor may address the Court in answer to the objection and the accused may reply to the prosecutor's address.

(2) If the Court upholds the objection, it shall either amend the charge-sheet in accordance with the provisions of rule 59 or adjourn and report to the convening officer:

Provided that if there is another charge or another charge-sheet before the Court, the Court may, before adjourning proceed with the trial of the accused for such other charge or other charge-sheet.

(3) When the Court reports to the convening officer undersub-rule (2) the convening officer shall :-

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(a) if he approves the decision of the Court to allow the objection :--

(i) dissolve the Court; or

(ii) where there is another charge or another charge-sheet before the Court which the Court has not tried, direct the Court to proceed with the trial or such other charge or charge-sheet only ; or

(iii) amend the charge to which the objection relates in accordance with the provisions of rule 60, and direct the Court to try the accused accordingly;

(b) if he disapproves the decision of the Court to allow the objection :--

(i) direct the Court to try the accused for the charge; or

(ii) where there is another charge or another charge sheet before the Court to which the objection does not relate and which the Court has not tried, direct the Court to proceed with the trial of the accused for such other charge or charge-sheet only ; or

(iii) convene a fresh Court to try the accused.

76. **Plea in bar of trial.--(**1) An accused before pleading to charge may offer a plea that the trial is barred under section 87 or section 88. If he does so :--

(a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto, and

(b) the prosecutor may address the Court in answer to the plea and the accused may reply to the prosecutor's address.

(2) If the Court allows the plea it shall adjourn and report to the convening officer:

Provided that if there is another charge or another charge-sheet before the Court, the Court may, before adjourning under this rule, proceed with the trial of the accused for such other charge or other charge, sheet.

(3) When a Court reports to the convening officer under this rule, the convening officer shall;

(a) if he approves the decision of the Court to allow the plea,

(i) dissolve the Court; or

(ii) where there is another charge or another charge-sheet before the Court to which the plea does not relate and which the Court has not tried may direct the Court to proceed with the trial of the accused for such other charge or charge sheet only.

(b) If he disapproves the decision of the Court to allow the plea.--

(i) direct the Court to try the accused for the charge; or

(ii) where there is another charge or another charge-sheet before the Court, to which the plea does not relate and which the Court has not tried, direct the Court to proceed with the trial of the accused for such other charge or charge-sheet only; or

(iii) convene a fresh Court to try the accused.

77. **Application for separate trial**-(1) Where two or more accused are charged joint]y, anyone of the accused may, before pleading to the charge, apply to the Court to be tried separately on the ground that he would he prejudiced in his defence if he were not tried separately.

(2) Where the accused makes such an application, the prosecutor may address the Court in answer thereto and the accused may reply to the prosecutor's address.

(3) Where the Court is of the opinion that the interests of justice so require it shall allow the application and try separately the accused who made it.

78. **Application for trial on separate charge-sheet**.--(l) Where a charge-sheet contains mare than one charge, the accused may, before pleading to the charges, apply to the Court to be tried separately an any charge in that charge-sheet on the ground that he would be prejudiced in his defence if he were not tried separately on that charge.

(2) Where the accused makes such an application, the prosecutor may address the Court in answer thereto and the accused may reply to the prosecutor's address.

(3) Where the Court is of the opinion that interests of justice so require, it shall allow the application and try the accused separately on the charge to which it relates as if that charge has been framed in a separate charge-sheet.

79. **Pleading to the charge**.--(l) After any plea under rules 74 and 76, any objection under rule 75 and any applications under rules 77 and 78 have been dealt with, the accused shall be required subject to sub-rule (2) to plead either guilty or not guilty to each charge on which he is arraigned.

(2) Where a Court is empowered by section 105 to find an accused guilty or an offence ether than that charged or guilty of committing the offence in circumstances involving a less degree of punishment or where it could After hearing the evidence, make a special finding of guilty, subject to exceptions or variations in accordance with rule 100, the accused may plead guilty to such other offence or to the offence charged as having been committed in circumstances involving a less degree of punishment or to the offence charged subject to such exceptions and variations.

80. **Acceptance of plea of guilty.-(**I) Where an accused pleads guilty to a charge under either sub-rule (1) or sub rule (2) of rule 79 the presiding officer or Judge Attorney shall, before the Court decides to accept the plea, explain to the accused the nature of the charge and the general effect of his plea and in particular to difference in procedure when an accused pleads guilty and when an accused pleads not guilty.

(2) The Court shall then cause the prosecutor to read the record or abstract of evidence to the Court or inform the Court of the facts contained therein:

Provided that if an expurgated copy of the record or abstract of evidence was sent to the presiding officer, the prosecutor shall not read to the Court these parts of the record or abstract of evidence which have been expurgated or inform the Court of the facts contained in those parts, and shall not hand ever the original record or abstract of evidence to the Court until the trial is concluded. Where there is no record or abstract of evidence, the Court shall record, in accordance with these rules sufficient evidence to enable it to determine the sentence.

(3) A Court shall not accept a plea of guilty under sub rule (1) or sub-rule (2) of rule 82, if--

(a) the Court is not satisfied that the accused under - stands the nature of the charge or the effect of his plea; or

(b) the presiding officer having regard to the evidence contained in the record of evidence or the abstract of evidence and all the circumstances, considers that the accused should plead not guilty; or

(c) the accused is liable, if convicted, to be sentenced to death.

(4) (a) In the case of a plea of guilty under rule 81, a Court shall not accept the plea unless the convening officer concurs and it is satisfied of the justice of such course.

(b) The concurrence of the convening officer may be signified by the prosecutor.

(5) When a plea of guilty under sub-rule (1) or sub rule (2) of rule 79 is not accepted by the Court or the accused either refuses to plead to the charge or does not plead to it intelligibility, the Court shall record a plea of not guilty.

(6) When a Court is satisfied that it can properly accept a plea of guilty under sub-rule (1) or sub-rule (2) of rule 79 It shall record a finding of guilty in respect thereof.

(7) After the Court has recorded its findings, it shall give an opportunity to the accused to adduce evidence of character and to make a statement in mitigation of punishment.

(8) If from the evidence adduced by the accused and his statement made under sub-rule (7) the Court is satisfied that the accused did not understand the effect of the plea of guilty, it should alter the record and enter a plea of not guilty and proceed with the trial accordingly.

(9) After sub-rule (7) has been complied with and the Court has decided to accept the plea of guilty. the Court shall proceed as directed in rule 102.

81. **Plea on alternative charge**.--(1) When an accused pleads guilty to the first of two or more alternative charges, the Court if *it* accepts the accused's plea of guilty, shall record a finding of guilty in respect of the first charge and the prosecutor shall withdraw any of the alternative charge before the accused is arraigned on it.

(2) When an accused pleads guilty to one of two or more charges which are laid in the alternative other than the first of such charges, the Court may,--

(a) proceed as if the accused had pleaded not guilty to all the charges; or

(b) (i) with concurrence of the convening officer (which may be signified by the prosecutor) record a finding of guilty on the charge to which the accused has pleaded guilty and a finding of not guilty on any alternative charge which is placed before it in the charge-sheet;

(ii) where the curt records such finding the prosecutor shall before he accused is arraigned an it withdraw any charge which is alternative to the charge of which the court has found the accused guilty and which is placed after it in the charge sheet.

82. **Order of trial where plea of guilty and not guilty**. (1) After the Court has recorded a finding of guilty, if there is no other charge in the same charge-sheet to which the accused has

pleaded not guilty and no other accused who has pleaded not guilty to a charge in that charge-sheet, it shall proceed with the trial as directed by rule 80.

(2) Where there is another charge in the charge-sheet which the accused has pleaded not guilty or there is another accused who has pleaded guilty to a charge-sheet in -that accused who has pleaded not guilty to a charge in that charge-sheet, the Court shall not comply with rule 80 until After it has dealt with such other charge or tried such other accused and has announced and recorded its finding in respect thereof.

83. **Change of plea.--(**1) An accused who has pleaded not guilty may at any time before the Court closes to deliberate on its finding withdraw his plea of not guilty and substitute a plea of guilty (including a plea of guilty under rule 81) and in such a case the Court shall, if it is satisfied that it can accept the accused's changed plea, record a finding in accordance with the accused's changed plea and se far as is necessary proceed as directed by rule 80.

(2) Where at any time during the trial it appears to the Court that an accused who has pleaded guilty does not understand the effect of his plea or the nature of the charge the Court shall enter a plea of not guilty and proceed with the trial accordingly.

(3) When the Court records a plea of not guilty in respect of any charge under sub-rule (2) it shall, if there was a charge laid in the alternative thereto which the, prosecutor withdrew under rule 81 reinstate such alternative charge, arraign the accused thereof and proceed with the trial as if it had never been withdrawn.

84. **Procedure on plea (s) of not guilty**.-After a plea of not guilty to any charge has seen recorded :--

(i) the court shall ask the accused whether he wishes to apply for an adjournment on the ground that any of these rules relating to procedure before trial have not been complied with and that he has been prejudiced thereby or on the ground that he has not sufficient opportunity for preparing his defence :

(ii) where the accused applies for an adjournment;

(a) the accused may adduce evidence in support of his application and the prosecutor may adduce evidence in answer thereto; and

(b) the prosecutor may address the Court in answer to the application and the accused may reply to the prosecutor's address;

(iii)the Court may grant an adjournment if it thinks the interests of justice so require.

85. **Opening address--(**1) The prosecutor may, if he so desires, and shall, if required by the Court, make an opening address explaining the charge and the nature and general effect of the evidence which he proposes to adduce.

(2) The witnesses for the prosecution shall then be called and give their evidence.

86. **Additional witness**.--Where the prosecutor intends to adduce evidence which is not contained in any record to abstract of evidence given to the accused, notice of such intention together with the

particulars of the evidence shall, when practicable, be given to the accused at a reasonable time before the evidence is adduced. If such evidence is adduced without such notice or particulars having been given, the Court may, If the accused so desires, either adjourn after receiving the evidence or allow any cross-examination arising out of that evidence to be postponed, and the Court shall inform the accused of his right to apply for such an adjournment or postponement.

87. **Dropping witnesses.--**The prosecutor shall not be bound to call all the witnesses against the accused whose evidence is contained in the record or abstract of evidence, nor a witness when he had notified the accused that he intends to call under rule 86, but if the prosecutor does not intend to call such witness to give evidence, he shall give the accused reasonable notice that he does not intend to call the witness and that the accused will be allowed to communicate with him and to call him as a witness and that the accused will be allowed to communicate with him and to call him as a witness for the defence, if he so desires.

88. **Withdrawal of witnesses.--**During a trial, a witness other than the prosecutor or accused shall not, except by leave of the Court, be in Court while not under examination, and if while he is under examination, a discussion arises as to whether a question is to be allowed or not with regard to his evidence the Court may direct the witness to withdraw during such discussion.

89. **Examination of witness**.--(l) A witness may be examined by the person calling him and may be cross-examined by the opposite party during the proceedings and on the conclusion of any such cross examination may be re-examined by the person who called him on matters arising cut of the cross-examination.

(2) (a) The person examining a witness shall put his questions to the witness orally and unless an objection is made by the witness, the Court, the Judge Attorney, the prosecutor or by the accused, the witness shall reply forthwith.

(b) Where such an objection is made, the witness shall not reply until the objection has been disposed of.

(3) The Court may allow the cross-examination or re-examination of a witness to be postponed.

(4) Before the examination of a witness, he shall be administered an oath or affirmation in the following Form or in such other form to the same purport as the Court ascertains to be in accordance with his religion or otherwise binding on his conscience.

FORM OF OATH

I, ... swear by Almighty God that whatever I shall state, shall be the truth, the whole truth and nothing but the truth.

FORM OF AFFIRMATION

I, ... do, solemnly, truly and sincerely declare and affirm that whatever I shall state, shall be the truth, the whole truth and nothing but the truth.

90. **Questioning by the Court.**--(1) The presiding officer, the Judge Attorney and any member of the court may put questions to a witness.

(2) Upon any such question being answered, the prosecutor and the accused may put to the witness such questions arising from the answer which he has given as seem proper to the Court.

91. **Reading over of evidence.--(**1) (a) The record which has been made of the evidence given by a witness shall be read back to him before he leaves the Court and when this is done he may ask for the record to be corrected or explain the evidence which he has given.

(b) Where any such correction is made or explanation given, the prosecutor and the accused may put such questions to the witness respecting the correction or explanation as seem proper to the Court.

(2) When a shorthand writer is employed it shall not be necessary to comply with sub rule (1), if, in the opinion of the Court and the Judge Attorney (if any), it is necessary to do so :

Provided that if any witness so demands, sub-rule (1) shall be complied with.

92. Calling or recalling witnesses by the Court.--(1) (a) The Court may at any time before it closes to deliberate in its finding or if there is Judge Attorney before he begins to sum up, call a witness or recall a witness, if in the opinion of the Court it is in the interest of justice to do so.

(b) Where the Court calls a witness or recalls a witness under this rule, the prosecutor and the accused may put such questions to the witness as seem proper to the Court.

(2) The prosecutor and the accused may, at any time before the Court closes to deliberate on its finding or if there is a Judge Attorney before he begins to sum up, recall a witness by leave of the Court and the prosecutor and the accused may put such questions to the witness as seem proper to the Court.

93. **Submission of no case to answer and stopping of cases**.—(1) (a) At the close of the case for the prosecution the accused may submit to the Court in respect of any charge that the prosecution has failed to established a prima facie case for him to answer and that he should not be called upon to make his defence to that charge.

(b) Where the accused makes such submission that prosecutor may address the Court in answer there to and the accused may reply to the prosecutor's address.

(2) The Court shall not allow the submission unless it is satisfied that,--

(a) the prosecution has not established a prima facie case on the charge as laid; and

(b) it is not open to it on the evidence to make a special finding under either section 105 or sub rule (4) of rule 100.

(3)(a) Where the Court allows the submission, it shall find the accused not guilty of the charge to which it relates and subject to confirmation the finding shall forthwith be announced in open Court.

(b) Where the Court disallows the submission it shall proceed with the trial of the offence as charged.

(4) The Court may, of its own motion, after the close of the hearing of the case of the prosecution, and after hearing the prosecutor find the accused not guilty of the charge and subject to confirmation the finding shall forthwith be announced in open Court.

94. **Case for the defence**--(1) After the close of the case for the prosecution, the presiding officer or the Judge Attorney (if any) shall explain to the accused that;

(a) if he wishes, he may give evidence on oath as a witness or make a statement without being sworn but that he is not obliged to do either;

(b) if he gives evidence on oath, he shall be liable to be cross-examined by the prosecutor and to be questioned by the Court.

(2) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of the trial, without previously warning the accused, put such questions to him as the Court considers necessary, and shall for the purpose aforesaid, question

him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such trial and put in evidence, for or against him in any other inquiry into or trial for, any other offence which such answers may tend to show he has committed.

(5) If the accused intends to call a witness to the facts of the case other than himself, he may make an opening address outlining the case for the defence before the evidence for the defence is given.

95. **Witnesses for defence**.--(1) After rule 94 has been complied with the witnesses for the defence (if any) shall be called to give their evidence.

(2) The provisions of rules 89, 90 and 91 shall apply to the witnesses for the defence as they apply to the evidence of witnesses for the prosecution.

96. **Witness in reply**.--After the witnesses for the defence have given their evidence, the prosecutor may by leave of the Court call a witness or recall a witness to give evidence on any matter raised by the accused in his defence which the prosecution could not properly have mentioned to the Court before the accused disclosed his defence or which the prosecution could not reasonably have foreseen.

97. **Closing address**.--(l) After all the evidence has been given the prosecutor and the accused may each make a closing address to the Court.

(2) The accused shall be entitled to make his closing address After the closing address by the prosecutor unless the accused has called a witness to facts other than himself, in which case the prosecutor shall be entitled, subject to sub rules (3) and (4) to make his closing address After the accused has made the closing address.

(3) Where two or more accused are tried jointly anyone of them who has called no witness shall be entitled to make his closing address after the prosecutor has made the closing address.

(4)(a) Where two or more accused are represented by the same defending officer or counsel he may make one closing address only.

(b) Where anyone of the accused for whom he appears has called no witness to facts other than himself such defending officer or counsel shall be entitled to make his closing address after the prosecutor has made the closing address.

98. **Summing up by Judge Attorney**.--After the closing address, if there is a Judge Attorney, he shall sum up the evidence and advise the Court on the law relating to the case in open Court

99. **Deliberation on finding.--(**l) The Court shall deliberate on its finding in closed Court in the presence of the Judge Attorney.

(2) The opinion of each member of the Court as to the finding shall be given by word of mouth on each charge separately starting with the junior most in rank.

100. **Record and announcement of finding**.--(l) The finding on every charge upon which the accused is arraigned shall be recorded and, except as provided in these rules, shall be recorded as finding of "Guilty" or of "Not Guilty":

Provided that the Court shall record brief reasons for such finding which shall be signed and dated by the Presiding Officer and the Judge Attorney, if any. 3

(2) Where the Court is of opinion as regards any charge that the facts proved do not disclose the offence charged or any offence of which he might under the Act legally he found guilty on the Charge as laid, the Court shall acquit the accused of that charge.

(3) if the Court has doubts as regards any charge whether the facts proved show the accused to be guilty of the charge as laid, it may, before recording a finding on that charge refer to the confirming authority for an opinion, setting out the facts which it finds *to* be proved and may, if necessary, adjourn for that purpose.

(4)Where the Court is of opinion as regards any charge that the facts which it finds to be proved in evidence differ materially from the facts alleged in the statement of particular in the charge but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, it may, instead of a findings of "Not Guilty". Record a special finding.

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[3] **Foot Note.- The principal rules were published *vide* G.S.R. No.480(E), dated the 30th May, 1994 in sub-section (i), Section 3, Part II of the Gazette of India and amended *vide* G.S.R. 681(E) dated the 11th October, 1995 and G.S.R. 206(E) dated the 13th May, 1996.**

2.New Delhi, Friday, 05 November, 2004 *vide* notification No. G.S.R. 731 (E). Dated 5th November, 2004.

(5) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variation specified therein.

(6) Where there are alternative charges and the facts proved appear to the Court not to constitute the offence mentioned in any of those alternative charges., the Court shall record a finding of "Not Guilty" on that charge.

(7) The Court shall not find the accused guilty on more than one of two or more charges laid in the alternative, even if conviction upon one charge necessarily connotes guilty upon the alternative charge or charges.

(8) If the Court thinks that the facts proved constitute one of the offences stated in two or more of the alternative charges, but doubts which of those offences the facts do at law constitute, if may, before recording a finding on those charges, refer to the confirming authority for an opinion, setting out the facts which it finds to be proved and stating that it doubts whether those facts constitute in law the offence stated in one or other of such charges and may, if necessary, adjourn for that purpose.

(9) The finding on each charges shall be announced forth. with in open Court as subject to confirmation.

101. **Procedure on acquittal**.--If the finding on all the charges is "Not Guilty" the presiding officer shall affix his signature and date on the finding and such signature shall authenticate the whole of the proceedings, and the proceedings upon being signed by the Judge Attorney (if any) shall be at once transmitted for confirmation.

102. **Procedure on conviction.--(1**) If the finding on any charge is "Guilty", then, for the guidance of the Court in determining its ,sentence, and of the confirming authority in considering the sentence, the Court, before deliberating on the sentence, shall, whenever possible, take evidence of and record the general Character, age, service, rank, any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by Farce Court or a Criminal Court, any previous punishment awarded to him by an Officer exercising authority under section 56 or section 58 as the case may be, the length of time he has been in arrest or in confinement on any previous sentence, and any decoration, or reward, of which he may be in possession or to which he is entitled.

(2) Evidence of the above matter may be given by a witness verifying a statement which contains a summary of the entries in the service book respecting the accused and identifying the accused as the person referred to in that summary.

(3) The accused may cross-examine any such witness and may call witnesses to rebut such evidence and if the accused so requests, the service book or a duly certified copy of the material entries therein, shall be produced and if the accused alleges that the summary is in any respect not in accordance with the service book or such certified copy, as the case may be, the Court shall compare the summary with the service book or with copy of the material entries and if it finds that it is not in accordance therewith, shall cause summary to be corrected or the objection of the accused to be recorded.

(4) When all the evidence on the above matter has been given, the accused may address the Court thereon and in mitigation of punishment.

103. Sentence.--The Court shall award a single sentence in respect of all the offences of which the accused is found guilty, and such sentence shall be deemed to be awarded in respect of which it can be legally given and not to be awarded in respect of which it cannot be legally given.

104. Recommendation for mercy.--(1) Where the Court makes a recommendation to mercy it shall give ifs reasons for such recommendation.

(2) The number of the members of the Court making recommendations to mercy mentioned in this rule or any question relating thereto, may be entered in the proceedings.

105. Announcement of sentence and signing and transmission of proceedings.--(l) The sentence together with any recommendation to mercy and the reasons for any such recommendation shall be announced forthwith in open Court. The sentence shall be announced subject to confirmation.

(2) Upon the Court awarding the sentence, the presiding officer shall affix his signature and date to the sentence and such signatures shall authenticate the whole of the proceedings and the proceedings upon being signed by the Judge Attorney (if any) ; shall at once be transmitted for confirmation.

106. Revision.--(1) (a) Where the finding is sent back for revision under section 127, the Court shall re-assemble in open Court, the revision order shall be read and if the Court is directed to take fresh evidence, such evidence shall be taken in open Court.

(b) Where such fresh evidence is recorded, otherwise than that at the instance of the accused, the accused shall be given a further opportunity to lead evidence in respect of matters brought out in such fresh evidence.

(c) The prosecutor and the accused shall be given a further opportunity to address the Court in respect of the fresh evidence led.

(d) The Judge Attorney may also give a further summing up.

(2) Where the revision of finding does not involve taking of fresh evidence the accused shall be given an opportunity to address the Court respect of matter raised in the revision order.

(3) (a) The Court shall then deliberate on its finding in closed Court and if the Court does not adhere to its farmer finding, it shall revoke the finding and sentence and record a new finding and if such new finding involves a sentence, pass the sentence, afresh.

(b) Where the original finding was one of "Not Guilty", the Court shall, before passing sentence comply with rules 102 and 103.

(4) (a) Where the sentence alone is sent back for revision, the revision order shall be read in open Court and the accused given an opportunity to address the Court in regard to matters referred to in the revision order.

(b) The Court shall then reconsider its sentence in closed Court and if it does not adhere to the sentence, revoke the sentence and pass the sentence afresh.

(5) Where the sentence alone is sent for revision the Court shall not revise the finding.

107. Confirmation and Promulgation:--(1) When a confirming authority receives the record of the proceedings of a Court, it shall record its decision thereon and on any sentence and any order which the Court may have made under section 117 on the record of the proceedings in the appropriate Form set out in Appendix VIII and such record of his decision shall form part of the record of the proceedings.

(2) When a Court has accepted a plea of guilty made under rule 80 the confirming authority may confirm its finding notwithstanding that the Court has accepted the plea without the concurrence of the convening officer, if, in the opinion of the confirming authority, it is in the interest of justice to do so.

(3) (a) When a court has rejected a plea to the jurisdiction the plea or to over-rule the objection it shall withhold an objection to a charge, it shall not be necessary for the confirming authority to approve specifically the decision of the Court, but its approval shall be implied from its confirming the finding on the charge to which the plea or objection relates.

(b) Where it disapproves the decision of the Court to reject the plea or to over-rule the objection it shall withhold confirmation of the finding on the charge to which the plea or objection relates.

(4) A confirming authority may state its reasons for withholding confirmation in any case, but if it withholds confirmation where a Court has rejected a plea to the jurisdiction or plea in bar of trial or has over-ruled an objection to the charges because it disapproves the decision of the Court, the confirming authority shall record its decision under sub-rule (1) stating the reason to withhold its confirmation.

(5) Where the sentence of a Court is improperly expressed, the confirming authority may in confirming the sentence vary the form thereof so that it shall be properly expressed.

(6) Whenever it appears that there is sufficient evidence on a plea of guilty under sub-rule (1) or sub-rule (2) of rule 80 to justify the finding of the Court, such finding and any lawful sentence consequent thereon may be confirmed, and if confirmed, shall be valid, notwithstanding any deviation from, these rules, if the accused has not been prejudiced by such deviation.

(7) While confirming the finding, the confirming authority may either unconditionally or subject to conditions which the accused accepts, reduce or remit a portion of the sentence or commute the punishment to one lower in the scale of punishments in section 51.

(8) (a) When a confirming authority has confirmed a finding and a sentence of a Court or has withheld confirmation thereof, it shall send the record of the proceedings to the Commanding Officer of the accused for promulgation to the accused of the finding and sentence or the fact that confirmation has been withheld as the case may be.

(b) The fact of promulgation shall be recorded on the record of the proceedings in the Form set out in Appendix IX.

(c) Where confirmation has been withheld because the confirming authority disapproves the Court's decision to reject a plea to the jurisdiction of a plea in bar of trial or to over-rule an objection to the charge, the accused shall be so informed.

CHAPTER X
PROCEDURE OF FORCE COURTS AND INCIDENTAL MATTERS

108. **Seating of members**.--The members of a Court shall take their seats according to their rank.

109. **Responsibility of Presiding Officer**.--(l) The presiding officer is responsible for the trial being conducted in proper order, and in accordance with the provisions of the Act, and rules made thereunder and in a manner befitting a court of justice.

(2) It is the duty of the presiding officer to see that the accused has a fair trial, and that he does not suffer any disadvantage in consequence of his position as a person under trial, or of his ignorance, or of his incapacity to examine or cross-examine witnesses, or otherwise.

110. **Power of Court over address of prosecutor and accused :--**(1) It is the duty of the prosecutor to assist the Court in the administration of justice, to behave impartially, to bring the whole of the transaction before the Court and not to take any unfair advantage of, or suppress any evidence in favour of the accused.

(2) The prosecutor may not refer to any matter not relevant to the charge or charges, before the Court, and it is the duty of the Court to stop him from so doing and also to restrain any undue violence of language or want of fairness or moderation on the part of the prosecutor.

(3) The Court shall give reasonable facilities to the accused in making his defence. The accused must abstain from making any remarks contemptuous or disrespectful to-wards the Court, and from coarse and insulting language towards others, but he may for the purpose of his defence impeach the evidence and charge other persons with blame and even criminality. If he does so he shall be responsible for any liability which he may thereby incur. The Court may caution the accused as to the irrelevance of his defence, but shall not unless in special case, stop his defence solely on ground of such irrelevance.

111. **Sitting in closed Court.--**(1) A Court shall, where it is so directed by these rules and may in other case on any deliberation amongst the members, sit in closed Court.

(2) No person shall be present in closed Court except the members of the Court, the Judge Attorney (if any) and any officer under instruction.

(3) For the purpose of giving effect to the provisions of sub-rules (1) and (2) a Court may either retire or cause the place where it sits to be cleared of all other persons not entitled to be present.

(4) Except as mentioned in sub-rules (1), (2) and (3) all proceedings, including the view of any place, shall be in open Court and in the presence of the accused subject to sub rule (5).

(5) The Court shall have the power to exclude from the Court any witness who has yet to give evidence or any other person, other than the accused, who interferes with its proceedings.

112. **Continuity of trial and adjournment of Court.—**(1) Once the Court is assembled and the accused has been arraigned, the Court shall continue the trial from day to day unless it appears to the Court that an adjournment is necessary for the ends of justice or that such continuance is impracticable.

(2)(a) A Court may from time to time adjourn its proceedings and meet at such place as may be convenient, and

(b) Wherever necessary, visit the scene of occurrence.

(3) The senior officer on the Spot may also for exigencies of service adjourn or prolong the adjournment of the Court.

(4) A Court in the absence of a Judge Attorney (if one has been appointed for that Court) shall not proceed, and shall adjourn.

(5) If the time to which an adjournment is made is not specified, the adjournment shall be until further orders from the Force authority, and, if the place to which an adjournment is made is not specified, the adjournment shall be to the same place or to such other place as may be specified in further orders from the Force authority.

113. **Suspension of trial.**–(l) Where in consequence of anything arising while the Court is sitting, the Court is unable by reason of dissolution as specified in section 83 or otherwise, to continue the trial, the presiding officer or, in his absence the senior member present, shall immediately report the facts to the convening authority.

114. **Proceedings on death or illness of accused.--**In case of the death of the accused or of such illness of the accused as renders it impossible to continue the trial, the Court shall ascertain the fact of the death or illness by evidence and record the same and adjourn and transmit the proceedings to the convening authority.

115. **Death, retirement or absence of presiding officer**.--In the case of the death, retirement on challenge or unavoidable absence of the presiding officer, the next senior officer shall take the place of the presiding officer and the trial shall proceed if the Court is still composed of not less the minimum number of officers of which it is required by law to consist.

116. **Presence of all members of Court**.--(l) All the members of the Court shall remain present during the trial of an accused. Any member of a Court who has been absent while any part of the evidence on the trial of an accused person is taken, shall take no further part in the trial of that person but the Court will not be affected unless it is reduced below the legal minimum.

(2) An officer shall not be added to a Court after the accused has been arraigned.

117. **Taking of opinions of members of Court**.--(1) Every member of a Court must give his opinion by word of mouth on every question which the Court has to decide, and must give his opinion as to the sentence notwithstanding that he has given his opinion in favour of acquittal.

(2) The opinions of the members of the Court shall be taken in succession, beginning with the member lowest in rank.

118. **Procedure on incidental questions**.--If any objections raised on any matter of law, evidence, or procedure, by the prosecutor or by or on behalf of the accused during the trial, the prosecutor or the accused or counsel or the defending officer, as the case may be, shall have a right to answer the same and the person raising the objection shall have a right to reply.

119. **Evidence, when to be translated**.-- When any evidence is given in a language, which any of the officers comprising the Court the accused or the Judge Attorney does not understand, it shall be translated into a language which he understands.

120. **Record in Proceedings of transactions of a Force Court.--**(1) At a Court, the Judge Attorney or, if there is none, the presiding officer shall record or cause to be recorded all transactions of the Court, and shall be responsible for the accuracy of the record (in these rules referred to as the proceedings), and if the Judge Attorney is called as a witness by the accused, the presiding officer

shall be responsible for the accuracy of the record in the proceedings of the evidence of the Judge Attorney.

form in, as nearly as possible, the words used, but in any case where the prosecutor, the accused, the Judge Attorney or the Court considers it material, the question and answer shall be taken down verbatim.

(3) Where an objection has been taken to any question or to the admission of any evidence or to the procedure of the Court such objection shall if the prosecutor or accused so requests or the Court thinks fit, be entered upon the proceedings together with the grounds of the objection and the decision of the Court thereon.

(4) Where any address by, or on behalf of the prosecutor or the accused, is not in writing, it shall not be necessary to record the same in the proceedings further or otherwise than the Court thinks proper, except that;

(a) the Court shall in every case make such record of the defence, made by the accused as will enable the confirming officer to judge of the reply made by, or on behalf of, the accused to each charge against him, and

(b) the Court shall also record any particular matters in the address by or on behalf of the prosecutor or the accused when the prosecutor or the accused; as the case may be, may require.

(5) The Court shall not enter in the proceedings any comment or anything not before the Court, or any report of any fact not

forming part of the trial, but if any such comment or report seems to the Court necessary, the Court may forward it to the proper authority in a separate document, signed by the presiding officer.

121. **Custody and inspection of proceedings**.-- The proceedings shall be deemed to be in the custody of the Judge Attorney (if any), or, if there is none, of the presiding officer, but may, with proper precaution for their safety, be inspected by the members of the Court, the prosecutor and accused, at all reasonable times before the Court is closed to consider the findings.

122. **Review of General Petty Force Court proceedings.**--The proceedings of a General Force Court and Petty Force Court shall be sent by the person having the custody thereof to the Judge Attorney-General for review, who shall then forward the same to the confirming authority.

123. **Defending Officer, friend of accused and counsel**.--(1) At any General or Petty Force Court an accused person may be represented by a counsel or by any officer subject to the Act who shall be called "the defending officer" or assisted by any person whose services may be able to procure and who shall be called “the friend of the accused".

(2) The defending officer shall have the same rights and duties as appertain to a counsel under these rules and shall be under the like obligations.

(3) The friend of an accused may advise the accused on all points and suggest the questions to be put to the witnesses, but he shall not examine or cross-examine the witnesses, address the Court.

124. **Requirement for appearance of counsel**.--An accused person intending to be represented by a counsel shall give to his Commanding Officer or to the convening officer the earliest practicable notice of such intention, and, if no sufficient notice has been given, the Court may, if it thinks fit, on the application of the prosecutor, adjourn to enable him to obtain a counsel on behalf of the prosecutor at the trial.

(2) Where the convening officer so directs counsel may appear along with the prosecutor but in that case, unless the notice referred to in sub-rule (1) has been given by the accused, notice of the direction for counsel to appear shall be given to the accused at such time. But in any case the notice shall not be less than seven days before the trial as would, in the opinion of the Court, have enabled the accused to obtain counsel to assist him at the trial.

(3) The counsel, who appears before a Court on behalf of the prosecutor or accused, shall have the same rights as the prosecutor or accused, for whom he appears to call, and orally examine, cross-examine and re-examine witnesses, to put in any plea, and to inspect the proceedings and shall have the right otherwise to act in the course of the trial in place of the person on whose behalf he appears. He shall comply with the provisions of these rules as if he were that person and in such a case that person shall have no right himself to do any of the aforesaid matters except as regards the statement allowed by sub-rule (2) of rule 95 and sub-rule (4) of rule 102 or except so far as the Court permits him to do so.

(4) When counsel appears on behalf of the prosecutor, the prosecutor if called as witness, may be examined as any other witness.

125. **Disqualification of Judge Attorney.--**An officer who is disqualified for sitting on a Court, shall be disqualified for acting as a Judge Attorney at that Court.

126. **Substitution on death, illness or absence of Judge Attorney**.--In the case of death or illness or any other cause which makes the Judge Attorney unable to attend, in that case the Court shall adjourn, and the presiding officer shall report accordingly to the convening officer. On receipt of the

report the convening officer may appoint another person who shall be sworn or affirmed, and act as Judge Attorney for the reside of the trial, or unit the Judge Attorney returns as the case may be.

127. **Power and duties of Judge Attorney**.--Where a Judge Attorney has been named to act on the Court, he shall,--

(a) give his opinion on any question of law relating to the charge or trial whenever so required by the Court, prosecutor or the accused;

(b) inform the Court of any irregularity or other infirmity in the proceedings;

(c) inform the convening officer and the Court of any infirmity or defect in the charge or in the constitution of the Court;

(d) sum up the evidence and give his opinion on any question of law, before the Court proceeds to deliberate upon its findings.

(2) It shall be the duty of the Judge Attorney to ensure that the accused does not suffer any disadvantage in consequence of his position as such, or because of ignorance or incapacity to examine or cross-examine witnesses and for this purpose the Judge Attorney may, with the permission of the Court, call witness and put questions to them which appear to him to be necessary or desirable.

(3) In the discharge of his duties, the Judge Attorney shall maintain an attitude of strict impartiality.

(4) Where any opinion has been given by the Judge Attorney to the Court on any matter before it, it may be entered in the proceedings, if the Judge Attorney or the Court desires it to be entered.

(5) The Judge Attorney shall represent the Judge Attorney General at a Force Court.

128. **Finding of insanity**.--Where the Court finds either that an accused, by reason of unsoundness of mind, is incapable of making his defence, or that he committed the act alleged but was by reason of un-soundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the presiding officer or in the case of Summary Force Court, the officer holding the trial, shall affix his signature and the date on the finding which shall also be signed by the Judge Attorney (if any) and thereupon the proceedings shall, at once, be transmitted to the con firming authority or in the case of Summary Force Court to the Deputy Inspector General or the Additional Deputy Inspector General empowered to countersign them.

129. **Preservation of proceedings**.--The proceedings of every Court shall, after promulgation, be forwarded to the office of the Judge Attorney General and be preserved there for not less than three years, or until the sentence awarded by the Court has expired whichever is later.

130. **Right of person tried to copies of proceedings**.-- Every person tried by a Force Court shall be entitled to obtain on demand, at any time after the confirmation of the finding and sentence, when such confirmation is required and before the proceedings are destroyed, from the Judge Attorney General a copy thereof, including the proceedings upon revision, if any.

131. **Copy of proceedings not to be given in certain cases**.--Notwithstanding anything contained in rule 130, if the Central Government is satisfied for reasons to be recorded that it is against the interests of the security of the State or friendly relations with foreign states to supply a copy of the proceedings or any part thereof under the said rule, he shall not be furnished with such a copy:

Provided that if the Central Government is satisfied that the person demanding the copy is desirous of submitting a petition in accordance with the provisions of the Act or instituting any action in a court of law in relation to the finding or sentence, it shall permit inspection of the proceedings by such a person, or his legal advisor, if any, on the following conditions, namely:

(a) the inspection shall be made at such time and such times and such places as the Central Government or any authority authorised by it may direct; and

(b)the person allowed to inspect the proceedings shall, before such inspection, furnish:

(i) an undertaking, in writing, that he shall not make copies of the proceedings or any part thereof and that the information or documents contained in such proceedings shall not be used by him, for any purpose whatsoever, other than for the purpose of submitting a petition in accordance with the provisions of the Act or instituting an action in a court of law in relation to the said finding or sentence; and

(ii) a certificate that he is aware that he may render himself liable to prosecution under sections 3 and 5 of the Indian Official Secrets Act, 1923 (19 of 1923) if he commits any act specified in the said sections in relation to the documents or information contained in the said proceedings.

132. **Loss of proceedings**.--(1) If, before confirmation, the original proceedings of a Court which require confirmation or any part thereof, are lost, a copy thereof, if any, certified by the presiding officer or the Judge Attorney at the Court may be accepted in lieu of the original.

(2) If there is no such copy, and sufficient evidence of the charge, finding, sentence, and transactions of the court can be procured, that evidence may, with the assent of the accused, be accepted in lieu of the original proceedings, or part which have been lost.

(3) In any case mentioned in sub-rules (1) and (2) the finding and sentence may be confirmed, and shall be valid as if the original proceedings or part thereof had not been lost.

(4) If the accused refuses the assent referred to in sub-rule (2), he may be tried again, and the finding and sentence of the previous Court of which the proceedings have been lost shall be void.

(5) If, After confirmation or in any case where confirmation is not required, the original proceedings or any part thereof are lost, and there is sufficient evidence of the charge, finding, sentence, and transactions of the Court and of the confirmation (if required) of the finding and sentence, that evidence shall be valid and sufficient record of the trial for all purposes.

133. **Offences by witnesses and others**.--When a Court is of opinion that there is ground for inquiring into any offence specified in sections 40 and 41 and committed before it or brought to its notice in the course of its proceedings, which would if done by a person subject to the Act, have constituted such an offence, such Court may proceed as follows:--

(a) if the person who appears to have committed the offence is subject to the Act, the Court may bring his conduct to the notice of his Commanding Officer.

(b)if the person who appears to have done the act is amenable to a law relating to any Armed Force, the Court may bring his conduct to the notice of the Forest authority, as the case may be;

(c)in other cases the officer who summoned the witness to appear or the presiding officer or officer holding the Court, as the case may be, may forward a written complaint to the nearest Magistrate of the first class having jurisdiction, and in the case of acts which would, if done by a person subject to this Act have constituted an offence under clause (e) of section 40 or section 41, the Court, after making any preliminary inquiry that may be necessary may send the case to the nearest Magistrate of the first class having jurisdiction for inquiry or trial in accordance with section 340 of the Code of Criminal Procedure, 1973 (2 of 1974),

CHAPTER XI
SUMMARY FORCE COURT

134. **Proceedings**.--(1) The officer holding the trial (hereinafter in this chapter called the Court) shall record, or cause to be recorded the transactions of every Summary Force Court.

(2) The Court may appoint a shorthand writer to record the proceedings of the Court. Such shorthand writer shall be duly sworn or affirmed as per Form given in rule 70.

135. **Evidence when to be translated**.--(1) When any evidence is given in a language which the Court or the accused does not understand, that evidence shall be translated to the Court or accused as the case may be in a language which it or he does understand.

(2) The Court shall for this purpose either appoint an interpreter. or shall itself take the oath or affirmation prescribed for the interpreter at a Summary Force Court.

(3) When documents are produced for the purpose of formal proof, it shall be in the discretion of the Court to cause as much to be interpreted as appears necessary.

136. **Assembly**.--When the Court, the interpreter (in any) and the officers and subordinate officers attending the trial are assembled, the accused shall be brought before the Court and the oath or affirmation prescribed in rule 137 shall be taken by the persons mentioned therein.

137. **Swearing or affirming of court and interpreter**.--The Court shall take oath or affirmation in anyone of the following forms or in such other form to the same purport which would according to the religion or otherwise be binding on the conscience of the officer constituting the Court.

FORM OF OATH

I, ... swear by Almighty God that I will duly administer justice, in accordance with the provisions of the Indo Tibetan Border Police Force Act, 1992, without partiality, favour or affection.

FORM OF AFFIRMATION

I, …….. do solemnly, sincerely and truly declare and affirm that I will duly administer justice, in accordance with the provisions of the Indo-Tibetan Border Police Force Act, 1992, without partiality, favour or affection.

(2) The Court, or any other person empowered by it in this behalf shall administer to the interpreter (if any) an oath or affirmation in any of the following forms, or in such other form to the same purport as the Court ascertains to be according to the religion or otherwise binding on the conscience of the person who is to act as interpreter.

FORM OF OATH

I, ... swear by Almighty God that I will faithfully interpret and translate, as I shall be required to do touching the matter before this Court.

FORM OF AFFIRMATION

I, ... do solemnly, sincerely and truly declare and affirm that I will faithfully interpret and translate, as I shall be required to do touching the matter before this Court.

(3) The witnesses shall, after the administration of the oath and the affirmation, withdraw from the Court.

138. **Swearing of Court to try several accused persons**.--(l) A Summary Force Court may be sworn or affirmed at the same time to try any number of accused persons then present before it whether those persons are to be tried collectively or separately.

(2) Inthe case of several accused persons to be tried separately, the Court, when sworn or affirmed shall proceed with one case postponing the other cases and taking them afterwards in succession.

(3) Where several accused persons are tried separately upon charges arising out of the transaction, the Court may, if it considers it to be desirable in the interests of justice, postpone consideration of any sentence to be awarded to any one or more such accused persons until the trials of all such accused persons have been completed.

139. **Arraignment of accused**.--(l) After the Court and interpreter (if any) are sworn or affirmed as mentioned above, the accused shall be arraigned on the charges framed against him.

(2) The charges on which the accused is arraigned shall be read and, if necessary, translated to him, and explained and he shall be required to plead separately to each charge.

140. **Objection by accused to charge**.--The accused, when required to plead any charge, may object to the charge on the ground that it does not disclose an offence under the Act, or is not in accordance with these rules.

141. **Amendment of charge**.--(1) At any time during the trial if it appears to the Court that there is mistake in the name or description of the accused in the charge-sheet, it shall amend the charge-sheet so as to correct that mistake.

(2) If on the trial of a charge it appears to the court at any time before it has begun to examine the witnesses, that in the interests of justice any addition to, omission from, or alteration in, the charge is required, it many amend such charge and may, after due notice to the accused, and with the sanction of the officer empowered to convene a Petty Force Court for the trial of the accused, if the amended charge require such sanction, proceed with the trial on such amended charge.

142. **Special pleas**.--If a special plea to the general jurisdiction of the Court, or a plea in bar of trial is offered by the accused the procedure laid down in Chapter IX for disposing of such pleas shall, so far as may be applicable, be followed.

143. **General plea of "Guilty" or "Not Guilty".--(**l) The accused persons plea' of "Guilty" or "Not Guilty" (or if he refuses to plead or does not plead intelligibly. either one or the other a plea of "Not Guilty") shall be recorded on each charge.

(2) If an accused person pleads "Guilty" that plea shall be recorded as the finding of the Court, but before it is recorded the Court shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty and shall inform him of the general effect of that plea and in particular of the meaning of the charge to which he has pleaded guilty and of the difference in procedure which will be made by the plea of guilty and shall advise him to withdraw that plea if it appears from the record or abstract of evidence (if any) or otherwise that the accused ought to plead not guilty.

(3) Where an accused person pleads guilty to the first two or more charges laid in the alternative, the Court may after sub-rule (2) has been complied with and before the accused is arraigned on the alternative charge or charges, withdraw such alternative charge or charges and follow the charge to which the accused has pleaded guilty without requiring the accused to plead thereto, and a record to that effect shall be made in the proceedings of the Court.

144. **Procedure after plea of "Guilty**".--(l) Upon the record of the plea of "Guilty" if there are other charges in the same charge-sheet to which the plea is "Not Guilty", the trial shall first proceed with respect to those other charges, and, after the finding on those charges, shall proceed with the charges on which a plea of "Guilty" has been entered, but if there are alternative charges, the Court may either proceed with respect to all the charges as if the accused had not pleaded "Guilty to any charge or may, instead of trying him, record a finding of "Guilty" upon anyone of the alternative

charges to which he had pleaded "Guilty" and finding of "Not Guilty" upon all the other alternative charges which precede such charge.

(2)(a) After the record of the plea of "Guilty" on a charge (if the trial does not proceed on any other charges) the Court shall read the record or abstract of evidence and annex it to the proceedings. or if there is no such record, or abstract shall take and record sufficient evidence to enable it, to determine the sentence, and the reviewing officer to know all the circumstances connected with the offence.

(b) The evidence shall be taken in like manner as is directed by these rules in the case of a plea of "Not Guilty".

(3) The accused may, after such evidence has been taken or as the case may be, the record abstract of evidence has been read, address the court with reference to the charge and in mitigation of punishment and may call witnesses as to his character.

(4) (a) If from the statement of the accused or from the record of evidence or otherwise it appears to the Court that the accused did not understand the effect of his plea of "Guilty", the Court shall after the record and enter a plea of "Not Guilty", and proceed with the trial accordingly.

(b) Any alternative charges withdrawn under sub-rule (1) shall be reinstated in the charge-sheet and the trial shall take place as if they had never been withdrawn.

(5) If a plea of "Guilty" is recorded on some charges and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under sub-rules (2) and (3) shall take place after the finding on the other charges in the same charge-sheet are recorded.

(6) When the accused states anything in mitigation of punishment which in the opinion of the Court requires to be proved, and would if proved affect the amount of punishment, the Court may permit the accused to call witnesses to prove the same.

145. **Withdrawal of plea of "Not Guilty"**.--The accused may, if he thinks fit at any time during trial, withdraw his plea of "Not Guilty" and plead "Guilty" and in such case the Court shall ‘at once, subject to compliance’ with sub. Rule (2) of rule 143, record a plea and finding of "Guilty" and shall, so far as if necessary, proceed in the manner specified in rule 144.

146. **Procedure after plea of "Not Guilty**".--(1) After the plea of "Not Guilty" to any charge, is recorded, the evidence for the prosecution will be taken.

(2) At the close of the evidence for the prosecution the accused shall be asked if he has anything to say in his defence or may defer such address until he has called his witnesses.

(3) The accused may then call, his witnesses, including witnesses to character.

147. **Witnesses in reply to defence**.--The Court may, if it thinks it necessary in the interests of justice, call witnesses in reply to the defence.

148. **Evidence of witnesses**.-- The provisions of rules 90, 91 and 92 shall, so far as may be, apply to the evidence of witnesses at a Summary Force Court as they apply to the evidence of witnesses at a General Force Court or Petty Force Court.

149. **Record and announcement of finding**.--(1) The Court shall after the evidence for prosecution and defence has been heard, record its finding.

(2) The finding on every charge upon which the accused is arraigned shall be recorded and except as provided in these rules shall be recorded simply as a finding of "Guilty" or of "Not Guilty".

(3) Where the Court is of opinion as regards any charge that the facts proved do not disclose the once charged or any offence or which he might under the Act legally be found guilty on the charge laid the Court shall find the accused "Not Guilty" of that charge.

(4) Where the court is of opinion as regards any charge that the facts which it finds to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, it may, instead of a finding of "not guilty" record a special finding.

(5) Where there are alternative charges, and the facts proved appear to the court not to constitute the offence mentioned in any of those alternative charges the court shall record a finding of "not guilty" on that charge.

(6) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variations specified therein.

(7) The Court shall not find the accused guilty on more than one or two or more charges laid in the alternative, even if conviction upon one charge necessarily connotes guilty upon the alternative charge or charges.

150. **Procedure on acquittal.--**Where the findings on each of the charges on a charge-sheet is "Not Guilty", the Court shall affix its signature and date to the proceedings, the findings will be announced in open Court, and the accused will be released if under arrest in respect of these charges.

151. **Procedure on finding of "Guilty**".--(1) Where the finding on any charge is "Guilty", the Court may record of its own knowledge, or take evidence of any record, the general character age, service, rank, and any recognised acts of gallantry, or distinguished conduct of the accused, and previous convictions of the accused either by a Force Court or a Criminal Court any previous punishment awarded to him by an officer exercising authority under section 56 the length of time he has been in arrest or in confinement on any previous sentence, and any decoration, or reward, of which he may be in possession or to which he may be entitled.

(2) Where the Court does not record the matters mentioned in this rule of its own knowledge evidence on these matters may be taken in the manner specified in rule 102 for similar evidence.

152. **Sentence.--**The Court shall award one sentence in respect of all the offences of which the accused is found guilty.

153. **Signing of proceedings**.--The Court shall affix its signature and the date to the sentence and such signature shall authenticate the whole of the proceedings.

154. **Charges in different charge sheets**.--(l) When the charges at a trial by Summary Force Court are contained in different charge-sheets, the accused shall be tried on each charge-sheet separately up to and including the stage of finding.

(2) The Court shall, thereafter, comply with rule 150 or rule 151 as the case may be.

155. **Clearing the Court**.--(1) The officer holding the trial may clear the Court to consider the evidence or to consult with the officers and subordinate officers attending the trial.

(2) Subject to the provisions of sub-rule (1) all the proceedings including the view of any place, shall be in open Court, and in the presence of the accused.

156. **Adjournment**.--A Court may,--

(a) from time to time adjourn its proceedings and meet at such place and time as may be convenient; and

(b) Wherever necessary visit the scene of occurrence.

157**. Friend of the accused**.-- During a trial at a Summary Force Court an accused may take the assistance of any person including a legal practitioner, as he may consider necessary:

Provided that such person shall not examine or cross examine witnesses or address the Court.

158. **Memorandum to be attached to proceedings**.--Where Summary Force Court tries an offence which shall not ordinarily be tried without reference to an authority mentioned in sub-section (2) or section 86, an explanatory memorandum shall be attached to the proceedings.

159. **Promulgation**.--The sentence of a Summary Force Court shall be promulgated in the manner usual in the service, at the earliest opportunity after it has been pronounced and shall subject to the provisions of the Act as carried out without delay after promulgation.

160. **Review of proceedings**.--The proceedings of a Summary Force Court shall immediately on promulgation be forwarded through the Judge Attorney-General, or an Officer nominated by him for the purpose to the Deputy Inspector General or the Additional Deputy Inspector General under whom the accused may be serving.

161. **Action by the Deputy Inspector General or the Additional Deputy Inspector General**.--(1) Where the Deputy Inspector General or the Additional Deputy Inspector General to whom the proceedings of a Summary Force Court have been forwarded under rule 160 is satisfied that injustice has been done to the accused by reason of any grave irregularity in the proceedings or otherwise, he may,--

(a) set aside the proceedings of the Court;

OR

(b) reduce the sentence or commute the punishment awarded to one lower in the scale of punishment given in section 51.

(2) Where no action under sub-rule (1) has been taken he shall countersign the proceedings and return it to the unit of the accused for promulgation.

(3) The proceedings shall after its promulgation, be forwarded to the Judge Attorney-General for custody.

162. **Rules which shall not apply to trial by Summary Force Court**.--The provisions of Chapters IX and X of these rules shall not apply to trials by Summary Force Court in so far as they are in consistent with any of the provisions contained in this Chapter pertaining to Summary Force Court.

CHAPTER XII
EXECUTION OF SENTENCE

163. **Direction about Sentence of imprisonment**.--(1) A confirming authority or in the case of a Summary Force Court, the Court, shall direct that the sentence of imprisonment shall be undergone by confinement either in a civil prison or in Force custody.

(2) Such direction may be varied by any superior officer.

164. **Warrants**.--(1) Warrants for committing a person to a civil prison to undergo sentence of imprisonment or to get such person back into Force custody if so required or to order the release of such a person from civil prison or any variation done by any superior officer shall be in such Form as may be appropriate to each set out in Appendix X.

(2) Such warrants shall be signed by the Commanding Officer of the accused or by a staff officer on behalf of an Additional Deputy Inspector General, Deputy Inspector General, Inspector General or the Director General.

165. **Warrant in case of sentence of death**.--(l) Where a person is sentenced to death by hanging, a warrant in the Form set out in Appendix XI shall be set by the Director General to the

Superintendent of the Prison where facilities for carrying out such a sentence exist, after the sentence has been confirmed by the Central Government and the accused shall be committed to the same prison by his Commanding Officer on the appropriate warrant.

(2) Where an accused person is sentenced to death by being shot, a warrant in the appropriate Form set out in Appendix XI shall be issued by the Director General, to Deputy Inspector General or Additional Deputy Inspector General under whom the accused may be serving, after the sentence has been confirmed by the Central Government. and the Deputy Inspector General or Additional Deputy Inspector General shall arrange for the execution of the sentence.

166. **Changes in sentence**.--Where any change is made in the sentence of a person already committed to a civil prison, such change shall be communicated to the Superintendent of the Prison to which such person has been committed by the Commanding Officer or such other person as mentioned in rule 164 in the Form set out in Appendix XII.

167. **Sentence of dismissal**.--(1) Sentence of dismissal shall take effect from the date of promulgation of such sentence or from any subsequent date as may be specified at the time of promulgation.

(2) A sentence of dismissal combined with imprisonment to be undergone in a civil prison shall not take effect until such person has been committed to a civil prison.

CHAPTER XIII
PETITIONS

168. Petitions against finding and sentence of Court.--(1) A person subject to the Act who has been tried by a Court shall .be allowed to put in one petition before confirmation, to the confirming authority and one petition after confirmation to any officer or authority mentioned in section 131.

(2) In the case of a Summary Force Court he shall be allowed to put in one petition only to any of the officers mentioned in section 131.

169. **Period of Limitation**.--(1) A petition, before confirmation, shall be submitted, within two weeks of the conclusion of trial.

(2) A petition after confirmation shall be submitted within 3 months of the date on which the sentence was promulgated.

Provided that the time taken by such person to obtain a copy of the proceedings shall be excluded in computing period of 3 months.

170. **Mode of submitting petitions**.--(l) (a) A petition by a person who is still a member of the Force shall be submitted through his Commanding Officer.

(b) A petition by a person who has ceased to be a member of the Force may be submitted to the Commanding Officer of the unit in which the trial was held.

(2) An Officer to whom a petition is submitted or to whom a petition has been forwarded shall forward it to the next superior within a period of one week:

Provided that an Officer may not forward a petition if he is competent to give the redress asked for and decides to do so.

(3) An Officer receiving a petition shall send it to the Judge Attorney-General or to the Officer approved by him for advice.

CHAPTER XIV
COURTS OF INQUIRY

171. **Composition.--**(l) A Court of Inquiry may consist of one or more members. If only one member is appointed he shall be an Officer. If more than one members are appointed, at least one of them should be an Officer. Persons not subject to the Act, may also be appointed as additional members when the Court is to investigate matters of such a specialized nature as may require the assistance of specialized persons for proper investigation.

(2) The member or members of a Court of Inquiry ordered to be held into the conduct of an officer shall not be of a lower rank than the rank of such an officer. In case it is not possible to appoint all the members of the same or the higher rank, atleast the presiding officer of such a Court of Inquiry shall be of a higher rank than the officer whose conduct is under inquiry.

172. **Assembly order**.--(l) A Court of Inquiry may be assembled by order of a Commanding Officer not below the rank of Commandant or any Officer or authority superior to him.

(2) The order assembling the Court of Inquiry shall state the composition of the Court, the time and place for Its assembly and clearly state the matters which the court will investigate. It will also provide for the administrative requirements of the Court.

173. **Members of Court not to be sworn or affirmed**.--The members of the Court shall not be sworn or affirmed, but when the Court is a Court of Inquiry or recovered prisoners of war, the members shall make the following declaration :--

"I do declare upon my honour that I will duly and impartially inquiry into and give my opinion as to the circumstances in which……became a prisoner of war, according to the true spirit and meaning of the Standing Order of the Force ; and I do further declare,

upon my honour that I will not, on any account, or at any account , or at any time disclose or discover my own vote or opinion or that of any particular member of the court, unless required to do so by competent authority."

174. **Procedure of Courts of Inquiry**.--(I) The proceedings of a Court of Inquiry shall not be open to the public. Only such persons may attend the proceedings as are permitted by the Court to do so.

(2) The evidence of all witnesses shall be taken on oath or affirmation and signed by them After the same has been read over and explained to them.

Explanation.-The Court shall administer the oath or affirmation to witnesses as if the court were a Force Court.

(3) Evidence given by witnesses shall be recorded in narrative form unless the Court considers that any question and answers may be recorded as such.

(4) The court may take into consideration any documents even though they are not formally proved After recording the reasons thereof.

(5) The court may ask witnesses any questions, in any form, that they consider necessary to elicit the truth and may take into consideration any evidence, whether the same is admissible under the Indian Evidence Act, 1872 (1 of 1872) or not.

(6) No counsel, or legal practitioner shall be permitted to appear before a Court of Inquiry.

(7) Provisions of section 101 shall apply for procuring the attendance of witnesses before the Court of Inquiry. Witnesses shall be summoned as per Form set out in Appendix XV.

(8) (i) Save in the case: of a prisoner of war who is still absent whenever the subject matter of inquiry is the conduct or character of a particular person, such person may be associated throughout with the inquiry and be given full opportunity of making any statement, or giving any evidence, he

may wish to make or give, and of cross-examination any witness whose evidence. in his opinion. affects his character or reputation.

(ii) In other cases, before giving opinion against any person subject to the Act, the Court shall afford that person an opportunity to know all that has been stated against him, cross-examine any witnesses who have given evidence against him, and make a statement and call witnesses in his defence.

(9) The answers given by a witness to any question asked before the Court shall not be admissible against such a witness on any charge at any subsequent occasion except a charge of giving false evidence before such Court.

(10) Where the proceedings of an inquiry are submitted to a higher authority for orders under rule 176 such authority before disagreeing with the opinion of the Court, shall record reasons for doing so. In such a case, provisions of clause (ii) of sub-rule (8) may not be complied with.

(11) The Court may be reassembled as often as the officer who assembled the court may direct, for the purpose of examining additional witnesses, or further examining any witness. or recording further information. In such a case the Court may record fresh opinion if considered necessary After complying with the provisions of clause (ii) of sub-rule (8).

175. **Courts of Inquiry, when to be held**.--(l) A Court of Inquiry may be held to investigate into any disciplinary matter or any other matter of importance.

(2) In addition to a Court of Inquiry required to be held under sections 60 and 65 or section 74, a Court of Inquiry shall be held in the following cases :--

(a) (i) All unnatural deaths of persons subject to the Act or of other persons within the Force lines, an immediate report shall be sent through the messenger to the officer-in-charge of the Police Station within whose jurisdiction the place of such unnatural death exists.

(ii) In cases when such report cannot, for any reasons be delivered within a reasonable time, the Commanding Officer or the senior most officer of the unit present shall prepare a report in Form set out in Appendix XIII.

(b) All injuries sustained by persons subject to the Act which are likely to cause full or partial disability. The court shall in such case determine whether such injuries were attributable to service or not.

(c) All financial irregularities, losses, theft and misappropriation of public or Force property, where it is necessary to obtain the order of a superior officer on such irregularities, loss, theft or misappropriation.

(d) All losses of secret documents and any other material of secret or above security classification. Such a Court of Inquiry shall be ordered by an officer or authority superior to the Commanding Officer of the Unit having the lost document or material on its charge.

(e) All injuries sustained by private persons or damages to their property in respect of which there is likely to be a claim against the Government or the Force.

176. **Action on the proceedings of a Court of Inquiry**.--The proceedings of a Court of Inquiry shall be submitted by the Presiding Officer to the officer or authority who ordered the Court. Such officer or authority on receiving the proceedings may pass final orders thereon himself, if he is empowered to do so, or refer them to a superior authority.

177. **Copies of Court of Inquiry Proceedings.--**A person subject to the Act against whom the Court of Inquiry has given an opinion or who is being tried by a Force Court on a charge relating to

matter investigated by the Court of Inquiry, shall be entitled to copies of the proceedings of the Court of Inquiries unless the Director General orders otherwise.

Explanation :--For the purpose of this chapter Court means Court of Inquiry.

CHAPTER XV
MISCELLANEOUS

178. **Prescribed Officer under section 11(2).--**Officer not below the rank of Commandant may, under sub-section (2) of Section 11, dismiss or remove from the service any person under his command other than an officer or a subordinate Officer.

179. **Authority prescribed for the purpose of section 13(1).--**The authority for the purpose of sub-section (1) of section 13 shall be :--

(i) Director General in respect of all personnel subject to the Act other than officers.

(ii) Central Government in respect of officers.

180. **Prescribed Officer under sections 61 (2) (i) and 62**.--The following shall be the prescribed officers for the purpose of sections 61(2) (i) and 62 :--

(i) Commandant in case of subordinate officers and enrolled persons.

(ii) Director General in the case of officers.

Any power conferred under this rule on any of the aforesaid officer may also be exercised by any officer superior to that officer.

181. **Prescribed authorities under section 66**:--Any authority superior to the one awarding any deductions under Chapter V of the Act shall be competent to remit the whole or part of the said deductions.

182. **Prescribed Officer under section 75(1).--**The prescribed officer for the purpose of sub-section (1) of section 75 shall be the officer commanding a zone, sector or training institution or an officer commanding the Forces in he field.

EXECUTION OF SENTENCE

183. **Prescribed manner of custody and prescribed officer under sections 111 and 112.**-- (1) The prescribed officer for the purposes of section 112 shall be :--

(a) in the case of trial by Summary Force Court, the Commanding Officer of the Unit to which the accused person belongs, or any authority superior to such Commanding Officer.

(b) in the case of trial by any other Court, the convening officer or any authority superior to him.

(2) When the officer who proposes to act as a prescribed officer under sub-rue (1) is under the command of the officer who has taken action in the case under sub-section (4) of section 111, he shall ordinarily obtain the approval of such officer before he acts but if he is of opinion that service exigencies, or the necessities of discipline, render it impossible or inexpedient to obtain
such approval, he may act without obtaining such approval, but shall report his action and the reasons thereof to such officer.

(3) For the purpose *of* sub-section (4) *of* section 111 the accused shall be confined in such manner as may, in the opinion *of* the proper Force authority, be best calculated to keep him securely without unnecessary harshness, as he is not to be considered as a criminal but as a person labouring under a disease.

184. **Prescribed Officer under section 132**.--The prescribed officer for the purpose *of* section 132 shall be the officer commanding a zone, sector *or* training institution in respect of proceedings confirmed by him *or* by a person under his command.

185. **Authorised deductions**.--The following deductions may be made from the pay and all other emoluments payable to a person subject *to* the Act, namely :--

(a) upon the general *or* special order of the Central Government, any sum required to meet any public claim, there may be against him ;

(b) any sum required to meet compulsory contributions to any provident fund. welfare fund *or* any other fund approve by the Central Government *or* to meet any debt that may be due from him towards any Force institutions such as messes, canteens and the like.

Explanation.--(i) "Public Claim" means any public debt *or* disallowance including over-issue, or a deficiency *or* irregular expenditure *of* public money *or* store *of* which, after due investigation, no examination satisfactory to the Central Government, is given by the person who is responsible for the same.

(ii) The aforesaid deductions shall be in addition to those specified in the Act.

186. **Repeal and Savings**,--(l) All rules and orders relating to the matters covered by these rules shall stand repealed in so far as they are inconsistent with any of the provisions of these rules.

(2) Notwithstanding such repeal anything done *or* any action taken under the provisions of the rules or orders so repealed shall, in so far as such thing *or* action is not inconsistent with the provisions *of* these rules, be deemed to have been done *or* taken under the provisions of these ru1es as if the said provisions were in force when such thing was done *or* such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under these rules.

187. **Transitory provision**.--Any rule or order applicable to the Force on commencement of these rules shall. unless repugnant to these rules, continue to apply unless and until abrogated or modified by the Central Government or any other competent authority.

(APPENDIX)

(RULE 15)

ITB POLICE FORCE RECRUITING FORM

Blood Group……

No…… Battalion/Unit…….

1.Name.....2. Religion .. . . . . 3.

Caste/Tribe/Class…… 4. Father's Name .....

(in case of Scheduled Castes,

Tribes and other Backward classes only)

5. Heir.....

6. Date of Birth by Christian Era .....

(As nearly as can be ascertained).

7. Height.....Cms 8.Chest……..……Cms. 9.

Identification Marks .,.....

10.Residence.....Village/Town.....Thana .....

District.....State..... 11.

Character and antecedents .....

verified by ..... 12.
Occupation prior to enlistment…….. 13.
Educational qualifications, if any ..... 14.
Date of enrolment..... 15.
Enrolled as .....

Recent Photograph

FORM OF ENROLMENT
ENROLMENT OF

No.....Name (in Block Letters) ……
as a……..in the Indo-Tibetan Border Police.

PART –I

(Questions to be put before enrolment)

You are warned that if after enrolment, it is found that you have given a wilfully false answer to any of the first twelve of the following questions you will be liable to be punished as provided in the Indo-Tibetan Border Police Force Act 1992.

(ALL ANSWERS ARE TO BE WRITTEN IN BLOCK LETTERS)

Questions:

1.What is your name?
(Underline Surname)

2.(a) What is your place of birth?
(State Village/Town), District and State of Birth)

(b) What is your date of birth?
(State in Christian Era)

(N.B.--To support the date of birth the person being enrolled will be required to produce original, together with attested copies of the certificate specified in Government orders from time to time).

3. What is your permanent home address?

(a) Village/Town
(b) Thana
(c) Pargana/Tehsil
(d) District/Taluk
(e) State

4. (a) What is your religion?

(b) Are you a member of a Scheduled Caste, a Scheduled Tribe or an other Backward Class?

(If so, state Caste, Tribe or Class also produce original certificate together with attested copy of such certificate issued by competent authority specified by Government from time to time).

5. (a) Are you a citizen of India? If so, whether by birth or descent or registration or naturalisation or otherwise?

(b) Are you a subject of NEPAL or BHUTAN?

(c) If you are not a citizen of India, what is your Nationality?

(N.B.--In the case of foreign nationals other than subject of Nepal or Bhutan, consent of the Central Government signified in writing, if any, should be produced before a person is enrolled).

(d) Have you migrated from areas now in Pakistan? If so, state the date of your migration.

6. What are your educational qualifications? (Original certificates. with one attested copy of each, are to be produced).

7. Are you married?* If so state

(i) Date of marriage(s).

(ii) Name(s) of Spouse(s)

(iii) Nationality of spouse(s)

*(This does not include widow/widower/divorced).

8.(a) What is your father's name and address? If dead, state last address, district and state.

(b)What is or was the nationality of your father? If he is or was an Indian citizen, state whether by birth, descent, registration, naturalization or otherwise.

9. Are you or have you ever been member of a party or organisation of a political, communal or cultural nature?

If so, state the name of the party or organisation with the period/periods of your membership therein.

10. (a)Are you in Government service or have you ever been a Government servant? If so, state full particulars and the reasons for discharge and confirm that you were never dismissed from any Government service.

(b)Are you in receipt of any allowance and/or pension from the Government? If so, on what account?

11. (a)Do you belong to Army, Navy or Air Force, the reserves of any of the three services, the Auxiliary Air Force, the Territorial Army and Police Force in India or the Nepal State Army or any of the Force of a foreign country?

(b)Have you ever served in any of the Army, Navy or Air Force in India, the Reserves of any of the three services, the Auxiliary Air Force, the Territorial Army, or any Police Force in India or Nepal State Army or any of the force of a foreign country? If so, state in which and the cause of discharge. If you have served in more than one of the above named forces, or if you have served the same force in two or more distinct periods, state the cause of discharge separately in each case.

12. (a) Have you ever been arrested?

(b) Have you ever been prosecuted?

(c) Have you ever been kept under detention or imprisoned?

(d) Have you ever been convicted by court of law for any offence?

(e) Have you ever been bound down?

(f) Have you ever been fined by a court of law?

(g) Have you ever been interned, externed or otherwise dealt with under any law in force in India or outside? If so, state particulars.

(h) Are you facing any prosecution in any court in India or abroad?

(i) Have you ever been debarred from any examination or rusticated by any University or any other educational authority/Institution?

(j) Have you ever been debarred/disqualified by any public service commission from appearing at its examination/selection?

(k) Is any case pending against you in any University or other educational authority/institution at the time of filling up this enrolment form?

(1) Whether discharged/expelled/withdrawn from any training institution under the Government or otherwise.

13. Are you willing to be enrolled as a combatant in the ITB Police Force?

14. Are you willing to go wherever ordered by land, sea or air and not to allow any caste or social usages to interfere with the duties for which you are enrolled?

15. Are you willing to serve in ITB Police Force until discharged, in accordance with the conditions of service as specified in Part II of this form of Enrolment?

16. Do you have any objections to take the following oath or to make the following affirmation at the time of your attestation?

FORM OF OATH

I,……..,do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by law established and that I will as in duty bound, honestly and faithfully serve in the ITB Police Force, and go wherever ordered, by air, land or sea and that I will observe and obey all commands of the President of the Union of India and the commands of any officer set over me even to the peril of my life.

FORM OF AFFIRMATION

I,……., do solemnly, sincerely and truly declare and affirm that 1 will bear true faith and allegiance to the Constitution of India as by law established and that I will, as in duty bound, honestly and faithfully serve in the ITB Police Force and go wherever ordered by air, land or sea and that I will observe and obey all commands of the President of India and the commands of any officer set over me even to peril of my life.

CERTIFICATE

I,....., do solemnly declare that the answers furnished by me above are true.

Place. . . . . .

Date……..

*( )

Signature of person enrolled

Left thumb impression of the person enrolled
taken in the presence of the Enrolling Officer

……...Signature
.....Name
.....Address
(*Name in Black letters) of witness.

PART II
CONDITIONS OF SERVICE

1. Subject to the provisions of the ITB Police Force Act and the Rules made thereunder, the period for which you are enrolled shall be. . . . . years which may be extended by mutual agreement.

2. If you absent without leave, or desert, the total period of such absence shall not count towards that said period of. . . . . years.

3. On completion of the said period of. . . . . years of service or further extension of tenure you will be entitled to claim your discharge and you will be discharged with all convenient speed, unless the country is engaged in hostilities, or a state of emergency has been declared or the unit or institution to which you belong is more than 15 % under strength.

4. You are liable to be discharged during the first year of the service if you are not likely to become an efficient member of the Force.

5. You will also be liable to be discharged if the Central Government decides to disband the Force or a portion of it.

Certificate by the person to be enrolled I
have understood the above conditions and agree to abide by them.

(. . . . . .)

Signature of the person enrolled Place. . . . . .

Date. . . . . .

The above conditions have been read/explained to the person being enrolled by me.

(. . . . . .)
Signature of the Enrolling Officer

Place. . . . . .

Date . . . . . .

PART-III

Health Certificate

I do hereby certify that I have examined. . . .. candidate for employment in the I. T.B. Police Force. He fulfils medical standards laid down for the I.T.B.Police Force, and I cannot discover that he has any disease, constitutional affliction or bodily infirmity. His age according to his own statement is……. Years and by appearance…….. years.

Height…….....Cms

Chest (a) Maximum…….....Cms
(b) Minimum.....Cms

Signature of Medical Officer

Designation

Place. . . . . .

Date. . . . . .

APPENDIX II

[(Rule 38(1)]

Form of Delay Report

Confidential

No----------

Unit address .....

Date……....

To

……..

SUBJECT: [(1st.) (2nd), (3rd), (4th), etc. Eight day delay report pursuance to the I.T.B.P.F. Act Section 71 and Rule 38]

1. No.....Rank.....Name..... 2. Offence .....

3.Date of Offence .....

4. Date when offence was discovered …….....

5. Date of(open/close)arrest..... 6. Date of release to open arrest/release without prejudice to re-arrest (if not released reasons)--

……..…….....

7. Record of evidence made on
(If not recorded, reasons) ……..…….....

8. Application for trial made on .....

9. Date due to be tried .....

10. Reason for delay .....

(COMMANDING OFFICER)

Copy to :--

1. Inspector General (In the case of the 8th and subsequent reports).

2. Director General (Special report in case the accused is under close arrest for more than 3 months without a trial).

APPENDIX **III**

(Rule 39 (2) (b)]

SI. No	Date	Name of the Accused	Name of the Officer or Subordinate Officer to whom request or representatio n made	Particulars of the request or representation	Orders of the Commanding Officer	Signature and Remarks date of the Officer or subordinate Officer who conveys the orders of the Commanding Officer to the accused	Remarks
1	2	3	4	5	6	7	8

APPENDIX IV

(Rule 43)

Form for use at summary proceedings of under-officers and other enrolled persons under Sec. 56 of the Indo Tibetan Border Police Force Act.

OFFENCE REPORT

……..

Unit……..

Serial No ……..

For week ending .....

Last report submitted on …….

Charges against No.....Rank ……Name…….……

Place and date of offence	Offence	Plea	Names of witnesses	Punishment awarded	Signature Rank and designation of officer by whom awarded and date of award	Date of entry in conduct sheet	Remarks
1	2	3	4	5	6	7	8

Signature of Commanding Officer of the Battalion/Unit

Instructions:

Col. 1 In cases of absence without leave/desertion, “the date of offence" will be the first day of absence.

Col. 2 The section and sub-section of the ITBPE Act under which the charge is preferred will be inserted above the statement of offence.

Col. 4 An officer cannot deal summarily with a case in which he is the sole prosecution witness.

Col. 5 Must be completed strictly in accordance with the heading.

NOTE: This will be prepared in duplicate.

A copy along with a precis of evidence where made shall be sent to the Deputy Inspector General/ Addl. Deputy Inspector General.

APPENDIX V
(Rules 43 & 55(2)
Charge-Sheet

The accused, No……..(if applicable) Rank…….....
Name.....Battalion/Unit.....is charged with

DISOBEYING THE LAWFUL COMMAND OF HIS SUPERIOR OFFICER

I.T.B.P.F. ACT
SEC. 23 (2) in that he,

at.....on.....disobeyed the lawful command of his superior officer, Rank.....Name.....
of the same Battalion, to turn out for Commandant's parade, by not turning out.

Place. . . . . .

Date.....

A.B.
Commanding Officer…….. Bn/Unit

*To be tried by a General/Petty Force Court

Place. . . . . .
Date.....

X.Y.
Inspector General/Dy. Inspector General/ADDL DIG
(Or Staff Officer to IG/DIG/ ADDL DIG)

*When the sanction is accorded for the trial of the grave offences by Summary Force Court (ITBPF Act Sec 86 (2), a similar entry should be made on the charge sheet.

APPENDIX VI

(Rule 54)

Form of Application for a Force Court

Battalion/Unit

Station Date 19.

Application for a Force Court

Sir,

I have the honour to submit charge(s) against No…….....Rank…… Name……..of the…….. Unit under my command, and request you to accord/obtain sanction ,of…….....that a Force Court may be assembled for his trial at……..

The case was investigated by (a).....

A Court of Inquiry was held on (b)……date……at……..at……..(St ation).

Presiding Officer.....Rank, Name and Unit.

Members.....

The accused is now at.....His general character is (c) I enclose the following documents (d).

1.Charge-sheet [.....copies (e).] 2. Record or abstract of evidence original (f) and 5 copies.

3. Original exhibits (g).

4. Correspondence (g).

5. Statement as to character ( ) and the conduct-sheet of the accused (g).

6. List of witnesses for the prosecution and defence (with their present addresses) (g).

7. List of Exhibits (h).

8. Statement by accused as to whether or not he desires to have an officer assigned by the convening officer to represent him at the trial (rule 65) (h).

Signature of Commanding Officer…….

(a) Here insert name of.....

(i) Officer who investigated the charges

(ii) Officer who made preliminary hearing into the case (Rule 44).

(iii) Officer who made the record of evidence (Rule 50).

(b) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges; otherwise to be struck out [Rule 62(iii.)]

(c) To be filled in by the Commanding Officer

(d) Any items not applicable to be struck out.

(e) One copy each to Presiding Officer, Judge Attorney (if any), members, Prosecutor and the accused.

(f) Original Record or abstract of Evidence to be sent to Presiding Officer.

(g) 3, 4, 5 and 6 to be returned to the Commanding Officer of the Unit of the accused with the notice of trial.

(h) 7 & 8 to be sent to the Presiding Officer.

APPENDIX VII

[Rule 64 (a)]

Forms as to Force Court
Forms for Assembly of Force Court
General and Petty

Forms or order for the Assembly of a General (or Petty) Court under the Indo-Tibetan Border Police Force Act, 1992

Orders by.....

(place ……..…Date.....) No.....

Rank.....

Name ..... The details of officers as mentioned below will assemble at.…….on the……..... day of…….. for the purpose of trying by a ……Bn/ Unit. Force Court the accused person (p
ersons) named in the margin (and such other person or persons as may be brought before them)*

The senior officer to sit as Presiding Officer.

MEMBERS.....……

……..WAITING MEMERS.....

…….....is appointed Judge Attorney

INTERPRETER

……..……..is appointed Interpreter.

PROSECUTOR

.....Is appointed Prosecutor.

*The accused will be warned, and all witnesses duly required to attend. The proceedings (of which only two copies are required) will be forwarded to……

Signed this.....day of.....

Convening Officer

*The opinion of the Convening Officer with respect to the composition of the Court (see Rule 63) should be added here, thus:--

"In the opinion of the convening officer it is not practicable to appoint officers of different Battalions/Units.

"In the opinion of the convening officer, officer of equal or superior rank to the accused are not available, having due regard to the public service."

*Add here any order regarding Counsel. [See Rule 64(g).

APPENDIX VIII

[Rule 107]

In exercise of the powers conferred on me by Section 117 I.T.B.P.F. Act, 1992,

I….....hereby order that …….. be delivered/paid to .... (be confiscated/destroyed).

Place.....

Date.....

Signature

(Confirming authority) **APPENDIX IX**

(Rule 107 (8) (b))]

The finding and sentence of the General/Petty Force Court held at……..... (place). ... . from……..day to.....day for the trial of the accused.....were promulgated to the accused by me at.....

(Place) on.....day of.....19.

Extract for Battalion/Unit records have been taken/*. No record has been kept of the finding and sentence.

Signature

(Commanding Officer) Place. . . . . .

Date……

*To be used in case of acquittal on all charges.

APPENDIX –X

[Rule 164]

Warrants Under Sections 135 and 139 of the

I.T.B.P. FORCE ACT, 1992

FORM 'A'

Warrant of commitment for use when a prisoner is sentenced to imprisonment for life (Section 135).

To

The Superintendent

of the (a) ……Prison.

Whereas at a General Force Court, held at…… on the ……..day of.....19 , (No.....Rank.....) Name.....Unit..... was convicted of (the offence to be briefly stated here, as "desertion on active duty", "correspondence with the enemy", "or as the case may be").

And whereas the said General Force Court on the…….. day of……19 passed the following sentence upon the said (Name…..……..)' that is to say----------

---

(Sentence to be entered in full, but without signature)

And whereas the said sentence had been duly confirmed by (b) as required by law (c).

This is to require and authorise you to receive the said (Name.....) into your custody in the said prison as by law is required together with this warrant, until he shall be delivered over by you with the "said warrant to the proper authority and custody for the purpose of undergoing the aforesaid sentence or imprisonment. The aforesaid sentence has effected from (d)

Given under my hand at…….....this the..... Day of.....19

Signature(s)

(a) Enter name of civil prison.

(b) Name and description of confirming authority.

(c) Add if necessary "with a remission of……"

(d) Enter date on which the original sentence was signed.

(e) Signature of Commanding Officer of the prisoner or other prescribed officer.

FORM 'B'

Warrant of commitment for use when a prisoner is sentenced to imprisonment which is to be undergone in a civil prison (Section 135).

To

The Superintendent

of the (a) Prison.

Whereas at a (b)……Force Court held at.....on the..... day of…… 19
(No……Rank……Name……Unit……..) was duly convicted of (the offence to be briefly stated here, as 'desertion', 'theft', 'receiving stolen goods', 'Fraud', 'disobedience of lawful command' or as the case may be).

And whereas the said (b).....Force Court on the…….. day of. ……., 19 passed the following sentence upon the said (Name…….)
that is to say.....
…….

(Sentence to be entered in full, but without signature)

And whereas the said sentence..... (c) has been confirmed by (d) as required by law (e) is by taw valid without confirmation.

This is to require and authorise you to receive the said (Name..... into your custody together with the warrant and there carry the aforesaid sentence of imprisonment into execution according to law. The sentence has effect from the (f),.....…….

Given under my hand at.....this the……..... day of.....19

Signature (g) (a)

Enter name of civil prison.

(b) General, Petty or Summary.

(c) Strike out inapplicable words.

(d) Name and description of confirming authority.

(e) Add if necessary 'with a remission of. .. .. .

This is to require and authorise you to keep the said (Name)……in your custody together with this warrant in the said prison as by law is required until he shall be delivered over by you with the said warrant to the proper authority and custody, for the purpose of his undergoing the punishment of imprisonment for life under the said order. And this is further to require and authorise you to return to me the original warrant of commitment in lieu whereof this warrant is issued.

*The period of such imprisonment will reckon from the (g)

Given under my hand at.....this the.....day of I9 .

Signature (h) (a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) Enter original sentence (if this was reduced by the confirming officer or other superior authority the sentence should be entered thus:-"Life (imprisonment reduced by confirming officer to 10 years").

(d) General.

(e) Name and designation of authority varying the sentence.

(f) Order to be set out in full.

(g) Enter date on which original sentence was signed.

(h) Signature of prescribed officer.

FORM 'D'

Warrant for use when prisoner is to be delivered into force custody.

To

The Superintendent
of the (a) Prison.

Whereas (No.....Rank.....Name.....) (late) of the.....unit is confined in the (a). .. .. .. ……prison under warrant issued by (b).....in pursuance of sentence of (c).....passed upon him by a (d).....Force Court held at.....on.....and whereas (e). .. .. has, in exercise of the powers conferred upon him by the ITB Police Force Act passed the following order regarding the aforesaid sentence; that is to say (f).....

This is to require and authorise you to deliver forthwith the said (name) in your custody to the officer or subordinate officer bringing this warrant.

Given under my hand at.....this the.....day of ……...19 .

Signature(g)

(a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) Enter original sentence (if this was reduced by the confirming officer or the other superior authority the sentence should be entered thus: (2 years rigorous imprisonment reduced by confirming officer to 1 year).

(d) General, Petty or Summary.

(e) Name and designation of authority issuing the order.

(f) Order to be set out in full

(g) Signature of prescribed officer.

APPENDIX XI

(Rule 165)

FORM 'A'

Warrant committing to civil prison custody a person sentenced to death.

To

The Superintendent of the (a)…….Prison

Whereas at a (b).....Force Court held at……..... on the.....day of…….....19 ,(No ……. ..... Rank…….....Name.....) of the.....……..... Unit was convicted of.....(offence to be briefly stated);

And whereas the said (b)…….……. ...Force Court on the……. day of……..1 9, passed sentence of death by being hanged, on the said

(NAME):--

and the said sentence of death has been confirmed by the Central Government.

This is to require and authorise you to receive the said (Name)…….into your custody and to carry out the sentence of death on. ……..……...

Given under my hand at ...,.....this the …….. day of……... 19 .

Signature (c) (a)

Enter name of civil prison.

(b) General.

(c) Signature of the Director General.

FORM 'B'

Warrant to obtain person sentenced to death from civil custody in order to carry out such sentence.

To

The Superintendent
of the (a). . . . . Prison,

Whereas (No..... ...Rank.....Name…….....) (late) of the ……Unit having been sentenced to suffer death on the.....day of…….19……by a (b)...……..force Court held at.....is held in the said prison under a warrant by (c)

And whereas the said sentence having been duly confirmed by (d).....as by Law required an order to carry out the said sentence has been issued to me (e)…… .(Name and Rank).....

This is to require and authorise you to deliver forthwith the said (Name)..……to the officer/Subordinate officer/Under officer bringing the warrant.

Given under my hand at…… .this day of. . . ..19 .

Signature (f) (a) Enter name of civil prison,

(b) General.

(c) Enter name or designation of officer who signed original warrant.

(d) Name and description of confirming authority.

(e) Name and designation of the officer to whom the order is issued.

(f) Signature of the officer by whom the order is issued.

FORM 'C'

Warrant to carry out sentence of death,

To

The Deputy Inspector General/Add. Deputy Inspector General ……..

Whereas at a(a).....by force court held at…….……on the day of.. . .. . .19 . (No.....Rank. ……Name …….. …….) of the..... .Battalion/Unit was convicted of…….(offence to be briefly stated).

And whereas the said (a)…….Force Court on the……day of.. . . . . .19 , passed sentence of death by being shot on the said (Name) ..... and the sentence of death has been confirmed by the Central Government.

This is to require and authorise you to carry out the sentence of.....…..death on…….. Given under my hand at..... this the.....day of.....19

Signature (b) (a) General,

(b) Signature of the Director General.

APPENDIX XII

(Rule 166)

FORM 'A'

Warrant for use when the sentence of a person under sentence of death and committed to custody in a civil prison is commuted to a sentence of imprisonment for life.

To

The Superintendent of the (a)……. Prison.

Whereas (No.....Rank…..... Name.....) (late) of the…….....….....unit is held in the (a).....Prison under a warrant issued by (b)…… in pursuance of a sentence of death passed upon him by (c) ……..……..Force Court held at…….on……. and whereas (d)……has in exercise of the powers conferred upon him by the 1.T.B. Police Force Act passed the following order regarding the aforesaid sentence:

That is to say (e).....……....

This is require, and authorise you to keep the said (Name)... …….....in your custody together with this warrant in the said prison as by law is required until he shall be delivered over by you with he said warrant to the proper authority and custody for the purpose of his undergoing the punishment of imprisonment for life under the said order. And this is further to require and authorise you to return to me the original warrant of commitment in lieu whereof this

warrant is issued. This period of such imprisonment for life will reckon from the (f)……...…

Given under my hand at ……..…….this the……..day of 19.

Signature (g)

(a) Enter name of civil prison.

(b) enter name or designation of the officer who signed original warrant.

(c) General

(d) Name and designation of authority commuting the sentence. (e)
Order to be set out in ful1.

(f) Enter date on which original sentence was signed. (g)
Signature of Commanding Officer.

FORM 'B'

Warrant for use when the sentence of a person under sentence of death and committed to custody in a civil prison is commuted to a sentence of imprisonment to be served in the same prison.

To

The Superintendent of the (a)……Prison.

Whereas (No.....……..Rank…….Name ……) (late) of the….……Unit is held in the (a) Prison under a warrant issued by (b)……..……...…… in pursuance of a sentence of death passed upon him by a (e)……..……Force Court held at.....on.....……and whereas (d)…….has in exercise of the Powers conferred upon him by the I.T.B. Police Force Act, passed the following: order regarding the aforesaid sentence that is to say:
(e)……..

This is to require and authorise you to keep the said (Name……..…… in your custody together with this warrant, and there to carry into execution the punishment of imprisonment under the said order according to law.

And this is further to require and authorise you to return to me the original warrant of commitment in lieu whereof this warrant is issued. This period of such imprisonment will reckon from the (f) .....

Given under my hand at……this the……..day of.....19

Signature (g) (a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) General.

(d) Name and designation of authority commuting the sentence.

(e) Order to be set out in full.

(f) Enter date on which original sentence signed.

(g) Signature of Commanding officer.

FORM 'C'

Warrant for use when a person, who after having been sentenced to death has been committed to

custody in a civil prison is to be delivered into the Force custody for a purpose other than carrying out the sentence of death.

To

The Superintendent of the (a).....Prison.

Whereas No.....Rank.....Name..... (late) of the.....Unit is held in the (a).....prison under a warrant issued by (b)……in pursuance of a sentence of death passed upon him by a (c)…… Force Court held at.....on ……and whereas (d)……..... has in exercise of the powers conferred upon him by the I.T.B. Police Force Act passed the following order regarding the aforesaid sentence; that is to say (e)……..... ……

This is to require and authorise you to forth with deliver the said (name……to the officer/subordinate officer or under officer bringing this warrant.

Given under my hand at.....this the.....day of.....……19

Signature (f) (a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) General.

(d) Name and designation of authority issuing order.

(e) Order to be set out in full.

(f) Signature of Commanding officer.

FORM 'D'

Warrant for use when a prisoner is pardoned or his trial set aside, or when the whole sentence or the unexpired portion thereof is remitted (Section 139).

To

The Superintendent

of the(a).....Prison.

Whereas (No.....Rank.....Name.....) of the…….....Unit is confined in the (a)..... Prison under a warrant issued by (b)…… in pursuance of a sentence of (c).....passed upon him by a (d)……...Force Court held at……on……..... .....and whereas (e).....has, in exercise of the powers conferred upon him by the I.T.B. Police Force Act, passed the following order regarding the aforesaid sentence, this is to say (f)…….…….

This is to require and authorise you to forthwith discharge the said (Name)..... from your custody unless he is liable to be detained for some other cause, and for your so discharging his this shall be your sufficient warrant.

Given under my hand at.....this the.....day of.....19

Signature (g) (a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) Enter original sentence (if this was reduced by the confirming officer or other superior authority the sentence thus: (2 years rigorous imprisonment reduced by confirming officer to 1 year).

(d) General, Petty and (or) Summary.

(e) Name and designation of authority pardoning prisoner, mitigating sentence or setting aside trial.

(f) Order to be set out in full.

(g) Signature of prescribed officer.

APPENDIX XIII

[Rule 175(2)(a) (ii)]

REPORT ON UNNATMRAL DEATH

1. Place of death, or the place where dead body was found (give details).

2. Date and time at which information of death was received.

3. Name and description of two or more persons who identify the dead body.

4. Name and particulars of the deceased and his status.

5. Condition of clothes worn by the deceased.

Note.-In case, examination by Doctor is awaited, above details should be collected without removing the clothes etc. of the ceased, the other details should be completed after the Doctor's examination.

6. Condition of limbs, eyes and mouth.

7. Expression of face.

8. Marks of struggle on the dead body, if any, injuries and abrasions, should be recorded showing their size and location.

Note.--Depth of injury should be recorded but injuries should not be touched. If examination by Doctor is awaited the above information should be recorded after his examination.

9. Whether blood is fluid or coagulated. The place from which it came out and its quantity.

10. By which means, weapon or instrument, the injury or marks of struggle appear to have been caused?

11. Was any rope tied around the neck or is there any mark of it being tied by anything ?

12. Was the rope or any other thing used to strangle or hand dead body, was it strong enough to sustain the weight and whether its other end was tied to anything?

13. Was any external article like grass etc. sticking to hairs or held in his hand or sticking to any other part of the body?

14. Is the dead body that of a strong and well-built man or it is that of a weak or old man?

15. Is the dead body strong or weak or is it in decomposed state?

16. Length of the dead body from head to feet.

17. Identification marks and location and appearance of the wounds.

18. Apparent cause of death.

19. Is these any rumour or other circumstances showing that it is a case of suicide?

Details of articles found on the dead body or lying near it

20. Those found on the dead body (A slip will be of fixed on each article which will be stamped).

21. Those found lying near the dead body (a slip duly stamped will be affixed on each article).

Description of the seal 22.

Map of the place where the dead body was found.

Brief history of the case

Signature of two or more respectable witnesses of the locality inwhose presence investigation was carried out.

place.....

Signature of the Officer Investigating the case

Date.……

Name .....……Rank.....

APPENDIX XIV

[Rules 46 & 47]

FORM I

FORM FOR USE AT SUMMARY TRIALS OF OFFICERS AND SUBORDINATE OFFICERS

(Section 58)

Accused……..
Rank and
Name……..……Unit.……
……...

When the authority dealing summarily with the case decides (with the written consent of the accused) to dispense with the attendance of witness :

Question to accused

I. Have you received a copy of the charge sheet. and recorded or abstract of evidence

Answer :

2. Have you had sufficient time to prepare your defence ?

Answer :

3. The charge sheet is read.

Are you guilty or not guilty of the charge/s against you which you have heard / read ?

Answer :

4. Do you wish to make a statement ?

Answer :

If the accused desires to make a statement he should do so now. If at the conclusion of the hearing the authority dealing summarily with the case considers that the charge should not be dismissed, he is to examine the accused's record of service or conduct sheet

If the authority dealing summarily with the case proposes to award a punishment other than a reprimand severe reprimand or penal deductions, he shall put the fol1owing question to the accused.

5. Do you elect to be tried by Court or will you accept my award?

Finding……...
Award……Stati
on……Date…
……

Note.--Oral statement of the accused made in answer to question 4 will not be recorded. If the accused has submitted a written statement such statement is only to be forwarded with or attached to this form when a copy of the Record or Abstract of Evidence is also required to be so forwarded or attached. This form will be kept with Confidential Character Roll of the Officer/Subordinate Officer.

FORM II

FORM FOR USE AT SUMMARY TRIALS OF OFFICERS AND SUBORDINATE OFFICERS

(Section 58)

Accused……Rank of

Name……...

Unit……

When the authority dealing summarily with the case do not decide to dispense with the attendance of witnesses or when the accused requires their attendance.

Question to Accused:

l. Have you received a copy of the charge sheet and the record or abstract of evidence ?

Answer :

2. Have You had sufficient time to prepare your defence? Answer :

3. Are you guilty or not guilty of the charge/s against you which you have heard/read?

The witness give their evidence, accused being permitted to cross-examine.

4. Do you wish to make a statement? Answer :

4. Do you desire to call any witness? Answer :

The accused makes a statement and his witnesses give evidence.

If at the conclusion of the hearing, the authority dealing summarily with the case considers that the charge should not be dismissed, be is to examine the accused's record of service or conduct sheet.

If the authority dealing summarily with the case proposes to award a punishment other than a reprimand, severe reprimand or penal deductions, he shall put the following question to the accused.

6. Do you elect to be tried by Court or will you accept my award ?

Answer:

FINDING.....

AWARD…….STATION.

.....DATE.....

.....

NOTE: Oral statement of the accused made in answer to question wil1 not be recorded. If the accused has submitted a written statement, such statement is only to be forwarded with or attached to this form when a copy of the Record or Abstract of 85

Evidence is also required to be

forwarded or attached. This form will be kept with Confidential Character Roll of the Officer/Subordinate Officer.

APPENDIX-XV

[Rules 50(7), 66 and 174(7))]

Forms of summons to witnesses

(a) In the case of Record of Evidence.

Whereas charge of having committed an offence triable by Force Court has been preferred before me against (No.....Rank…….. Name……..Unit…….) and whereas I have directed a record of the evidence to be taken in writing at(place) ……..on the…….. day of……..19……at…….. hours.

I do hereby summon and require you (name) to attend as a witness at the said place and hour (and bring with you the documents hereinafter mentioned, namely……..

……..)

Whereof you fail at your peril.

Given under my hand at.....on the.....day of.....19…….....

Signature

Commanding Officer of the accused ----------

(b) In the case of Force Court

Whereas a Force Court has been ordered to assemble at..... on……the day of.....19……for the trial of.....of the.....Unit. I do hereby summon and require you A……..……..……B.....to attend, as a witness before the said Court at…….……..on the…….……day of.....19 ...……at hours (and to bring with you the documents hereafter mentioned, namely……..…….) and so to attend from day to day until you shall be duly discharged, whereof you shall fail at your peril.

Given under my hand at.....on the.....day of.....19.....

Signature

Convening Officer (or Judge Attorney or Presiding Officer of the Court or Commanding Officer of the accused) ----------

(c) In the case of a Court of Inquiry

Whereas a Court of Inquiry has been ordered to assemble at…….....….on the day of 19…….....to inquire into the circumstances under which.....I do hereby summon and require you. A……..…B…...…….to attend as a witness before the said Court of Inquiry at……...…. on the…… day of …..……..

…….19…….…….hours (and to bring with you the documents hereafter mentioned, namely……..……..) and so to attend from day to day until you shall be duly discharged, whereof you shall fail at your peril.

Given under my hand a…….....on the.....day of.....19.....

(Signature)

Presiding Officer or
Commanding Officer of the Unit ---------

[No. I-45011/17/92 (Legal) ITBP]
ANURAG GOEL, Jt. Secy.