

Consideration of appeal

37. (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 8 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in rule 9 or rule 10 or enhancing any penalty imposed under the said rules, the appellate authority shall consider:- . .

(a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in failure of justice;

(b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and .

(c) whether the penalty or the enhanced penalty imposed is adequate; inadequate, or severe and pass orders.

(i) confirming, enhancing, reducing or setting aside the penalty;
or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case;

Provided that:

(i) the Commission shall be consulted in all cases where such consultation is necessary;

(ii) if the enhanced penalty which the appellate authority proposed to impose is one of the penalties specified in clauses (vi) to (x) of rule 9 and an inquiry under rule 20 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 25, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 20 and, thereafter, on consideration of the proceedings of such inquiry, make such orders as it may deem fit;

(iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in

clauses (vi) to (x) of rule 9 and an inquiry under rule 20 has already been held in the case, the appellate authority shall make such orders as it may deem fit; after the appellant has been given a reasonable opportunity of making a representation [G.O.Ms.No. 480, G.A. (Ser.C) Dept., dt. 20-12-2001]

(iv) subject to the provisions of rule 25, the appellate authority shall.-

(a) where the enhanced penalty which the appellate authority proposes to impose, is the one specified in clause (iv) of rule 9 and falls within the scope of the provisions contained in subrule (2) of rule 22; and (b) where an inquiry in the manner laid down in rule 20 has not

already been held in the case:

itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 20 and thereafter, on consideration of the proceedings of such inquiry, pass such orders as it may deem fit; and

(v) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions of rule 22, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in rule 33 the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.