

**GOVERNMENT OF PUDUCHERRY
CHIEF VIGILANCE OFFICE
CHIEF SECRETARIAT**

C.31011/06/A3/2022-CVO

Puducherry, the

CIRCULAR

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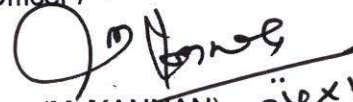
Sub: CVO – General Examination by the Inquiry Officer
and the procedural formalities to be complied for
sending disciplinary cases to MHA - Reg.

In the Departmental proceedings, the Inquiry Officer after recording all evidence from both sides viz. Prosecution and Defence, may generally question the Charged Officer on the circumstances which have come out in the evidence against him and this is a formal action required to be taken by the inquiry officer as per Rule 14 (18) of CCS CCA Rules before closing the inquiry. This stage has an important objective to provide an opportunity to the Charged Officer to explain in a logical and coherent manner, the circumstances which appeared in the evidence against him and to clear the doubts of the Inquiry Officer. Therefore, the Inquiry Officer should ensure that this stage is not omitted. However, the general examination must not take the shape of piercing or searching questions by the Inquiry Officer and in no circumstances, he can cross-examine the Charged Officer. If the Charged Official does not desire to be questioned by the Inquiry officer or refuses to offer himself for examination by the latter, the Inquiry Officer should record this fact in the Daily Order Sheet as also include the same in his Report. General questioning of the charged official by the Inquiry Officer on the circumstances appearing against him is absolutely necessary as a number of cases have failed to stand scrutiny of the Courts on account of the failure of the Inquiry Officers to observe this technicality.

2. The said procedure has been emphasized in the DoPT circular dt.18/02/2015. The Disciplinary Authorities, while processing the disciplinary cases, should adhere to the vital procedural requirements / timelines provided under the CCS(CCA) Rules to ensure justice and bringing the disciplinary cases to logical conclusions. The **time-limit** for various stages of Departmental Inquiry and the steps to be taken to avoid delay, as prescribed by the Central Vigilance Commission, New Delhi is enclosed herewith for strict compliance.

3. The **Check-list** for referring the disciplinary cases to MHA is enclosed herewith for guidance / compliance.

/ By Order of the Chief Vigilance Officer /


(M. KANNAN) 04/11/22

73 UNDER SECRETARY TO GOVERNMENT

To

1. All the Secretaries to Govt.
2. All Head of Departments.

For necessary action and to ensure compliance.
HoDs should also circulate the same to all the
Inquiry Officers for compliance.

Model Time Limit for Departmental Inquiries as laid down in Circular No. 8(1)(g)99(3) dated 03.03.1999

Stage of Departmental Inquiry	Time Limit prescribed
<ul style="list-style-type: none"> Fixing date of Preliminary Hearing and inspection of listed documents, submission of Defence documents/witnesses and nomination of a Defence Assistant (DA) (if not already nominated) 	Within four weeks
<ul style="list-style-type: none"> Inspection of relied upon documents/submission of list of DWs/Defence documents/Examination of relevancy of Defence documents/DWs, procuring of additional documents and submission of certificates confirming inspection of additional documents by CO/DA Issue of summons to the witnesses, fixing the date of Regular Hearing and arrangement for participation of witnesses in the Regular Hearing Regular Hearing on Day to Day basis 	3 months
<ul style="list-style-type: none"> Submission of Written Brief by PO to CO/IO 	15 days
<ul style="list-style-type: none"> Submission of Written Brief by CO to IO 	15 days
<ul style="list-style-type: none"> Submission of Inquiry Report from the date of receipt of written Brief by PO/CO 	30 days

NB: If the above schedule is not consistent /in conflict with the existing rules/ regulations of any organisation, the outer time limit of six months for completing the Departmental Inquiries should be strictly adhered to.

Steps to be ensured to avoid delay in disciplinary proceedings
(Extracts from CVC guidelines dt.18/01/2016)

- (i) In cases where investigation has been conducted by the CBI/other investigating agency and the documents have been seized by them for prosecution in courts and RDA is also contemplated, it is the responsibility of the DA to procure from the CVO/CBI/investigating agency legible certified copies of seized documents required for RDA. In cases investigated by CVOs it must be ensured that certified legible photocopies of all documents are made available at the time of preparation of draft charge-sheet itself.
- (ii) While drafting the charge-sheet it may be ensured that all the relied upon documents as well as copies of relevant rules/instructions are in the custody of CVO. After issue of charge-sheet and submission of defence statement, the DA is required to take a decision within 15 days for appointment of IO/PO in major penalty cases.
- (iii) As far as practicable, the IO should be chosen from amongst the serving officers/retired officers in the same station where the charged officer is posted, who is likely to continue till the conclusion of inquiry.
- (iv) It may be ensured that the PO is appointed simultaneously. Changes in IO/PO be resorted to only in exceptional cases under intimation to the Commission (in respect of officers within the jurisdiction of the Commission).
- (v) In cases involving more than one charged officer, it may be ensured that, as far as practicable, same IO/PO is appointed in all cases.
- (vi) The PO must keep copies of relevant Rules/Regulations/instructions etc. readily available with him. Departments/Organisations should also ensure online availability of all their Rules/Regulations/Instructions etc. so that it can be downloaded during the inquiry proceedings without any loss of time.
- (vii) It may be ensured that the defence documents are made available within the time allowed by the IO. Responsibility should be fixed on the custodian of such documents for any undue delay/not producing it in time or loss of these documents.
- (viii) The IO should normally conduct Regular Hearing on a day to day basis and not grant more than one adjournment for appearance of witnesses. It may be ensured that all the prosecution or defence witnesses are summoned and examined in separate but simultaneous batches expeditiously.
- (ix) If witnesses do not appear in response to notices or are not produced by PO/CO as the case may be, powers conferred under the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 be exercised to request the Competent Court to pass orders for production of the witness through summons issued by the Court.
- (x) The IO should, as far as practicable, desist from allowing interlocutory documents sought either by the PO or the CO as additional documents during the deposition of witnesses.
- (xi) The time-limit for various stages of inquiry, as prescribed by the Commission vide its Circular No.8(1)(g)99(3) dt.03/03/0199 may be complied with strictly by the disciplinary authorities and the inquiry officers (Copy enclosed).
- (xii) Where the CO or PO do not co-operate in the manner of attendance, production of documents, witnesses etc., IO may after affording reasonable opportunity, proceed to give a report ex-parte based on facts, documents, witnesses produced before him.

**PROFORMA/ CHECK LIST FOR FORWARDING DISCIPLINARY CASES TO
THE UNION PUBLIC SERVICE COMMISSION**

PART I : SERVICE AND RELATED PARTICULARS

1.Name of charged officer and the service on which borne

2. (i) Whether temporary/permanent/contract service
(ii) If confirmed, date of confirmation

*3. Post held substantively, if in permanent service

- a) Designation
- b) Pay Level in the pay matrix (indicating pay index, etc.)
- c) Pay drawn
- d) Date from which pay shown against (c) drawn
- e) Date of increment

4. Post held at present

- a) Designation
- b) Pay Level in the pay matrix (indicating pay index, etc.)
- c) Pay drawn
- d) Date from which pay shown against (c) drawn
- e) Date of next increment

5. The next lower post (along with pay level in the pay matrix), the officer would have held but for his appointment to the present post he is holding

6. Date of Birth

7. Date of joining Govt. Service

8. Due date of retirement or actual date of retirement, if already retired

9. (a) Amount of monthly pension admissible/sanctioned
(b) (i) Amount of gratuity admissible (in respect of disciplinary proceedings initiated during service)
(ii) Amount of gratuity withheld (for disciplinary proceedings after retirement)

*Not to be filled in the case of All India Service officers

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10. (a) Appointing authority in respect of the post held at present, or the authority which actually appointed the person, if that authority is higher.
(b) Authority competent to impose the penalty in respect of the post held at present
(c) Appellate authority in respect of the post held at present
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11. Whether an oral inquiry, if required under the rules, has been held

12. Name and designation of Inquiry officer appointed, if any.

PART II : DETAILS OF CASE RECORDS

(All the records are required to be arranged and cross-referenced, as indexed below and page numbers of the file/ folders to be indicated against each item.)

Item	*Reference/comments
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(A) ORIGINAL CASES

(Where the Central Government or the State Government is the Disciplinary Authority and an order of penalty is to be passed for the first time)

(a) Complaint, if any, received by the Authorities
(b) (i) Report of the preliminary enquiry, if any, held in the matter leading to the institution of formal disciplinary proceedings against the C.O. (together with Depositions recorded)
(ii) Order, of suspension/ revocation of suspension, if any,
(c) Order, if any of the competent authority for joint/common proceedings where two or more Govt. servants are involved.
(d) i) Charge sheet together with the statement of imputations along with enclosures. ii) Records of delivery of charge sheet to the charged officer iii) Whether the Charge sheet issued as per the Rules

*Please indicate references in terms of page numbers, file numbers, folders, etc. Do not leave any column blank. If a document is not enclosed, indicate reasons.

(e) Reply of the Charged Officer
(f) A note from the Disciplinary Authority explaining the factual or procedural points, if any, raised in the Charged Officer's reply in minor penalty cases where no enquiry has been held
(g) Order of the Disciplinary Authority appointing the Inquiry Officer
(h) Order of the Disciplinary Authority appointing the Presenting Officer
(i) Daily Order Sheets maintained by the Inquiry Officer, indicating the progress of oral inquiry
(j) Correspondence of the Inquiry Officer, if any, with the Disciplinary Authority or the Charged Officer
(k) i) Depositions – oral statements, recorded from prosecution witnesses and defence witnesses ii) Statement of defence of the Charged Officer iii) General examination of the charged officer iv) Whether copies of relevant documents have been supplied to the Charged Officer v) Exhibits (in original/ legible copies duly authenticated) a) Prosecution b) Defence
(l) i) Written brief, if any, submitted by the Presenting Officer ii) Whether a copy of brief of Presenting Officer supplied to the Charged Officer
(m) Written brief, if any, submitted by the Charged Officer.
(n) Inquiry Officer's report
(o) i) Whether Inquiry Officer's report provided to the charged officer. ii) Whether disagreement of the Disciplinary Authority, if any, on the report of the Inquiry Officer, communicated to the Charged Officer iii) Representation of the Charged Officer on the findings of the Inquiry Officer.

iv) Para-wise comments of the Disciplinary Authority on the representation of the Charged Officer, if any.

(p) Whether the Disciplinary Authority has considered the merits of the case and come to the conclusion that a formal penalty is called for

(q) In cases of minor penalty, following information may also be provided:

- i) Whether the case is being submitted at least 90 days prior to the date of retirement.
 - ii) If not, the reasons for late submission of the case may be indicated.
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(r) In cases of major penalty, following information may also be provided:

- i) Whether the case is being submitted at least 180 days prior to the date of retirement.
 - ii) If not, the reasons for late submission of the case may be indicated.
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(B) CONVICTION CASES

(where any penalty is to be imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge)

a) Complaint/ F.I.R.

b) Investigation Report

c) Judgement of the Court

d) Show Cause Notice issued to the Government servant

(The Show Cause Notice should tentatively propose imposition of the penalty of highest grade, i.e., dismissal from service which shall ordinarily be a disqualification for future employment under the Government / withholding of hundred percent of pension and gratuity in full on permanent basis, as the case may be)

e)	Record of the delivery of the Show Cause Notice
f)	Representation of the Government servant on the Show Cause Notice
g)	Comments of DA on the representation of Government servant
h)	Whether the disciplinary authority has considered the merits of the case and come to the conclusion that a formal penalty is called for on the ground of conduct which has led to the conviction of the Government servant on a criminal charge

(C) APPEAL CASES

(Where the order of penalty has been passed by a subordinate authority and an appeal lies to the President)

(In these cases all the documents listed in (A) should also be sent)

a)	Order passed by the Disciplinary Authority together with a note, if any, containing the conclusion arrived at by him in respect of each charge
b)	Appeal of the officer concerned
c)	Whether appeal has been addressed to the competent authority
d)	Comments of the Disciplinary Authority on the Appeal including clarification on procedural points, if any, raised by the Appellant

(D) REVISION/REVIEW CASES

- i) Whether Appeal addressed to the President of India or to some Subordinate authority.

(Where the Appellate Authority is subordinate to the President and a modification of the appellate order is sought by way of Revision/Review or where the President has passed the original order)

(In these cases, all the documents listed in (A) and (C) should also be sent)

- ii) Whether the approval of the Competent Authority obtained before referring the Case for Commission's advice.

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- a) Appellate Authority's order/
President's order
 - b) Petition/Memorial submitted by the
officer
 - c) Note indicating the Reviewing
Authority's findings on the
charges, detailing the reasons
warranting modification of the
penalty already imposed and the
extent of such modification
 - d) Additional comments on the
procedural or factual points, if any,
raised in petition.
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(E) PENSION CASES

(Where the President proposes to withhold or withdraw pension otherwise admissible to the officer as a result of disciplinary proceedings instituted/ deemed to continue in respect of an officer who has retired from service)

(In these cases all the documents listed in (A) should also be sent)

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- a) Order of the President*, if any, that
the disciplinary proceedings should
be instituted under the relevant
pension rules.
 - b) Show cause notice issued to the
officer indicating precisely the
quantum of cut proposed to be made
in his pension and the period for
which it shall be operative
 - c) Reply of the officer to the aforesaid
notice
 - d) Comments on factual or procedural
points raised by the officer in his
reply.
 - e) Approval of the President to the
effect that the pensioner is found
guilty of grave misconduct or
negligence warranting withholding/
withdrawing of pension and/or
gratuity or recovery from a pension
or gratuity
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(F) GENERAL

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- a) Miscellaneous documents regarding
evidence such as the exhibits,
statements, etc. referred to in (A) to
(E) and extracts of relevant Rules,
Codes, Manuals, Acts, Judgements
etc.
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*Central Govt. in the case of All India Service Officers.

b) Information/position of disciplinary proceedings instituted against other co-accused officers.
c) Information/ position of action instituted against persons/ officials (other than Government servants) involved in the case, if any
d) Whether complete and up-to-date Confidential Roll of the officer has been enclosed.
e) Details of other disciplinary case(s) instituted against the Government servant and the penalty imposed, if any.
f) Present status of pending court cases, if any, along with the next date of hearing.

*Signature.....
 Name (in Block letters) of the Officer
 signing this statement.....
 Designation.....
 Telephone No.....
 Date:.....

*To be signed by an officer not below the rank of CVO/Joint Secretary to the Government of India