

Centre for Law & Public Administration (CLP)

**Foundation Course (FC)
for newly recruited Group – II Service
Officers (ASOs) of Telangana
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Reading Material

**CONSOLIDATED INSTRUCTIONS
ON THE
PROCEDURE TO BE FOLLOWED WHILE PROCESSING
A DISCIPLINARY CASE
AGAINST AN ERRING
GOVERNMENT SERVANT**



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PROCEDURE TO BE FOLLOWED IN PROCESSING DISCIPLINARY CASES

Provisions for imposition
of major penalties.
Rule 20 of A.P.C.S.
(CC&A) Rule

The Rule 20 of A.P.C.S. (CC&A) Rules, 1991 describes the procedure to be followed for imposing major penalties. Even for imposing minor penalties the procedure outlined in Rule 20 has to be followed. As provided in Rule 20, no order imposing any penalty on an erring employee can imposed, except after conducting enquiry as provided under Rule 20 and also in Rule 21. Even other acts under which an employee can be punished, such as Public Servants Enquiry Act, 1850 (Central Act 37 of 1850), A.P. Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the A.P.Lokayuktha and Upa-Lokayuktha Act, 1983, provide for necessary enquiry before any punishment is imposed on an erring employee. Where the disciplinary authority is of the opinion that there are sufficient grounds for enquiry into the truth of any misconduct or misbehaviour or for other lapses committed by a Government servant, enquiry against the Govt. servant, under Rule 20 and Rule 21, have to be conducted by an authority designated by the Disciplinary Authority. For conducting enquiry, Charges have to be framed. Along with charges a statement of imputation of misconduct or misbehaviour in support of each article of charge has to be provided. A statement of all relevant facts and list of documents and list of witnesses by whom the articles of charges are proposed to be sustained are also to be prepared. The Disciplinary Authority has to deliver a copy of the Articles of charges, statement of imputation of misconduct and list of documents and list of witnesses by which such articles of charges is proposed to be sustained, to the Government servant and the Govt. servant has to be asked to submit, within a specified period, his written statement of defence. On receipt of written statement of defence, the disciplinary authority has to examine the written defence with reference to the records and give its findings on each charge. If no written statement of defence is submitted by the Government servant and if the Disciplinary Authority feels that an enquiry against the charged officer has to be conducted, the Disciplinary Authority may appoint an Inquiring Authority for holding an enquiry into such charges which are not admitted by the Govt. servant.

Rule 20 provides further that the Disciplinary Authority must forward the following items to the Inquiring Authority :

- (i) a copy of the articles of charge and the statement of imputation of misconduct or misbehaviour;
- (ii) a copy of the written statement of defence, if any, submitted by the Government servant;
- (iii) a copy of the statement of witnesses, if any, referred to in sub-rule (3);
- (iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Govt. servant; and
- (v) a copy of the order appointing the Presenting Officer.

2. In addition to the above documents mentioned in the rules, the Disciplinary Authority must furnish all records on the basis of which charges have been framed against the erring Government employee to the Inquiring Authority. These documents are essential for successfully conducting the enquiry, as they contain material evidence in support of the charges. The Charged Officer also has the right to peruse records and rely on these records to defend himself. Very often records are sent to Inquiring Authority with considerable delay. Supply of records by the Disciplinary Authority in support of the charges, along with the order appointing the Inquiring Authority, is essential for speedy conduct of enquiry.

3. Once the enquiry is entrusted to the Inquiring Authority and all relevant documents are furnished and Presenting Officer is appointed and the Presenting Officer is duly briefed and supplied with copies of all documents, the Disciplinary Authority have to wait for further action till the enquiry report is received. All the provisions of Rule 20 of A.P.C.S. (CC&A) Rules have to be followed by the Inquiring Authority while conducting the enquiry.

FRAMING OF CHARGES

4. The enquiry against an erring employee starts in true sense with framing of charges. In other words, charges drawn up against the employee is the very basis for conducting

enquiry and subsequent action. It is, therefore, essential that the charges are very carefully framed and properly worded. The entire enquiry veers around the charges.

5. Detailed instructions about proper framing of charges were given in U.O. Note No. 1041/SC.F/88-4, G.A. (SC.F) Dept., dt. 16-8-1989. It has been emphasized in that U.O. note that following important aspects have to be kept in view while framing charges against the delinquent officer.

- (a) Each charge should be expressed in clear and precise terms and should not be vague.
- (b) A separate charge should be framed in respect of each separate transaction/event or a series of related transactions/events, which constitutes a distinct misconduct/misbehaviour.
- (c) If the transaction/event amounts to more than one type of misconduct then all misconducts should be mentioned.
- (d) If a transaction/event shows that the Govt. servant must have been guilty of one or other of the misconducts depending on one or other set of circumstances then the charge can be in the alternative.
- (e) Multiplication or splitting up of charges on the basis of the same allegation should be avoided.
- (f) The wording of the charges should not appear to be an expression of opinion as to the guilt of the delinquent official.
- (g) The charge should not refer to the preliminary investigation.
- (h) The charge should not be based on material which was subject of matter of earlier enquiry and decision.
- (i) The statement of imputation should give full and precise recitation of the specific and relevant acts of commission or omission on the part of Government servant in support of each

charge. It should be precise and factual and indicate which provisions of conduct rules were exactly violated by the Govt. servant because of his misconduct and misbehaviour/lapses.

- (j) The list of witnesses should contain the names of only those persons who will be able to give positive evidence to substantiate the allegations.
- (k) The list of documents should mention the relevant documents which will really support the allegations made in the charges.
- (l) Very often same charges are framed against the executing officer and supervisory officers. Since each officer has different duties and responsibilities, it is not appropriate to frame same charges against all the officers.

(Refer to U.O. Note No. 1041/SC.F/88-4, dated : 16-8-1989.)

Commissionerate of
Inquiries, U.O. Note
No. 1005/SC.E/97-3,
Dt. 27-08-1997

6. Government have constituted a full-fledged Commissioneate of Inquiries to conduct enquireies under provisions of AIS (D&A) Rules 1969 and under provisions of AP Civil Services (CCA&A Rules 1991). All Departments of Secretariat and other Disciplinary Authorities have been requested to entrust all disciplinary cases of Gazetted Officers of the State Government to the Commissioneate of Inquiries duly following the procedure such as framing of charges, obtaining the written statement of defence, consideration of the written statement of defence etc., as laid down in the provisions of AP Civil Services (CC&A) Rules, 1991.

Memo No. 3037/SC.E/
97-1, dt. 27-4-1998

7. Government have also subsequently clarified that departments of Government may entrust the following cases to the Commissioneate of Inquiries:

- (a) cases of Gazetted Officer appointed by Government and cases against Gazetted Officers enquired into by ACB and recommended for departmental action;
- (b) cases of Gazetted Officers in revenue earning departments viz., Commercial Taxes, Excise, Registration, Transport, where the pendency of

disciplinary matters over long years causing concern to Government;

- (c) cases of NGOs where a joint enquiry, both against NGOs and Gazetted Officers is necessary as well as the cases of NGOs involving grave charges. However, all cases against NGOs need not to be referred to Commissionerate of Inquiries as a matter of routine.

8. It has also been instructed in U.O. Note No. 800/SC.E1/98-1, dated 23-11-98 that departments of Government/ Disciplinary Authorities will obtain suggestions of Chairman, Commissionerate of Inquiries with regard to Inquiring Authority to be appointed, prior to issue of order appointing Inquiring Authority. The Disciplinary Authority also may take advice of Chairman, COI for preparing a panel of officers for appointment as Presenting Officer. It was also instructed again in the said U.O. Note that relevant records and material should be produced before COI promptly without any delay to avoid return of cases by COI for want of necessary supporting material to sustain the charges. It was also indicated that appointment of Presenting Officer should be made while forwarding the records to COI for conducting enquiry and a copy of the said appointment order should be forwarded without delay.

U.O. Note No. 61/COI/
98-1, dt. 10-6-99

9. A check memo also was prescribed so as to indicate at a glance, that necessary pre enquiry requirements have been completed before file is circulated to COI for nominating the name of the I.A. to conduct the enquiry. It is essential that all the stages indicated in the check memo are fulfilled before an I.A. is appointed.

10. In G.A. (Spl.A) Department, G.O.Ms.No. 147, dated 1-5-2000, all the departments of Secretariat were instructed that in all cases of corruption and other irregularities which are covered under para 6 of the scheme of Vigilance Commission, irrespective of the fact whether ACB or other authorities which enquired into irregularities, should be referred to Vigilance Commission for advice. It is often seen that, many cases, departments of Secretariat are not referring

their files to AP Vigilance Commission for advice before referring them to COI for nomination Inquiring Authority to conduct enquiry. This is resulting in return of the file to the respective departments to comply with instructions issued in the G.O.Ms.No. 147, dated 1-5-2000. Hence, it is desirable that all departments of Secretariat refer their cases first to Vigilance Commission for advice before they are referred to COI for nomination of an Inquiring Authority, in all cases of corruption and other irregularities, which are covered under para 6 of the scheme of the Vigilance Commission, issued in G.O.Ms.No. 421, G.A. (SC.D) Department date 3-8-93. If this procedure is strictly followed it will avoid unnecessary delay in the disposal of cases.

APPOINTMENT OF PRESENTING OFFICER

- a) Memo No. 22/Ser.C/ 93-3, dt. 1-5-1993
- b) Memo No. 650/Ser.C/ 94-3, dt. 6-1-95
- c) U.O.Note No. 1005/ SC.E/97-5, dt. 1-10-97
- d) U.O.Note No. 518/ COI.R/ dt. 20-10-2001

11. As per the provisions of Rule 20 of A.P.C.S. (CC&A) Rules, 1991, whenever an enquiry is ordered against an erring official, a Presenting Officer has to be appointed to present on behalf of the Disciplinary Authority, the case in support of the articles of charge. Such presenting Officer should always be atleast equal in rank to the Charged Officer. It is desirable, if a senior officer, senior in rank to the Charged Officer, is appointed as presenting Officer. If such an officer is not available in a department, the Disciplinary Authority may appoint a legal practitioner as Presenting Officer. G.A.D. has prepared a panel of legal practitioners and their services can be utilized by the Disciplinary Authorities. It has been emphasized in various instructions issued by Government in G.A.D. that a suitable Presenting Officer should be appointed promptly as and when an enquiry is ordered and Inquiring Authority is nominated. It has also been emphasized in various instructions issued from time to time that Presenting Officer so appointed should be supplied with connected material such as copy of the charge memo, copy of written statement of defence submitted by Charged Officer and also the Presenting Officer shall be briefed by the Disciplinary Authority regarding the case to be presented by him before the Inquiring Authority. Most of the time since the Presenting Officer is not properly briefed by the Disciplinary Authority, he appears before the Inquiring Authority totally unprepared. In spite of the above instructions, it is often observed by the Inquiring Authorities

that there instructions are not being followed strictly by the Disciplinary Authorities. Due to this, the presentation of the case before the Inquiring Authorities get weakened. In particular, to enable the Presenting Officer to present the case of the Disciplinary Authority effectively before the Inquiring Authority it is necessary that the following is ensured :

- (i) The Presenting Officer is appointed promptly and he is briefed about the case by the Disciplinary Authority;
- (ii) He is supplied with copies of Charge Memo and copies of the enclosures to the Charge memo., and all supporting documents;
- (iii) He is supplied with copies of written statement of defence submitted by the Charged Officer with its enclosures;
- (iv) He is supplied with copy of the preliminary enquiry report, if any.

It was also advised that each Department prepare a panel of Presenting Officers from among the serving officers or even from among the retired officers, suitable for the job and out of that panel appointments may be made whenever necessary. The Presenting Officer should be appointed by name and not merely by designation. An officer who is retiring shortly should not be so appointed.

INSTRUCTIONS ON PROCEDURE TO BE FOLLOWED BY THE DISCIPLINARY AUTHORITY WHILE REFERRING THE DISCIPLINARY CASES TO THE COMMISSIONERATE OF INQUIRIES, INCLUDING SUBMISSION OF RELEVANT RECORDS:

12. General Administration Department have issued instructions earlier that where ACB recommended for departmental action, the case must be referred to commissionerate of Departmental Enquiries. The ACB will furnish draft charges and other documents in support of those charges. The Department concerned should examine the report of the ACB and draft charger and documents and finalise articles of charges. A check list was also communicated as to how to examine the report of the ACB before the case is

Me. o No. 490/SC.E/
87-1. dt. 13-3-1987

SP/20-4

referred to the Commissionerate of Departmental Enquiries. It is observed that, often, the departments of Government are not examining properly the reports, draft charges etc., submitted by the ACB before they are referred to the Commissionerate of Inquiries, particularly with reference to the check list communicated earlier. This should be invariably done.

13. Govt. in G.O.Ms.No. 82, G.A. (Ser.C) Dept., dt. 1st March, 1996 have prescribed formats for framing of articles of charges, for appointment of Inquiring Authority, Presenting Officer, etc. Those formats may be followed.

14. In Circular Memo.No.20922/Ser. C/99, dt. 28-9-99 a check list indicating each step to be followed while processing disciplinary cases has been prescribed. This check list is prescribed with a view to ensure compliance of various procedural steps in dealing with disciplinary cases against erring Govt. employees. 1st part is about what steps / points to be verified before institutions of disciplinary proceedings. The 2nd part is how the enquiry report is to be processed, the 3rd part is about steps to be taken for awarding penalties. If disciplinary cases are processed by following steps in check list, much of the procedural lapses can be avoided.

U.O.Note No. 19952/
Ser.C/2000, dt. 27-4-2000

15. It has been observed during review of disposal of disciplinary cases by the Chief Secretary that undue delay is taking place in disposal of disciplinary cases. It was, therefore, suggested that if certain steps are taken by Disciplinary Authorities, then undue delay can be avoided. First, the charges must be properly prepared. Often, the draft charges submitted by the investigating agencies are copied verbatim and issued as charges. The draft charges must be thoroughly scrutinized with reference to specific lapses committed by the Government servant and also with reference to records to be relied upon to sustain those charges. All records must be collected by the Disciplinary Authority before charges are framed and communicated to the Charges Officer. It has been noticed in several cases that records are not available with the Disciplinary Authority even by the time of appointment of Inquiring Authority and the same are requisitioned from subordinate offices on the requisition of Inquiring Authority. If the Disciplinary Authority has not even seen the connected

documents while examining the written statement of defence submitted by the Charged Officer, it shows that Disciplinary Authority has not applied his mind in framing charges and in examining the written statement of defence. It is, therefore necessary that all relevant records are available with the Disciplinary Authority at the time of framing charges.

16 Disciplinary proceedings should cover all the officers involved in an act of failure or in acts of omission and commission. The witnesses also must be properly selected and, as far as possible, higher functionaries should be cited as witnesses and not junior level functionaries, who often may not be in a position to give evidence without fear against the Charged Officer. All cooperation should be extended by the Disciplinary Authority to the presenting Officer and he should be supplied with copies of all relevant documents/ records.

17. In almost all cases where charges are framed on the basis of report of Director General (Vigilance & Enforcement), report of Director General (V & E) only is cited as evidence. Report of D.G. (V&E) by itself is not sufficient evidence to prove charges, as contents of the report are invariably disputed by the Charged Officers. In all such cases the Officer of Director General (Vigilance & Enforcement) who inspected the works and prepared the report has to be cited as witness. All the documents such as field observation recorded/ measurement recorded by the officer of Vigilance and Enforcement also should be cited as relevant document to prove the charges. The Disciplinary authority must furnish all relevant records promptly to the Inquiring Authority. These are as follows:

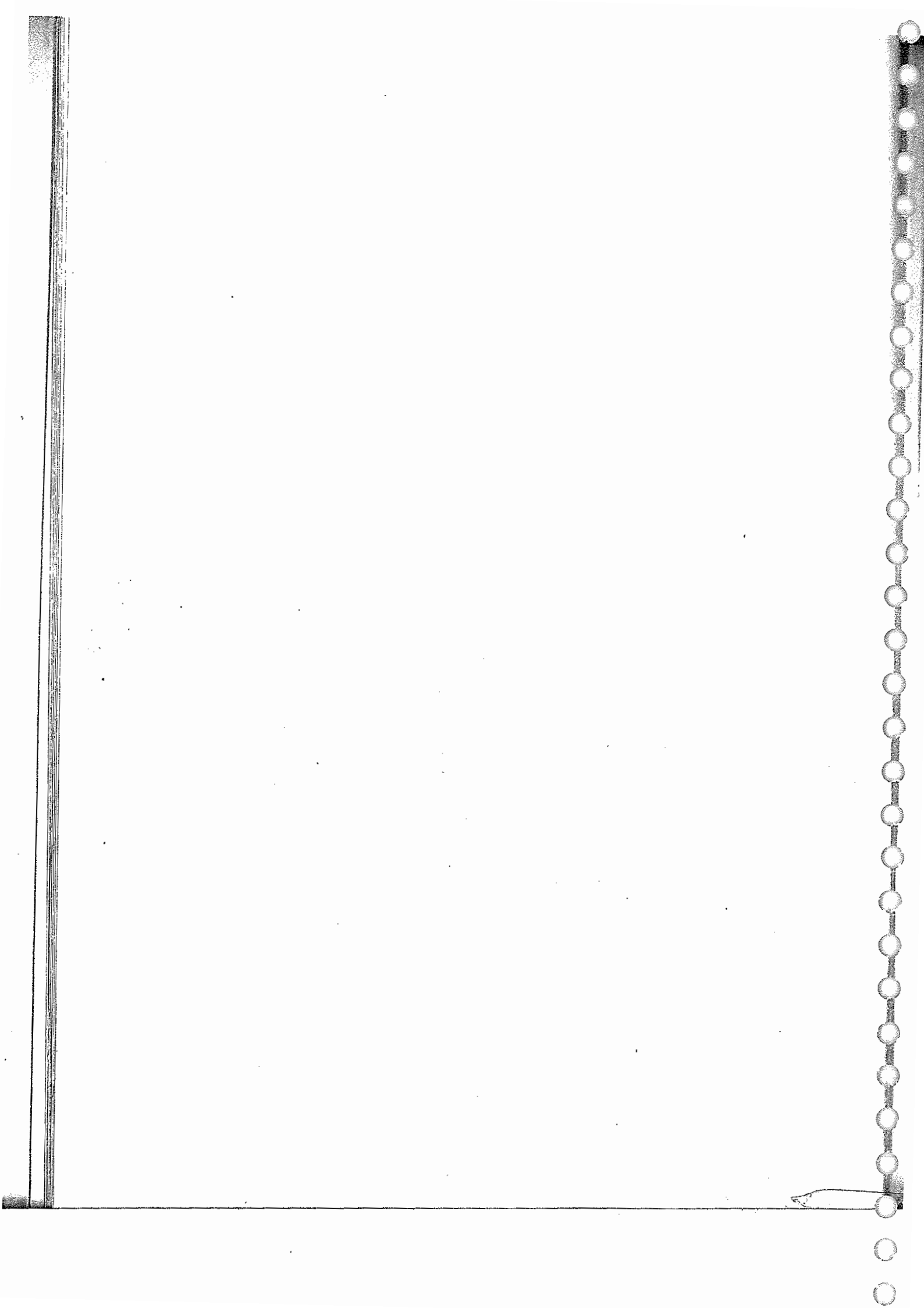
- (a) Charge Memo with statement of imputation of misconduct and misbehaviour;
- (b) list of witnesses by whom the charges are to be sustained;
- (c) list of documents along with documents by which the charge are to be proved;
- (d) written statement of defence submitted by the Charged Officer to the Disciplinary Authority along with its enclosures.

- (e) a copy of the statement of witnesses, if any, referred to in sub-rule (3);
- (f) findings of the Disciplinary Authority on the written statement of defence submitted by the Charged Officer; and
- (g) all connected records.

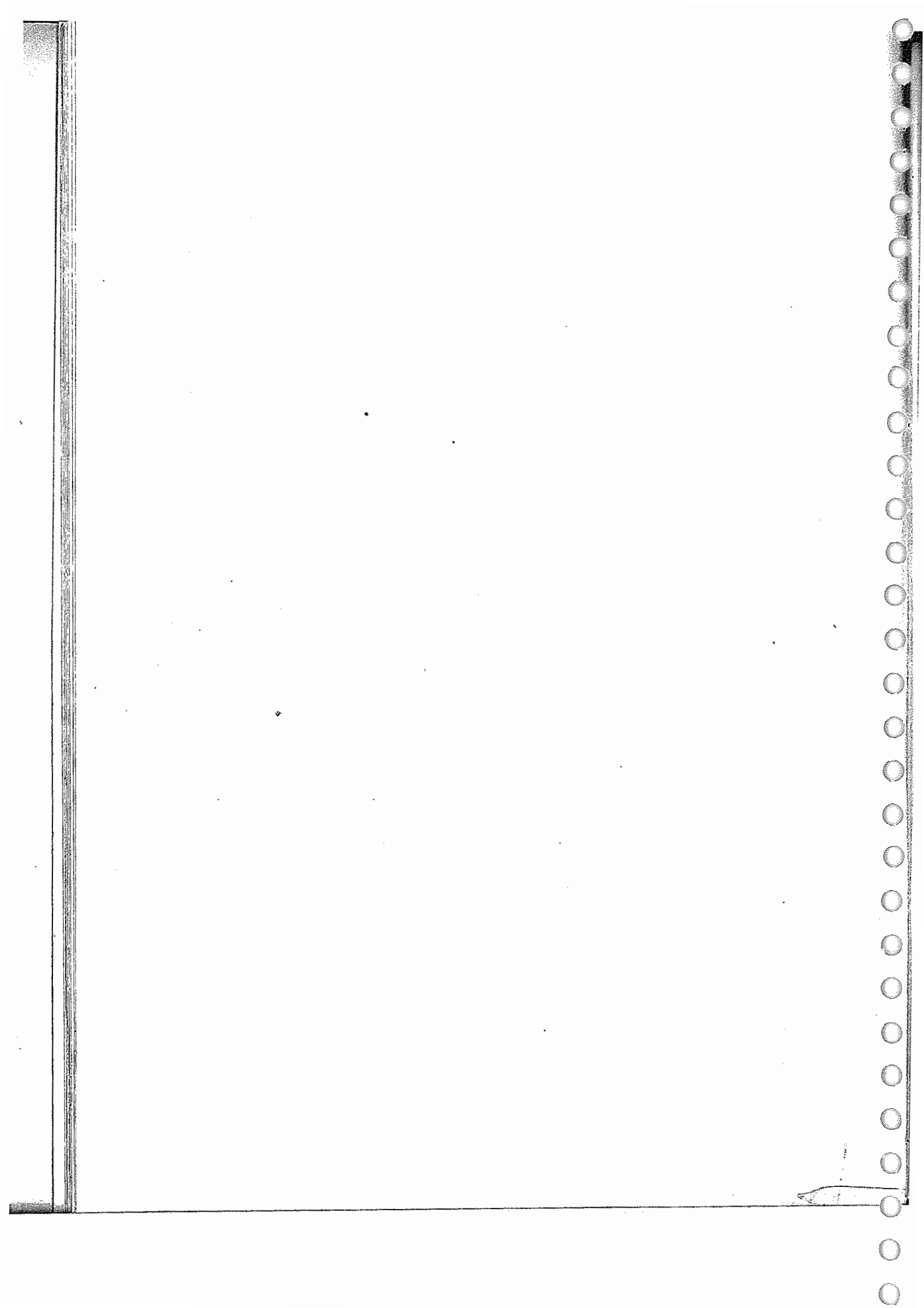
18. If the above instructions are complied with, undue delay in disposal of disciplinary cases can be avoided and as recommended by Vigilance Commissioner, it will be possible to complete the enquiry, in most of the cases, in a period of three months from the date of appointment of Inquiring Authority.

19. It is also seen, that often the Charged Officers give requisitions for documents / files of the Department concerned during the enquiry, on which they intends to rely for defence. It is often seen that the Disciplinary Authorities take unduly long time in producing such documents / files after requisition by the Inquiring Authority. It is, therefore, essential that files, documents cited by the Charged Officer as his defence documents during the course of enquiry should be produced by its custodian to the Presenting Officer within a specific time limit. Unless this is done, it will cause further delay in completion of the enquiry. It is also observed that, in several cases, particularly, in Engineering Departments, charges are framed against only lower ranking officials, when they ought to have been framed against senior supervisory officers. It is also observed in some cases that charges have been framed by Disciplinary Authorities against Govt. employees who are not at all concerned with a case. Hence, it is essential that all the Departments should ensure that there is proper application of mind at higher level in Government to the issue of drafting of charges and also regarding fixing up of the responsibility for lapses not only against lower rank officials, but also against higher rank officials, who were also equally involved. If higher officers are let off and only lower level officers are found fault with, the fair name of Government is likely to suffer.

ANNEXURE



*Extracts of Rule '20' of
A.P.C.S. (CC & A) Rules, 1991*



EXTRACTS OF RULE 20 OF A.P.C.S. (C.C. & A.) RULES, 1991

PROCEDURE FOR IMPOSING MAJOR PENALTIES:-

Rule 20 (1) No order imposing any of the penalties specified in the clauses (vi) to (x), of rule 9 shall be made except after an inquiry held, as far as may be in the manner provided in this rule and rule 21 or in the manner provided by the Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850) of the Andhra Pradesh Civil Services (Disciplinary Proceeding Tribunal) Act, 1960 or the Andhra Pradesh Lokayukta and Upa-Lokayukta Act 1983, where such inquiry is held under the said Acts.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiry into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, authority to inquire into the truth thereof.

Explanation:- Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Government Servant under this rule and rule 21, the disciplinary authority of the cadre controlling authority who is not designated as disciplinary authority and who is subordinate to the appointing authority can draw up or cause to be drawn up.

(G.O.Ms.No. 33, G.A. (Ser-C) Department, dated 24-10-1998)

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge.
- (ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain:
 - (a) A statement of all relevant facts including any admission or confession made by the Government Servant.
 - (b) A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government Servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 21.

(b) If no written statement of defence is submitted by the Government Servant the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under sub-rule (2) an inquiring authority of the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Government Servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf, the case in support of the articles of charge.

(6) The disciplinary authority shall, where it is not inquiring authority, forward to the inquiring authority:

- (i) A copy of the articles of charge and the statement of imputations of misconduct or misbehaviour;
- (ii) A copy of the written statement of defence, if any, submitted by the Government Servant;
- (iii) A copy of the statement of witnesses, if any, referred to in sub-rule (3);
- (iv) Evidence proving the delivery of the documents referred to in sub-rule (3) to the Government Servant; and
- (v) A copy of the order appointing the "Presenting Officer".

(7) The Government Servant shall appear in person before the inquiring authority on such day and at such time within fifteen working days from the date of receipt by him of the articles of charge and statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by a notice in writing, specify in this behalf or within such further time, not exceeding fifteen days, as the inquiring authority may allow.

(8) (a) The Government Servant may take the assistance of any other Government Servant to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case so permits:

Provided that no member of service dealing in his official capacity with the case of inquiry relating to the person charged shall be permitted by the inquiry office or by any officer to whom an appeal may be preferred to appear on behalf of the person charged before the enquiry officer.

Provided further that the Government Servant may take the assistance of any other Government Servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.

Note (1) The Government Servant shall not take the assistance of any other Government Servant who has pending two, disciplinary cases on hand in which he has to give assistance.

Note (2) The Government Servant shall not take the assistance of any other Government Servant who is dealing in his official capacity with the case of inquiry relating to the Government Servant charged.

(b) The Government Servant may also take the assistance of a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf. (Further instruction issued vide Memo. No. 657/Ser.c/94-4, G.A. (Ser.C) Dept., dated 9-3-95).

(9) If the Government Servant who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority record the plea, sign the record and obtain the signature of the Government Servant thereon.

(10) The inquiring authority shall return a finding of guilty in respect of those articles of charge to which the Government Servant pleads guilty.

(11) The inquiring authority shall, if the Government Servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government servant may, for the purpose of preparing his defence:

(i) Inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3);

(ii) Submit a list of witnesses to be examined on his behalf.

Note:- If the Government Servant applies orally or in writing for the supply of copies of the statement of witnesses mentioned in the list referred to in sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

- (iii) Give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow for the discovery or production of any documents, which are in the possession of Government but not mentioned in the list referred to in sub-rule (3).

Note:- The Government Servant shall indicate the relevance of the documents required by him to be discovered or produced by the Government.

(12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition.

(13) On receipt of the requisition referred in sub-rule (12), every authority having the custody or possession of the requisitioned documents, shall produce the same before the inquiring authority, and the requisitioning of the documents can be done either at the instance of the Member of Service or by the inquiring authority suo-moto.

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest of security of the state, it shall inform the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of such documents.

Provided that if such documents are not produced as evidence and if they are sent only for the perusal of inquiring authority, the inquiring authority shall have the power to take it to a higher authority stating that on a perusal of a particular document it finds nothing in it to warrant claiming privilege.

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. The presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, by not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(15) If it shall appear necessary before the closure of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the presenting Officer to produce evidence not included in the list given to the Government Servant or may itself call for new evidence or recall and re-examine any witness and in such case the Government Servant shall be entitled to have, if he demands it, a copy of the list of further evidence

proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Government Servant an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the Government Servant to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interest of justice. Note:- New evidence shall not be permitted or called for any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence, which has been produced originally.

(16) When the case for the disciplinary authority is closed, the Government Servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.

(17) The evidence of behalf of the Government Servant shall then be produced. The Government Servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government Servant shall then be examined and shall be liable to cross-examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(18) The inquiring authority may, after the Government Servant closes his case, and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.

(19) The inquiring authority may, after the completion of the production of evidence, hear the presenting officer, if any appointed, and the Government Servant, or permit them to file written briefs of their respective cases, if they so desire.

(20) If the Government Servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry exparte.

(21) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (v) of rule 9 and in rule 10 but not competent to impose any of the penalties specified in clause (vi) to (x), of rule 9, has itself inquired to or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it is of the opinion that the penalties specified in clauses (vi) to (x), of rule 9 should be imposed on the Government Servant, that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.

(b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witnesses and examine, cross-examine and re-examine the witnesses and may impose on the Government Servant such penalty as it may deem fit in accordance with these rules.

(22) Whenever an inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has and which exercise, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor, and partly recorded by itself.

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witness whose evidence has already been recorded is necessary in the interest of justice, it may recall examine, cross-examine and re-examine any such witnesses as herein before provided.

- (23) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain;
- (a) The articles of charge and the statement of the imputations of misconduct or misbehaviour.
 - (b) The defence of the Government Servant in respect of each article of charge;
 - (c) An assessment of the evidence in respect of each article of charge;
 - (d) The findings on each article of charge and the reasons therefore;
 - (e) To recommend penalty proposed to be imposed on the delinquent officer keeping in view rule 9 of these rules.

(G.O.Ms.No. 43, G.A. (Ser.C) Department, dated: 10-2-98.)

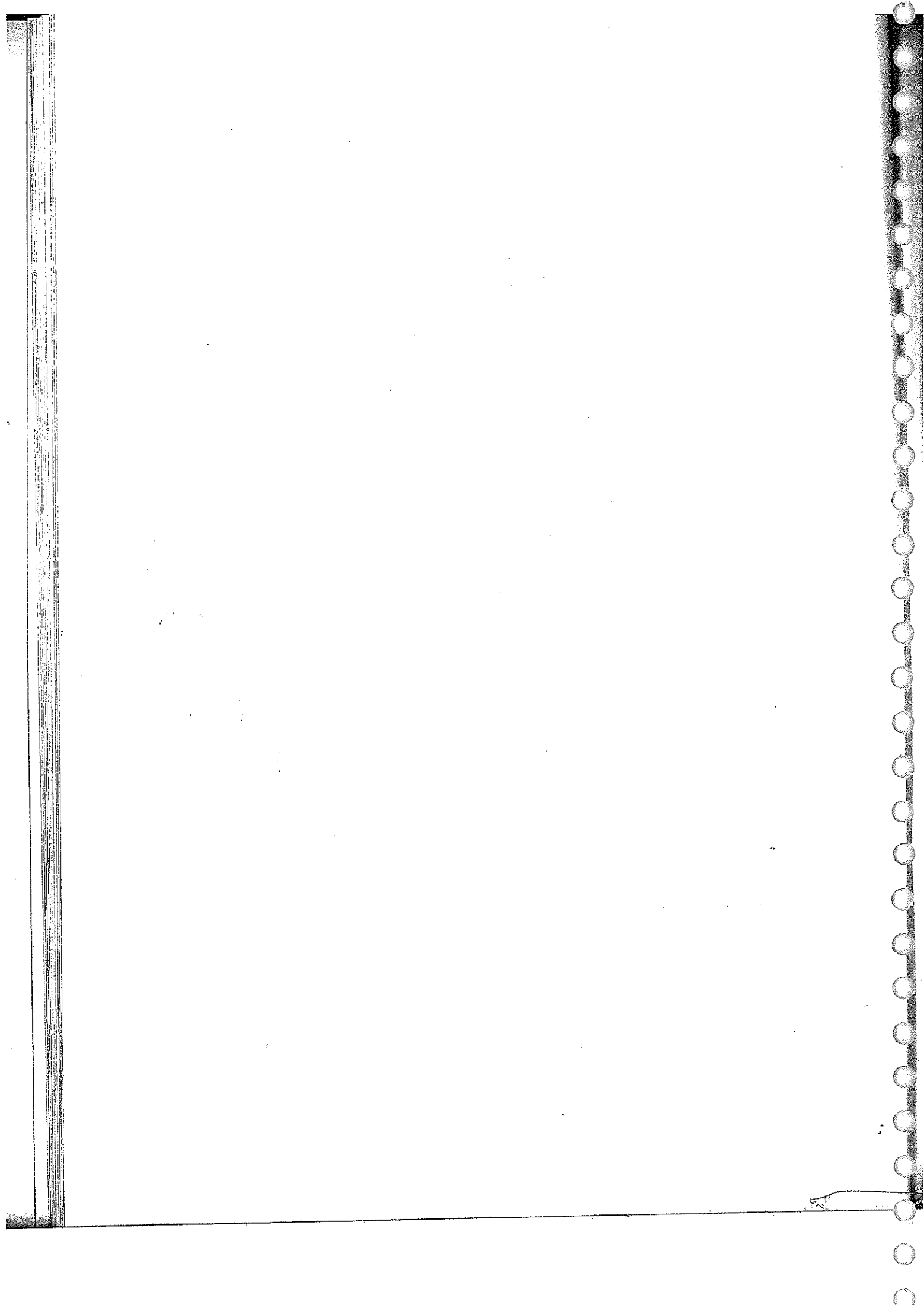
Explanation:- If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge:

Provided that the findings on such article of charge shall not be recorded unless the Government Servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

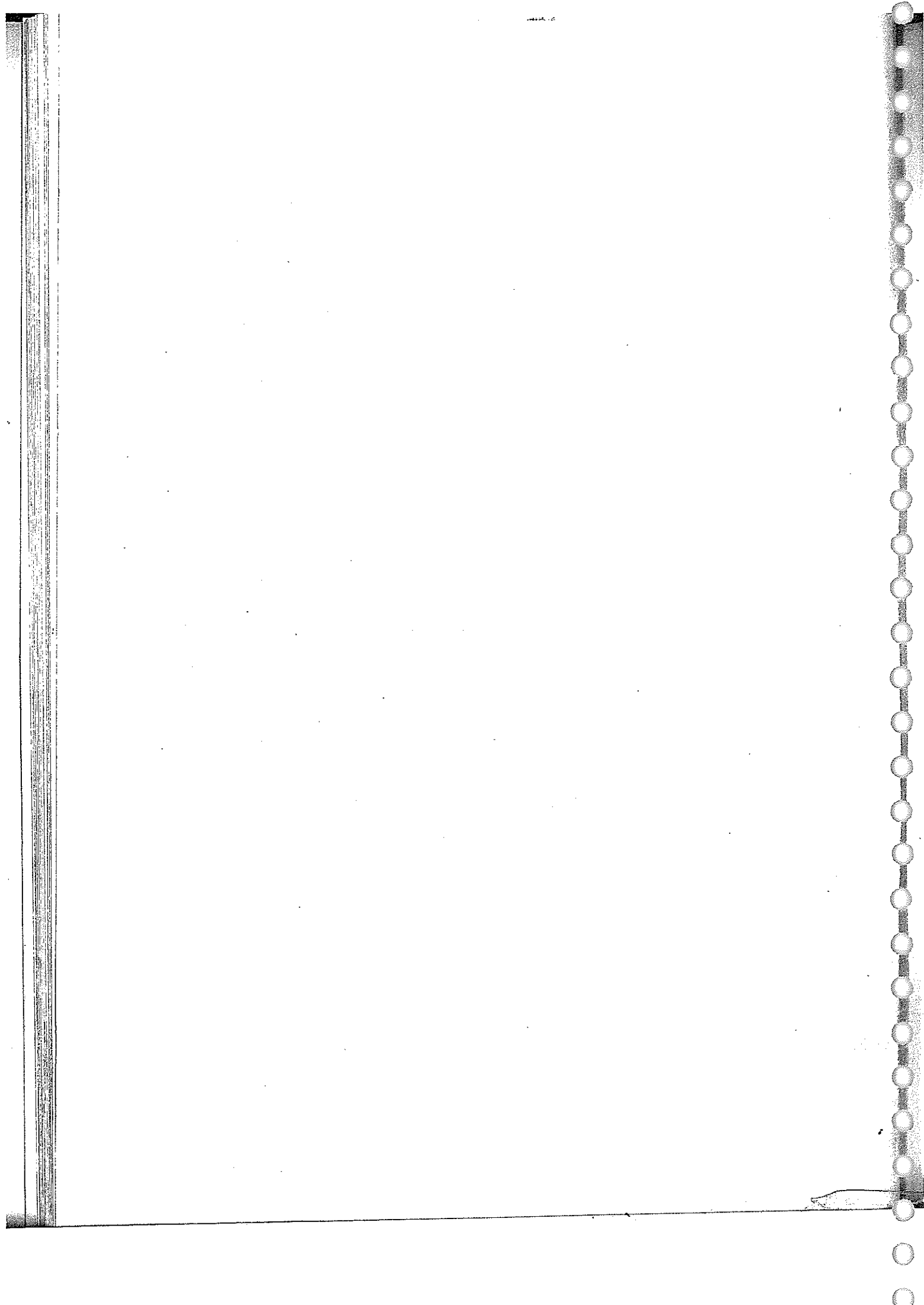
- (ii) The inquiring authority, where it is not itself the disciplinary authority shall forward to the disciplinary authority the records of inquiry which shall include,
 - (a) The report prepared by it under clause (i);

- (b) The written statement of defence, if any, submitted by the Government Servnat.
- (c) The oral and documentary evidence produced in the course of the inquiry;
- (d) Written briefs, if any, filed by the Presenting Officer or the Government Servant or both during the course of the inquiry; and
- (e) The orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

Explanation:- It is not necessary to have an inquiry in the manner provided for in this rule or to hear in person in the case of reduction of rank in seniority list (A and B lists) of Constables fit for promotion as Head Constables in the Andhra Pradesh Police Subordinate Service or Andhra Pradesh Special Armed Police Service.



Instructions with reference to framing of charges.



GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SC.F) DEPARTMENT

U.O.Note No.1041/SC.F/88-4

Dated: 16-8-1989.

SUB:- ENQUIRIES - Departmental enquiries - Entrusting of to
Commissionerate of Inquiries - Proper framing of charges against the
delinquent officers - Instructions - Issued.

REF:- (1) Memo.No. 490/SC.E/87-1, General Administration (SC.E)
Department, dated 13-3-1987.

(2) From the former Commissioner for Departmental Inquiries D.O.
letter No. 165/COI/87-11, dated 10-2-1989.

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It has been brought to the notice of the Government that due care and caution is not been taken by the Departments while framing charges against Delinquent Officers. As a charge memo., is the essence of an allegation setting out the nature of the accusation in general terms, such as negligence in the performance of official duties, breach of conduct rules, misconduct etc., it is necessary to frame the articles of charge with great care. All Departments of Secretariat are requested to keep the following important aspects in view while framing charges against the Delinquent Officers hereafter:-

- (a) Each charge should be expressed in clear and precise terms and should not be vague.
- (b) A separate charge should be framed in respect of each separate transaction/event or a series of related transaction/events amounting to misconduct/Misbehaviour.
- (c) If the transaction/event amounts to more than one type of misconduct then all the misconducts should be mentioned.
- (d) If a transaction/event shows that the Government Servant must have been guilty of one or the other of misconduct depending on one or the other set of circumstances, then the charge can be in the alternative.
- (e) Multiplication or splitting up of charges on the basis of the same allegation should be avoided.
- (f) The wording of the charge should not appear to be an expression of opinion as to the guilt of the Delinquent Official.
- (g) A charge should not relate to a matter which had already been the subject matter of an inquiry and decision, unless it is based on benefit of doubt or on technical consideration.

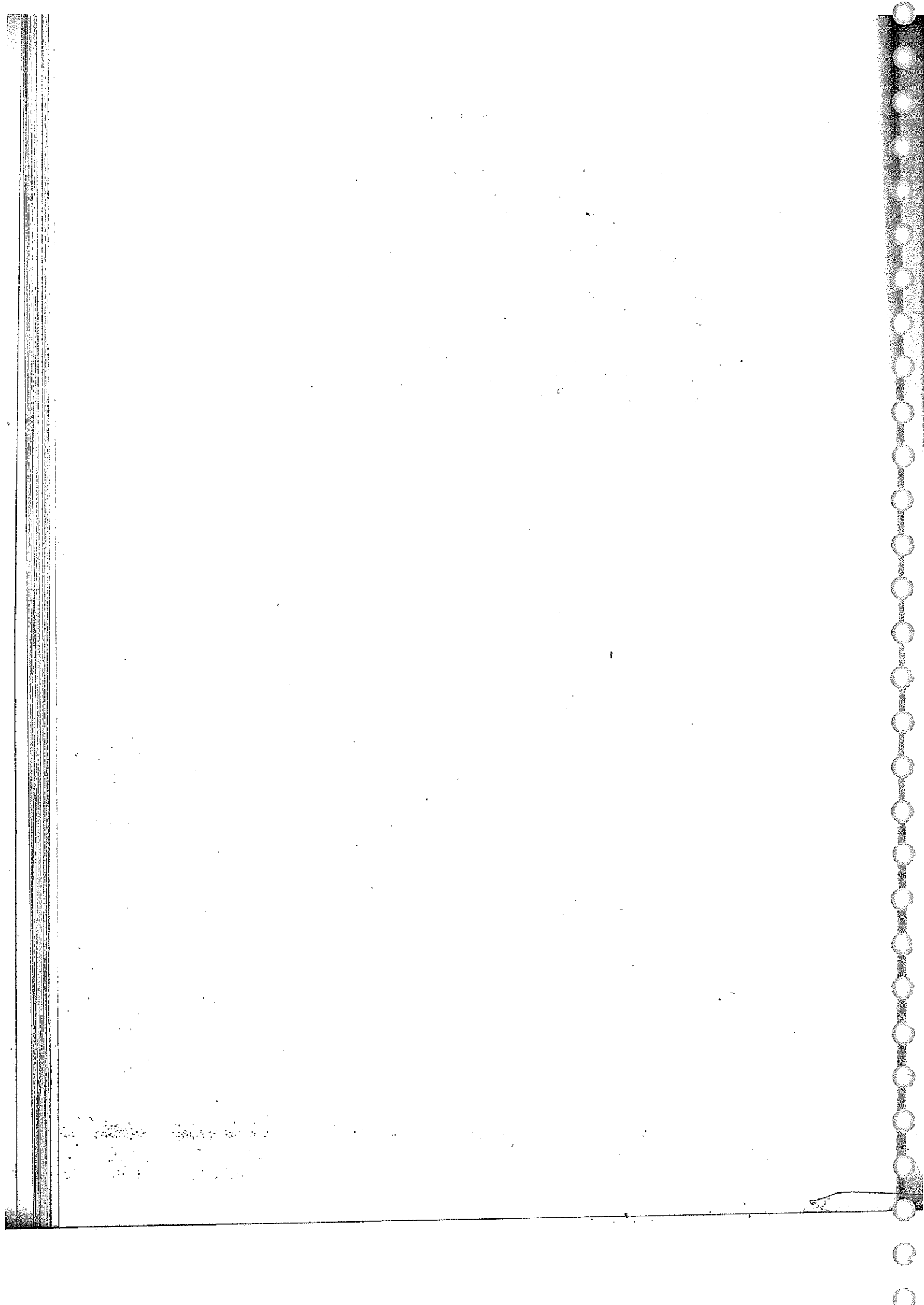
- (h) The charge should not refer to the preliminary investigation.
- (i) The articles of charge should first give plain facts and then mention the nature of misconduct/misbehaviour.
- (j) The statement of imputations should give full and precise recitation of the specific and relevant acts of commission or omission on the part of the Government servant in support of each charge including any admission or confession made by the Government Servant and any other circumstances which it is proposed to take into consideration. In particular, in cases of misconduct/misbehaviour, it should mentioned conduct/behaviour expected or the rule violated. It should be precise and factual. While drafting the statement of imputations it would not be proper to mention the defence and enter into a discussion of the merits of the case. Wording of the imputations should be clear enough to justify the imputations inspite of the likely version of the delinquent.
- (k) The list of witnesses should contain the names of only those witnesses who will be able to give positive evidence to substantiate the allegations.
- (l) The list of documents should mention documents containing evidence in support of allegations which are proposed to be provided during the inquiry on behalf of the Dicipinary Authority.

All material particulars given in the allegations, such as dates, names, figures, totals of amounts etc., should be carefully checked with reference to original documents and records.

G.R. NAIR,
Chief Secretary to Government.

Appointment of Inquiring Authority and related matters.

- (i) U.O. Note No.1005/SC.E/97-3, G.A. (SC.E) Dept., dt. 27-8-1997.
- (ii) Memo No.3037/SC.E/97-1, G.A. (SC.E) Dept., dt. 27-4-1998.
- (iii) U.O. Note No.800/SC.E/98-1, G.A. (SC.E) Dept., dt. 23-11-1998.
- (iv) Memo No.46733/Ser.C/99, G.A. (Ser.C) Dept., dt. 22-10-1999.
- (v) U.O. Note No.61/COI.R/98-1, G.A. (COI.R) Dept., dt. 10-6-1998.
- (vi) U.O. Note No.8/COI.R/99-10, G.A. (COI.R) Dept., dt. 31-3-1999.
- (vii) U.O. Note No.554/COI.R/2000-1, G.A. (COI.R) Dept., dt. 14-11-2000.



GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SC.E) DEPARTMENT

U.O.NOTE NO. 1005/SC.E/97-3.

DATED : 27-08-1997.

SUB:-ENQUIRIES - Departmental Enquiries - Entrustment of Departmental Enquiries to the newly appointed Members in the Commissionerate of Enquiries - Instruction - Issued.

REF:- (1) Govt. Memo. No. 1496/SC.E/86-4, G.A. (SC.E) Dept., dated 16-7-1986.

(2) G.O. Rt. No. 732, G.A. (SC.E) Dept., dated 22-2-1989.

(3) G.O. Rt. No. 2172, G.A. (SC.E) Dept., dated 15-5-1997.

(4) G.O. Rt. No.4394, G.A. (Spl.A) Dept., dated 16-8-1997.

(5) G.O. R.No. 4816, G.A. (SC.E) Dept., dated 30-8-1997.

The attention of all Departments of Secretariat is invited to the references cited.

2. In the reference 1st cited, instructions were issued to the appointing authorities to appoint the Commissioner for Departmental enquires in terms of Rule 19(7)(a) of A.P. Civil Services (CC&A) Rules, 1963. These rules were replaced by A.P. Civil Services (CC&A) Rules, 1991.

3. In the G.O. 2nd cited, orders were issued constituting a Commissionerate of Enquiries consisting of Chairman and one Member for conducting departmental enquiries against the Gazetted Officers of the State Government and All India Services Officers serving in connection with the affairs of the State. In the G.Os. Third, fourth and fifth cited orders were issued strengthening and making the Commissionerate a full-fledged one. The full fledged Commissionerate comprises of a full-time Chairman and six Members.

4. It has been decided to entrust all disciplinary cases pending and future requiring enquiries under the provisions of A.I.S (D&A) Rules, 1969 and A.P. Civil Services (CC&A) Rules, 1991 to the Commissionerate of Enquiries.

5. The Chairman Commissionerate of Enquiries will allocate the cases, entrusted to the Commissionerate by the disciplinary authorities for concluding inquiry under the relevant disciplinary rules to any of its members including himself. Besides, the coordinates the work among the members. He will also interact with the Departments concerned to ensure that the pending and future cases are entrusted to the Commissionerate of Enquiries strictly in terms of the provisions of A.I.S (D&A) Rules, 1969 of A.P. Civil Services (CC&A) Rules, 1991, as the case may be. The chairman, will review the progress of action taken by the concerened Departments on the final reports of the Commissionerate of Enquiries. The Chairman will also coordinate the work of appointment of Presenting Officers by the concerned deparatments to present the case on behalf of the Disciplinary Authority before the Chairman and other Members of the Commissionerate.

6. All Departments of Secretariat and other disciplinary Authorities are, therefore, requested to entrust all pending and future disciplinary cases of Gazetted Officers of the State Government, Non-Gazetted Officers of the State Government wherever considered necessary by disciplinary authorities or the Government and, the Heads of Departments (other than All India Services Officers) to the Commissionerate of Inquiries, duly, following the procedure such a framing of charges, obtaining the written statement of defence, consideration of the written statement of defence etc., as laid down in the provisions of A.P. Civil Services (CC&A) Rules, 1991.

7. The Disciplinary cases against all India Service Officers serving in connection with the affairs of the State where major or minor penalties are proposed will also be entrusted to the Commissionerate of Inquiries in terms of the relevant provisions of A.I.S. (D&A) Rules, 1969.

8. All the Departments of Secretariat are requested to take action accordingly. They are also requested to acknowledge the receipt of the U.O. Note.

P.K. RASTOGI,

Secretary to Government (Poll.)

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SC.E) DEPARTMENT

Memo.No. 3037/SC.E/97-1.

Dated : 27-04-1998.

SUB:-ENQUIRIES - Departmental Inquiries - Entrustment of Departmental Inquiries to the Commissionerate of Inquiries - Modified Instruction - Issued.

REF:- (1) Government Memo. No. 1496/SC.F/86-4, G.A. (SC.F) Dept., dated 16-7-1986.

(2) G.O. Rt. No. 732, G.A. (SC.F) Dept., dated 22-2-1989.

(3) G.O. Rt. No. 2172, G.A. (SC.E) Dept., dated 15-5-1997.

(4) G.O. Rt. No.4394, G.A. (Spl.A) Dept., dated 16-8-1997.

(5) G.O. R.No. 4816, G.A. (SC.E) Dept., dated 30-8-1997.

(6) U.O.Note.No. 1005/SC.E/97-3, G.A. (SC.E) Dept., dated 27-9-1997.

(7) From the Chairman, C.O.I., D.O.Lr.No. 72/COI.CH/97-5, dated 17-11-1997.

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In the U.O.Note 6th cited, instructions were issued among others, to all Departments of Secretariat and other Disciplinary Authorities to entrust all pending and future disciplinary cases of Gazetted Officers of the State Government, non-Gazetted Officer of the State Government wherever considered necessary by disciplinary authorities or the Government and the Heads of Departments (other than AIS Officers) to the Commissionerate of Inquiries duly following the procedure as laid down in the provisions of A.P.C.S. (CC&A) Rules, 1991 and also the Disciplinary cases against AIS Officers serving in connection with the affairs of the State where major or minor penalties are proposed will also be entrusted to the Commissionerate of Inquiries in terms of the relevant provisions of AIS (D&A) Rules, 1969.

2. Through reference 7th cited, the Chairman, Commissionerate of Inquiries had made certain suggestions to restrict the jurisdiction of the Commissionerate to cases involving major penalty and against officers appointed by Government to enable the Commissionerate to be made effective. Government have considered and accepted the above proposals and accordingly issue the following further guidelines in modification of the instructions already issued in the U.O.Note 6th cited in the matter of entrusting cases to the Commissionerate of Inquiries:-

(a) Cases of Gazetted Officers appointed by Government and cases against Gazetted Officers enquired into by A.C.B. and recommended for Departmental action;

(b) All cases of Gazetted Officers in Revenue earning departments viz., Commercial Taxes, Excise, Registration and Transport Departments. Where the pendency of disciplinary matters over long years causing much concern to the Government;

- (c) Cases of N.G.Os where a joint enquiry both against N.G.Os. and Gazetted Officers is necessary as well as the cases of N.G.Os involving grave charge and where the Government consider it necessary to entrust such cases to the Commissionerate Inquiries. It is the intension that all cases as a matter of routine should not be referred to Commissionerate of Inquiries.

3. All the Departments of Secretariat and Heads of Departments are, therefore, requested to refer only such cases referred to in para (2) above to the Commissionerate of Inquiries. They may also ensure that in all the cases referred to the Commissionerate of Inquiries, relevant records and material are produced before the Commissionerate of Inquiries promptly without any delay to avoid return of records and cases referred to the Commissionerate for want of material.

M.V.S. PRASAD,
Secretary to Government.

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SC.E) DEPARTMENT

U.O.NOTE NO. 800/SC.E1/98-1.

Dated: 23-11-1998.

SUB:-Commissionerate of Inquiries - Effecting certain modifications to the Instructions issued in connection with entrustment of Departmental Enquiries to the newly appointed members in the Commissionerate of Inquiries - Regarding.

- REF:- (1) U.O.Note.No. 1005/SC.E/97-3, General Administration (SC.E) Department, Dt. 27-09-1997.
- (2) U.O.Note.No. 1005/SC.E/97-5, General Administration (SC.E) Department, Dt. 1-10-1997.
- (3) From the Chairman, Commissionerate of Inquiries, D.O.Lr.No.207/COI.CH/97, Dt. 29-11-1997.
- (4) Memo No. 3357/SC.E/97-1, General Administration (SC.E) Department, Dt. 11-3-1998.
- (5) From the General Administration (COI.CH) Department, U.O.Note No. 207/COI.CH/97, Dt. 31-3-1998.
- (6) From the Chairman, COI., D.O.Lr.No. 26/COI.CH/97-1, Dt. 31-3-1998.

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In the U.O.Note 1st, 2nd and 4th cited instructions were issued among others to all the Departments of Ssecretariat and Disciplinary Authorities with regard to entrustment of disciplinary cases to the newly appointed members of Commissionerate of Inquiries and the procedure for appointment of Presenting Officers.

2. In the references 5th and 6th cited, the Chairman, Commissionerate of Inquiries has suggested certain modifications to the instructions issued in the U.O. Notes 1st and 2nd cited to facilitate for conducting smooth enquiry proceedings.

3. The Government, after careful consideration of the sugesstions made by the Chairman, Commissionerate of Inquiries, and in conformity with A.P.C.S. (CC&A) Rules, 1991 and AIS (D&A) Rules, 1969, hereby, effect certain modifications to the instructions issued in the U.O. Notes 1st and 2nd cited as follows;

- (i) Para 5 of the U.O.Note No. 1005/SC.E/97-3, G.A. (SC.E) Department, dt. 27-9-97 is modified to the effect that "the disciplinary authorities will take the suggestion of the Chairman, Commissionerate of Inquiries with regard to the Inquiring authority to be appointed, prior to issue of order of appointment of Inquiring Authority after completing the entire procedure prescribed under Rule 20 of A.P.C.S. (CC&A) Ruled, 1991 and AIS (D&A) Rules, 1969, as the case may be."

- (ii) Para 3 of the U.O.Note No. 1005/SC.E/97-5, G.A. (SC.E) Department, dt. 27-9-1997 is modified to the effect that "the disciplinary authorities may take the advice of the Chairman, Commissionerate of Inquiries while preparing panel of person for appointment of Presenting Officer but the selection and appointment of Presenting Officer shall be by the Disciplinary Authority."

4. Instructions were issued in the Government Memo.No. 3037/SC.E/97-1, G.A. (SC.E) Department, dated 27-4-1998 that all the Departments of Secretariat, Heads of the Department and Disciplinary Authorities should ensure that in all the cases referred to the Commissionerate of Inquiries, relevant records and material are produced before the Commissionerate of Inquiries promptly without any delay to avoid return of records by the Commissionerate of Inquiries for want of material. In addition to it, the concerned Disciplinary Authorities should also ensure to forward the order of appointment of Presenting Officer, Charge Memo. written statement of defence of the Charged Officer etc., along with the order or appointment of Inquiring Authority to the Inquiring Authority.

5. The Departments of Secretariat, Heads of the Department and other Disciplinary authorities are therefore requested to take action accordingly. They are also requested to acknowledge the receipts of the U.O.Note.

M.V.S. PRASAD,
Secretary to Government (Political)

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SER.C) DEPARTMENT

Memo No. 46733/Ser.C/99.

Dated: 22-10-1999.

SUB: Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 - Rule 20, procedure for imposing major penalties - Inquiry into the charges by disciplinary authority by itself or Appointment of Inquiring authority - Certain instructions - Issued.

Clauses (a), (b) and (c) of sub rule (5) of rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 provide for enquiry into the articles of charges framed either by the disciplinary authority itself or by any Enquiry Officer appointed by the disciplinary authority. Also on receipt of the explanation from the delinquent officer for the charges framed against him, wherever the Disciplinary Authority proposes to conduct a detailed enquiry in cases, where in the opinion of such disciplinary authority, the charges, if proved, warrant imposing any penalty other than the minor penalties, it shall be necessary to appoint an inquiry Officer instead of the disciplinary authority itself enquiring into such articles of charges. The Supreme Court of India in its judgement in *Manaklae Vs. Dr. Premchand Singhvi* reported in (AIR 1957) SC 425 observed that the disciplinary authority shall have clear application of mind and unbiased view in dealing with the disciplinary cases against Government Servants.

2. In view of these observations of the apex Court, the disciplinary authority shall necessarily appoint an Inquiry officer under the CCA Rules when the disciplinary authority proposes to conduct detailed enquiry in cases where in the opinion of such disciplinary authority, the charge, if proved, warrants imposing any major penalty, instead of the disciplinary authority itself taking up the enquiry, unless such appointment of Inquiry Officer becomes impossible in view of the non-availability of the officers in the department. Such cases shall be very rare and generally would obtain in very small departments.

N.V.H. SASTRY,
Secretary to Government.

SP/20—11

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (C.O.I.R.) DEPARTMENT

U.O. Note No. 61/COI.R/98-I.

Dated: 10-6-1998.

SUB :- COMMISSIONERATE OF INQUIRIES - Entrustment of cases to the Commissionerate of Inquiries - Check - Memo - Regarding.

REF :- D.O. Letter No. 207/COI.CH/97, dated 29-11-1997 of Sri. V.K. Srinivasan, I.A.S., Special C.S. and Chairman, Commissionerate of Inquiries, General Administration Department, addressed to all Principal Secretaries/ Secretaries to Government.

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The attention of all the Departments of Secretariat is invited to the reference cited wherein they have been requested to follow certain steps for entrustment of enquiry to the Commissionerate of inquiries. None of the Departments are following the steps before submitting their files to Commissionerate of Inquiries, for nominating Enquiry Officer.

2. All the Departments of Secretariat are, therefore, requested to furnish the particulars in the Check-Memo. (enclosed) before submitting their files to the Commissionerate of Inquiries, for nominating Enquiry Officer.

K. SWAMINATHAN,

CHAIRMAN, COMMISSIONERATE OF INQUIRIES (I/c)

CHECK-MEMO

- | | | |
|--|-----|----------|
| 1. Whether the charges have been framed | ... | Yes / No |
| 2. Whether the same was served on the officer | ... | Yes / No |
| 3. Whether the explanation obtained | ... | Yes / No |
| 4. Whether the explanation of the Officer examined | ... | Yes / No |
| 5. Whether the disciplinary authority has taken a view on the satisfactoriness or otherwise of the explanation | ... | Yes / No |
| 6. Whether a decision has taken to conduct a detailed enquiry in case the explanation is not considered satisfactory | ... | Yes / No |
| 7. Whether all relevant records pertaining to the charges are made available | ... | Yes / No |

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (COLR) DEPARTMENT

U.O. Note No. 8/COI.R/99-10.

Dated 31-3-1999.

SUB :- COMMISSIONERATE OF INQUIRES - Entrustment of Cases to
Commissionerate of Inquires for nomination of Enquiry Officer - Certain
guidelines issued - Regarding.

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On a review of cases of disciplinary enquiry referred to and pending with this
Commissionerate, it is found that in a number of cases, it is not possible to commence the
inquiry for want of records or because a Presenting Officer (PO) has not been nominated
by the Department concerned. In many cases the Commissionerate has been corresponding
with the Departments concerned but to no avail. It has been decided that in future the
Commissionerate will not appoint an Enquiry Officer until and unless the case is received
in the Commissionerate with complete records and nomination of Presenting Officers.

2. All the Departments of Secretariat, are therefore, requested once again, to refer
their cases to Commissionerate of inquiries for nomination of Enquiry Officer in a complete
shape with the following particulars, as otherwise, it will not be possible to nominate
Enquiry Officer and the cases will be returned to the Disciplinary Authority.

1. Charge Memo., and its enclosures;
2. Written statement in defence of the charged officer;
3. Ensure key documents listed out in the charge-memo., are readily available, and
4. Proposed appointment of Presenting Officer.

Dr. C.S. RANGACHARI,
*SPECIAL CHIEF SECRETARY TO
GOVERNMENT & CHAIRMAN, COI.*

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (COI.R) DEPARTMENT

U.O.Note No. 554/COI.R/2000-1.

Dated: 14-11-2000.

SUB :- COMMISSIONERATE OF INQUIRIES - All cases corruption and other irregularities to be referred to the Andhra Pradesh Vigilance Commission for advice before referring to the Commissionerate of Inquiries for nomination of an Inquiring Authority - Instructions - Issued - Regarding.

Ref :- (1) From the Gen.Admin. (COI.R) Dept., U.O.Note No. 61/COLR/98-1, dated 10-6-1998.

(2) From the Genl.Admn. (Spl.B) Dept., G.O.Ms.No. 147, Dated 1-5-2000.

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The attention of all the Departments of Secretariat is invited to the G.O. Second cited, wherein, instructions were issued to the extent that;

"All cases of corruption and other irregularities which are covered under para 6 of the Scheme of the Vigilance Commission issued in the G.O., first read above (G.O.Ms.No. 421, General Administration (SC.D) Department, dated 3-8-1993) irrespective of the fact whether Anti-Corruption Bureau, or other authorities including departmental authorities which enquired into the irregularities, should be referred to the Vigilance Commission for advice."

2. However, inspite of the above instructions, it is noticed that most of the Secretariat Departments are not referring their files to Andhra Pradesh Vigilance Commission for advice before referring them to the Commissionerate of Inquiries for nomination of an Inquiring Authority to conduct an inquiry. As such the files have to be returned to the respective Departments with a request to comply with the instructions issued in the G.O. second cited, in the first instacne, and then to refer back to the commissionerate of Inquiries for nomination of an Inquiring Authority in the cases, which is resulting in an avodiabale delay.

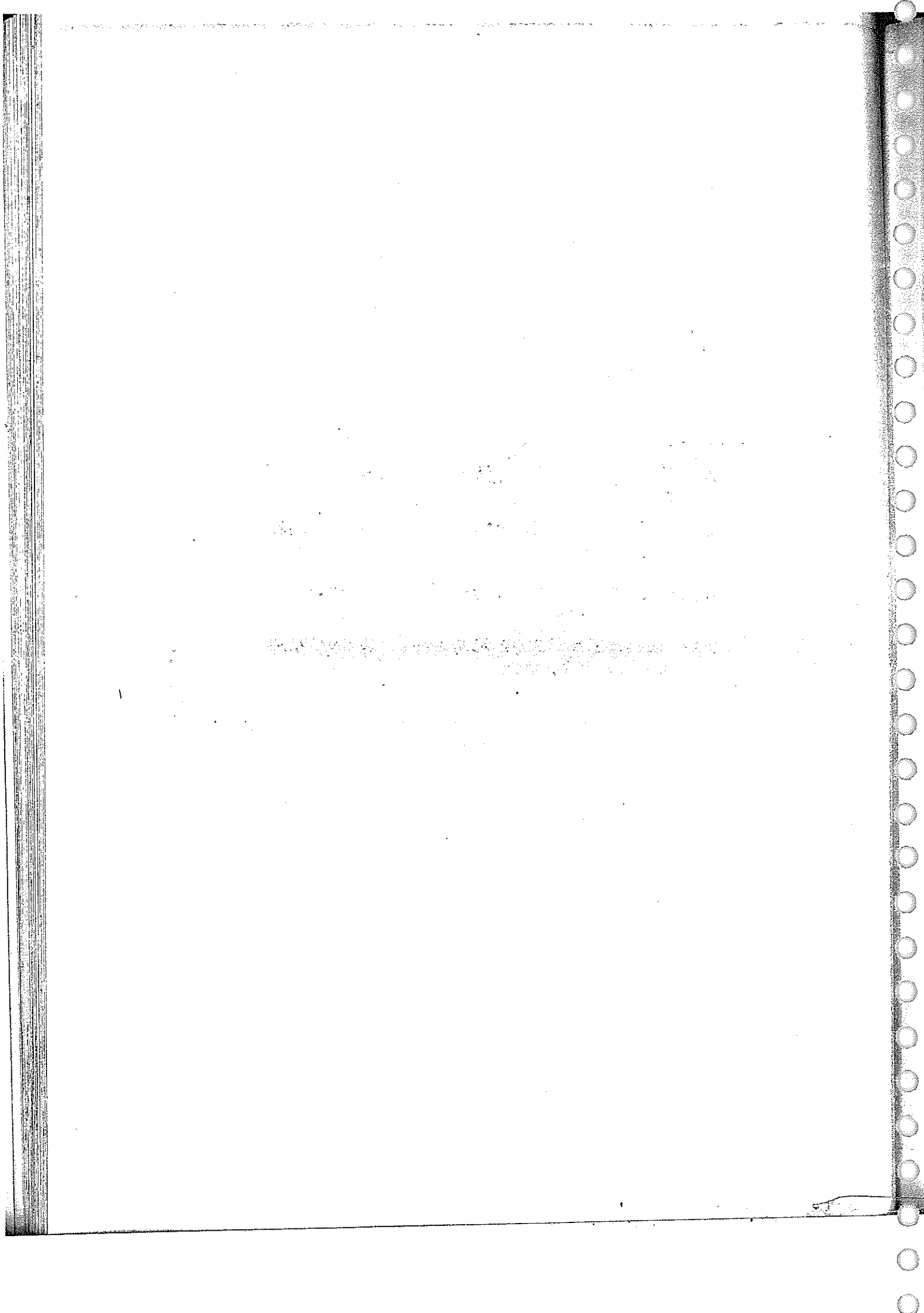
3. All the Departments fo Secretariat are, therefore, requested to comply with the instructions issued in the G.O., second cited, before referring their files to the Commissionerate of Inquiries for nomination an Inquiring Authority in the cases. The Departments of secretariat are also requested to indicate in the "Check-Memo.," communicated vide the reference first cited whether the file has been referred to the Vigilance Commission for advice or not while furnishig the other required information in the Check-Memo.

4. Receipt of this U.O. Note may be acknowledged.

Dr. C.S. RANGACHARI,
SPECIAL CHIEF SECRETARY TO GOVERNMENT &
CHAIRMAN, COMMISSIONERATE OF INQUIRIES.

Appointment of Presenting Officer and other related matters.

- (i) *Memo. No. 22/Ser.C/93-3, G.A. (Ser.C) Dept.,
dt. 01-05-1993.*
- (ii) *Memo. No. 650/Ser.C/94-3, G.A. (Ser.C) Dept.,
dt. 06-01-1995.*
- (iii) *U.O. Note No. 1005/SC.E/97-5, G.A. (SC.E) Dept.,
dt. 01-10-1997.*
- (iv) *U.O. Note No. 518/COI.R/2001-5, G.A. (COI.R)
Dept., dt. 20-10-2001.*



GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SER.C) DEPARTMENT

Memo No. 22/Ser.C/93-3.

Dated: 01-05-1993.

SUB :- Andhra Pradesh Civil Services (CC. & A.) Rules, 1991 - Action Under rule 20 (5) © of A.P.C.S. (CC & A) Rules, 1991 - Instructions Issued.

REF :- 1. G.O.Ms.No. 487,G.A. (Ser.C) Dept., dt. 14-9-92.
2. U.O. Note No. 27/COI.CH/93-1, dt. 18-1-93.

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According to sub-rule 5 © of Rule 20 of the A.P.S.C. (CC & C) Rules, 1991 where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Government servant or a legal practitioner to be known as the "Presenting Officer" to present on its behalf, the case in support of the articles of charge.

2. The Chairman, Commissionerate of Inquiries in his U.O. NOTE 2nd cited, while quoting a case where the disciplinary authority has appointed a Government Servant as "Presenting Officer" who is lower in rank than the Charged Officer, has stated that such difference between the charged officer and Presenting Officer might result in putting the Presenting Officer under pressure, which would impair the effectiveness of the Presenting Officer. He has, therefore, suggested to issue instructions to all concerned, that, whenever a disciplinary authority, under Rule 20 (5) © of the A.P.C.S. (CC & A) Rules, 1991 proposes to appoint a Government Servant as Presenting Officer, such Presenting Officer should be senior to the charged officer in the hierarchy.

3. The suggestion of the Chairman, Commissionerate of Inquiries, has been examined in consultation with Law Department and it is decided to accept the suggestion of the Chairman, Commissionerate of Inquiries. The Departments of Secretariat and Heads of Departments are therefore, informed that whenever a disciplinary authority, under Rule 20 (5) © of the A.P.C.S. (CC & A) Rules, 1991, proposes to appoint a Government Servant as "Presenting Officer", it should be ensured that such Presenting Officer should be senior to the Charged Officer in the hierarchy. In the Departments where there are no higher level positions/functionaries, disciplinary authorities may consider to appoint a legal practitioner as Presenting Officer, under existing provision in Rule 20 (5) © of the A.P.C.S. (CC & A) Rules, 1991.

4. All the Departments of Secretariat and all the Heads of Departments are requested to adhere to the above instructions scrupulously and bring these instructions to the notice of their subordinates.

A.R. JAYAPRAKASH,
SECRETARY TO GOVERNMENT.

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SER.C) DEPARTMENT

Memo.No. 650/Ser. C/94-3.

Dated: 6-1-1995.

SUB:- A.P. Civil Services (CCA) Rules, 1991 - Rule 20 procedure For imposing major penalties - Examination of Charged Officer By the Presenting Officer-Clarification - Issued.

REF:- From the Director of Treasuries and Accounts, letter No. K1/29602/94-3, dated 15-11-1994.

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With reference to the letter cited the Director of Treasuries and Accounts is informed that the Departmental enquiry is not a dispute between two parties to be decided by a third party. It is only a proceeding instituted by the Government as employer, to satisfy itself if the employee has committed misconduct. Technicalities of Criminal Law and the proof prescribed by Evidence Act are not applicable to Departmental enquiries; but the inquiry officer has to follow the Rules governing departmental enquiries and also the principles of natural justice.

Rule 20 of the Andhra Pradesh Civil Services (CC & A) Rules, 1991, lays down the procedure to be followed during departmental enquiry. Sub-Rules 16 to 18 of Rule 20 of Andhra Pradesh Civil Services (CC & A) Rules, 1991 operate after the "Presenting Officer" adduces the evidence in support of the charges framed against the Delinquent Officer, Rule 20 (16) lays down that after the case of the disciplinary authority is closed, the Government Servant (i.e., delinquent) shall be required to state his defence orally or in writing, as he may prefer. Thereafter, as per Rule 20 (17) evidence on behalf of the Delinquent Officer should be adduced. As per Rule 20 (18), if the Government servant has not examined himself, the inquiring authority may generally question the delinquent on the Circumstances appearing against him in evidence, for the purpose of enabling the Government servant to explain any circumstance appearing in the evidence against him. The object of examining the delinquent is only to give him an opportunity to explain the circumstances appearing against him in the evidence adduced against him (i.e., the delinquent).

In view of the above, the points raised in the letter cited are clarified as follows:-

- (i) Whether the Charged Officer can be examined cross examined by the Presenting Officer, to elicit truth in support of the articles of Charge; when the Charged Officer does not prefer to the examination of himself as a defence Witness and when there are no other defence witnesses in this case.

-No-

The Charged Officer cannot be examined or cross examined by the Presenting Officer or the Inquiry Officer to elicit truth in support of the articles of charge when the charged officer does not prefer to examine him self or examine any witnesses.

- (ii) Whether the enquiry officer can examine and cross-examine, if necessary the Charged Officers in detail in the absence of any specific provision for examination of Charged Officer by the Presenting Officer.
- (iii) Whether the Defence Assistant for one Charged Officer can examine- Cross examine the other Charged Officer in the same case, when he press to do so.
- Defence Assisant for one Charged Officer can examine the other Charged Officer only if the other Charged Officer volunteers to giver evidence. But a Charged Officer cannot be compelled to give evidence at the instance of the other Charged Officer. When one Charged Officer. chooses to examine himself as a witness the defence assistant of (or) the other Charged Officer, can cross-examine him, especially when such Charged Officer (who choose to examine himself) were to speak anything incriminating against the other Charged Officer.

A. CHENGAPPA,
SECRETARY TO GOVERNMENT.

MOST IMMEDIATEGOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SC.E) DEPARTMENT

U.O. Note No. 1005/SC.E/97-5.

Dated: 1-10-1997.

SUB:- COMMISSIONERATE OF INQUIRES - Entrusting the cases to the
Commissionerate of Inquiries - Appointment of Presenting Officer -
Instructions - Issued.

REF:- U.O. Note No. 1005/SC.E/97-3, G.A.(SC.E) Dept., dated 27-9-1997.

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The attention of the Departments of Secretariat is invited to the reference cited regarding the entrustment of disciplinary cases to the Gommissionerate of Inquiries for inquiry under the provisions of A.P. Civil Services (CC & A) Rules, 1991 and A.I.S.(D&A) Rules, 1969.

According to the provision in rule 20 (5) © of A.P. Civil Services (CC&A) Rules, 1991, the Disciplinary Authority, which may itself inquire into any articles of charge or appoint an inquiry authority for holding an enquiry into such charge, may appoint a Government Servant or legal practitioner as Presenting Officer to present on its behalf the case in support of the articles of charge. Similar provision is also available in Rules, 8(6) of A.I.S. (D&A) Rules, 1969 in the case of inquiries into articles of charge against All India Service Officers.

All Departments of Secretariat and the competent dsiciplinary authorities, who may entrust the disciplinary cases to the Commissionerate of Inquiries for the purpose of inquiry, shall also send a panel of names to the Chairman or to any one in the Commissionerate of Inquires who may be authorised by the Chairman alsong with the cases entrusted to the Commissionerate for appointment of one of the members of the panel as Presenting Officer to present the case on beharlf of the Disciplinary Authority before the Inquiring Authority. It is need less to emphasise that non-appointment of Presenting Officer at the earliest opportunity may result in avoidable delay in conducting inquiry by the Inquiring Authority.

The Departments of Secretariat and other Disciplinary Athorities are therefore requested to take action accordingly. They are requested to acknowledge the receipt of this U.O. Note.

P.K. RASTOGI,
SECRETARY TO GOVERNMENT (POLL.,)

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (COI.R) DEPARTMENT

U.O. Note No. 518/COI.R/2001-5.

Dated: 20-10-2001.

SUB:- COMMISSIONERATE OF INQUIRIES - Meeting held on 8-10-2001 -
Certain observations made - Communicated - Reg.

REF:- This Department's U.O. Note No. 256/COI.R/2001-3, Dated 7-6-2001.

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In the Review Meeting held on 8-10-2001, it was observed that, in general there was considerable delay on the part of the Disciplinary Authorities to send the connected records to the Inquiring Authorities. The Disciplinary Authorities are in many cases not supplying any of the connected material, not even the charge Memo., and the Written Statement of Deffence, submitted by the Charged Officer to the Presenting Officer for presentation of the case before the Inquiring Authority. It was also observed that the Presenting Officer usually received only a copy of the G.O., ordering the enquiry, that he was not equipped with full material regarding the case and that he was not being briefed by the Disciplinary Authority regarding the case to be presented by him before the Inquiring Authority. Due to this the presentation of the case at every stage was weakened.

2. The Disciplinary Authorities are there fore once again requested to ensure that:-

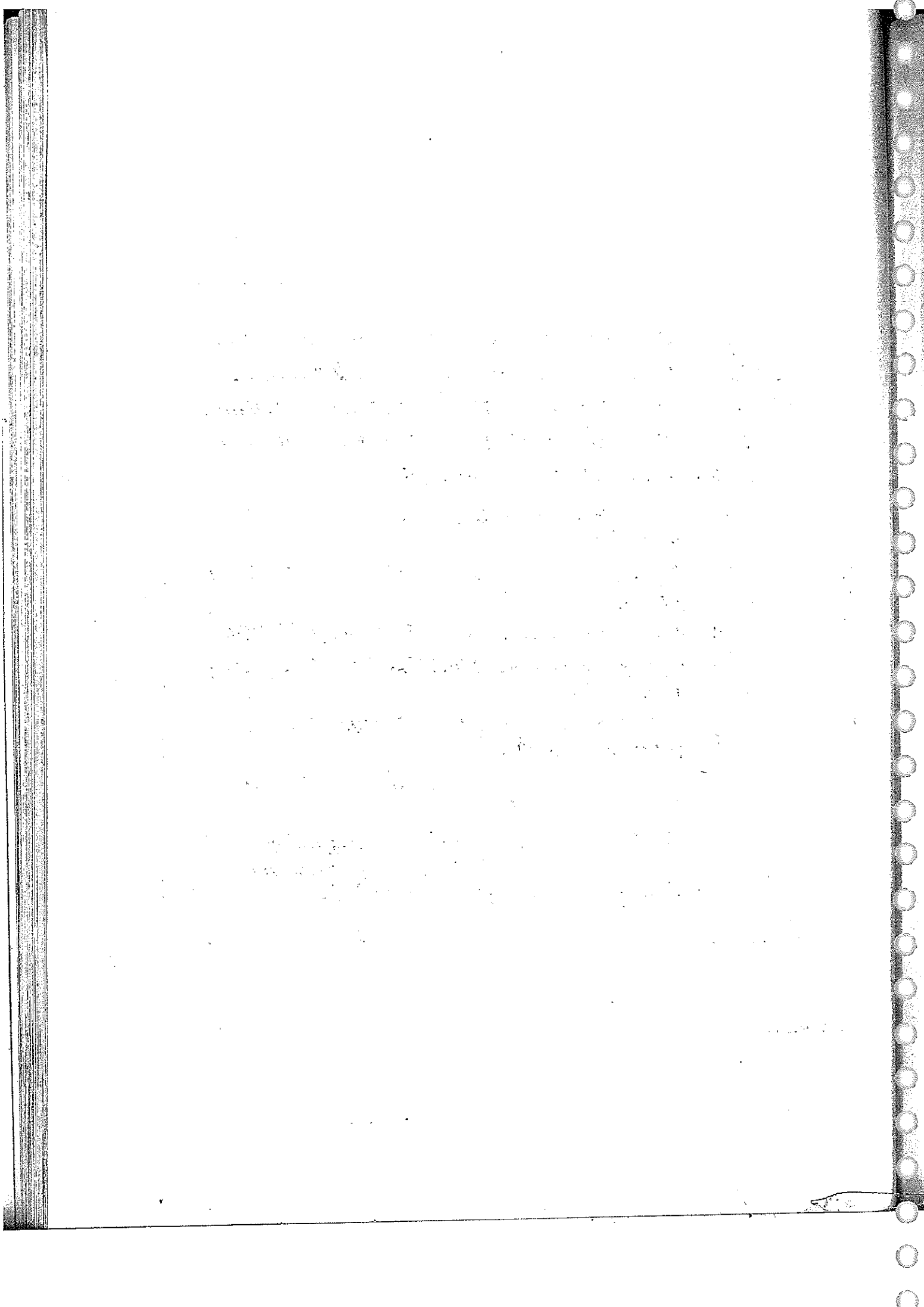
- (1) The Presenting Officer should be briefed/educated regarding the case by the Disciplinary Authority, simultaneously when the orders appointing him as Presenting Officer are being issued.
- (2) The Disciplinary Authority should provide the Presenting Officer the material required such as:
 - (a) Copy of the Charge Memo., with its enclosures;
 - (b) Copy of the Written Statement of Defence submitted by the Charged Officer with it enclosures;
 - (c) Copies of the statement of witnesses, if any, recorded earlier; and
 - (d) Copy of the preliminary inquiry report, if it is relied upon by the Dsciplinary Authority in support of the charges.
- (3) Where the Presenting Officer is being appointed from among the departmental officers, the Departments are Advised to prepare a list of officers suitable to be appointed as Presenting Officers. The Departments should appoint the presenting Officers from among that list so prepared (if necessary by giving them some training), in the cases pertaining to that particular Department. The Secretariat Departments may also appoint any of the retired officers from their Department as Presenting Officers, for which they may prepare a similar list of retired officers suitable to be appointed as Presenting Officer.

3. All the Departments of Secretariat are requested to take necessary action in the matter at the level of Secretary/Principal Secretary/Special Chief Secretary to Government and to extend maximum co-operation to the Inquiring Authorities, so as to enable the inquiring Authorities to speed up and complete the inquiries as per the prescribed time schedule.

Dr. C.S. RANGACHARI,
CHAIRMAN COMMISSIONERATE OF INQUIRIES

Instructions on the procedure to be followed by the Disciplinary Authorities for referring a Disciplinary case to the Commissionerate of Inquiries including sending of records along with the order of appointment of Inquiring Authority.

- (i) Memo. No. 490/SC.E/87-1, G.A. (SC.E) Dept., dt. 13-3-1987.
- (ii) Circular Memo No. 290/Ser.C/94-2, G.A. (Ser.C) Dept., dt. 1-6-1994
- (iii) G.O.Ms.No. 82, G.A. (Ser.C) Dept., dt. 01-03-1996.
- (iv) Circular Memo. No. 20922/Ser.C/99, G.A. (Ser.C) Dept., dt. 28-9-1999.
- (v) U.O. Note No. 19952/Ser.C/2000, G.A. (Ser.C) Dept., dt. 27-4-2000.
- (vi) U.O. Note. No. 256/COI.R/2001-3, G.A. (COI.R) Dept., dt. 07-06-2001.
- (vii) Chief Secretary's Circular to all Secretaries/Principal Secretaries vide U.O. Note 58445/Ser.C/2002-2, G.A. (Ser.C) Department, dt. 24-01-2003.



GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SC.E) DEPARTMENT

Memo No. 490/SC.E/87-1

Dated: 13-3-1987.

SUB:- Enquiries - Departmental Enquiries - Entrusting to the Commissioner for Departmental Enquiries - Instructions - Regarding.

REF:- 1. U.O.Note No. 910/SC.D/85-1, G.A. (SC.D) Dept. 26-8-1985.
2. U.O.Note. 531/SC.D/86-1, G.A. (SC.D) Dept., Dt. 6-5-1986.
3. Memo.No. 1496/SSc.E/86-1, G.A. (SC.E) Dept. Dt. 16-7-86.
4. Memo.No. 1496/SSC.E/86-2, G.A. (SC.E) Dept., Dt. 8-8-1986.
5. Memo.No. 3325/SC.E/86-1, G.A. (SC.E) Dept., Dt.2-12-1986.

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Attention is invited to the references cited.

2. In the first two references cited instructions have been issued regarding the examination of A.C.B. Reports by the Departments of Secretariat independently. In the last three references cited instructions have been issued regarding entrusting of Departmental Enquiries to the Commissioner for Departmental Enquiries.

3. The Departmental enquiries so far entrusted to the Commissioner for Departmental Enquiries have been reviewed and also discussed in a meeting of Secretaries held on 25-2-1987. As a result, the following further instructions are issued regarding entrusting of departmental enquiries.

4.1 In modification of the orders issued in the references fourth and fifth cited, only cases of employees in whose case the appointing authority is the Government should be referred to the Commissioner for Departmental Enquiries. However, in respect of cases inquired into by the A.C.B. and recommended for departmental action, all cases of Gazetted Officers - irrespective of whether the appointing authority is the Government for the Head of Department, shall be referred to the Commissioner for Departmental Enquiries.

4.2 Only those, which may require the imposition of a major penalty should be, referred to, the Commissioner for Departmental Enquiries in respect of cases covered by Para 4.1 above. 4.3 In cases enquired into by the A.C.B., which may require the imposition of a major penalty, the A.C.B. while recommending departmental action by the Commissioner for Departmental Enquiries should enclose draft charges with statement of imputations (allegations on which each charge is based), list of witnesses and documents for consideration by appropriate disciplinary authority. When the disciplinary authority, after examination of the report, comes to the conclusion that the matter may be referred to the Commissioner for Departmental Enquiries, the draft charges furnished by the A.C.B. may be scrutinized and memorandum of articles of charges may be finalized.

4.4 To ensure uniformity in referring the cases to the Commissioner for Departmental Enquiries and also to ensure expeditious disposal of the cases referred to the Commissioner for Departmental Enquiries, a checklist is given in annexure to this Memo. for the use of the Departments. Charges have to be framed by the appointing/disciplinary authority and served on the charged Officer together with the grounds on which the charges are based along with list of witnesses and documents, if any, relied upon. The appointing/disciplinary authority will receive and consider the written statement of defence before referring a case to the Commissioner for Departmental Enquiries. If the charges are admitted, the appointing authority can record its findings and issue an order imposing an appropriate penalty. If the Charged Officer gives a satisfactory explanation, the appointing authority may make an order dropping the charges. For cases falling under these two categories, there will be no need to hold an enquiry. Only when the charges have not been admitted by the Government Servant or when no written statement is received by the date prescribed, the appointing/disciplinary authority may appoint the Commissioner for Departmental Enquiries as an Enquiry Officer to arrive at the truth or falsity of the charges. The check list indicates the material/information to be sent to the Enquiry Officer for an expeditious disposal of an Inquiry.

SHRAVAN KUMAR,
CHIEF SECRETARY TO GOVERNMENT

CHECK LIST FOR REFERRING CASES TO THE COMMISSIONER OF ENQUIRIES

1. Is the Government the appointing authority Yes/No
Or
Is the delinquent officer, a Gazetted Officer (In respect of Cases arising on A.C.B. reports) Yes/No
2. If the A.C.B. has sent draft charges, has the department Scrutinized the same Yes/No
3. Has a charge memo together with the grounds on which Charges are based along with a list of witnesses and documents been served on the delinquent officer. Yes/No
4. Has the delinquent officer submitted a written statement? of defence. Yes/No
5. Has the appointing/disciplinary authority considered the written statement of defence. Yes/No
6. Do the charges framed indicate a major penalty? Yes/No
7. Has the appointing/disciplinary authority decided to Pursue the case by appointing an Inquiry Officer. Yes/No
8. Are the following documents/information being sent? to the Commissioner of Enquiries with the order appointing him as an Inquiry Officer. Yes/No
 - (a) A copy of memorandum of the article of charges, The grounds on which the charges are based, etc., Yes/No
 - (b) A copy of the written statement of defence Submitted by the Government Servant Yes/No
 - (c) List of witnesses by whom the charges are Proposed to be sustained Yes/No
 - (d) A copy each of the statements of witnesses by Whom the charges are proposed to the sustained Yes/No
 - (e) List of documents by which the articles of charge Are to be proved. Yes/No
 - (f) Evidence Proving delivery of the documents at
(a) above to the Government Servant. Yes/No
 - (g) Name and present designation and address of the Investigating Officer of the A.C.B. who may be
Allowed to adduce evidence, to examine the
Witnesses and to cross-examine the defence witnesses
With a view to proving the charges. Yes/No
OR
Name, designation and address of the Officer who
Will provide assistance to the Inquiry Officer as per
Para 2 (ii) of Memo.No. 1496/SC.E/86-2, dt. 8-8-1986. Yes/No

OR

Name and address of a pleader or Agent who may be
Allowed to appear on behalf of the Government as per
Rule 19 (2)(b) of the APCS (CCA) Rules.

Yes/No

(h) Current address (es) of the Charged Officer(s)
To which notices can be sent.

Yes/No

NB:- The answer should be YES to all the items for a case to be sent to the Commissioner of Enquiries. In exceptional cases when a delinquent does not submit a written statement of defence, the answers to items 4,5 & 8 (b) could be 'NO'. For cases not investigated by the A.C.B. item 2 may be shown as not applicable.

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SER.C) DEPARTMENT

Circular Memo No. 290/Ser.C/94-2

Dated: 01-06-1994.

SUB:- Andhra Pradesh Civil Services (C.C.&A) Rules, 1991 - Appointment of Enquiry Officer under sub-rule (2) of Rule 20 without following the procedure set out under Rule 20 - Instructions - Regarding.

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The Departments of Secretariat, Heads of Departments and Collectors are aware that the A.P.C.S. (C.C. & A) Rules, 1991, which came into effect from 01-10-1992.

The new rule 20 of the A.P.C.S. (C.C. & A) Rules, 1991 corresponds to old rule 19(2) which deals with the procedure for imposing a major penalty. The new rule 20 of the A.P.C.S. (CC & A) Rules, 1991, prescribes entirely a new procedure for conducting an enquiry by the disciplinary authority where it is proposed to impose a major penalty prescribed under the said rules. Some of the salient features of the new rules are given below for immediate guidance of the disciplinary authority/enquiry authority:

- (i) For imposition of a major penalty an enquiry should be conducted either under the CCA Rules, or the Public Servants (Enquiry Act).
- (ii) The disciplinary authority may itself conduct the enquiry or appoint an inquiry authority to conduct the enquiry.
- (iii) The disciplinary authority itself can prepare or cause the preparation of the articles of charges, statement of imputations of misconduct or misbehaviour.
- (iv) The articles of charges, statement of imputations of misconduct and list of witnesses and documents should be served on the Government servant by the disciplinary authority or at its instance and the Government servant should be required to submit the statement of defence and to state whether he desires to be heard in person.
- (v) The disciplinary authority on receipt of statement of defence or where no statement of defence is received within the stipulated time, conduct the enquiry itself or appoint an inquiry authority to do so.

3. It may be noted from the above that as per the old rules, the inquiry officer used to be in the picture right from the start of the disciplinary proceedings, whereas under the new rules he comes into picture only when the disciplinary authority, after considering the statement of defence submitted by the Government servant decides to appoint an Enquiry Authority for conducting an inquiry.

4. It is brought to the notice of the Government that the disciplinary authorities, appointing the Inquiry Officers straight away on receipt of a complaint against a servant without following the procedure prescribed in rule 20 (3) (4) of the new A. P. C. S.

(CC. & A) Rules 1991 in the first instance. Such a course of action evidently which is not in accordance with the procedure prescribed under the new rules, is liable to be set aside when questioned in a court of law. It is, therefore, impressed on the disciplinary authorities that they should invariably follow the procedure prescribed under rule 20 (3), (4) of the C.C.A. Rules, 1991 before they consider the appointment of an inquiry authority. Non-compliance with the prescribed procedure will be viewed seriously.

5. As per the provision of the new CCA Rules articles of charges etc., will have to be prepared or got prepared by the disciplinary authority. Needless to say that the articles of charge form the basis of enquiry. There fore, utmost care and diligence is required to be taken while drawing up the articles of charges, as any defect or deficiency in the articles of charges will ultimately lead to vitiation of the entire proceedings. The disciplinary authority/inquiry authority should see that the charges are specific without any ambiguity and are fully supported by documentary evidence.

6. All the Departments of Secretariat, Heads of Departments and Collectors are requested to strictly follow the above procedure prescribed in the A.P.C.S. (CC & A) Rules, 1991. Whenever an inquiring authority is to be appointed for conducting enquiry under the said rules. They are also requested to bring these instructions to the notice of their subordinates for their guidance and compliance.

7. The receipt of this Memo., may be acknowledged.

A. CHENGAPPA,
SECRETARY TO GOVERNMENT

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES - A.P. Civil Services (Classification, control and appeal) Rules, 1991-
Format prescribed - Orders - Issued.

GENERAL ADMINISTRATION (SER.C) DEPARTMENT

G.O.Ms.No. 82,

Dated: 1st March, 1996.

Read the following:

G.O.Ms.No. 487, General Administration (Ser.C) Dept., Dt. 14-9-1992.

ORDER :

Under the provisions of A.P. Civil Services (Classification, Control and Appeal) Rules, 1991, the competent authority should issue orders in disciplinary cases after due consideration, in the relevant proforma annexed to this order as indicated below:-

- (1) Under F.R.53 (20) the suspended official shall submit to the competent authority, a certificate that he/she is not engaged in any other employment, business, profession or vocation. The format of certificate to be submitted shall be in the Format as shown in Form-I annexed to this order.
 - (2) The competent authority shall frame the Articles of charges in a disciplinary case in the format as shown in Form-II annexed to this order.
 - (3) The competent authority shall issue an order of revocation off a suspension order in the format as shown in Form-III annexed to this order.
 - (4) The competent authority shall issue orders for appointing Inquiry Authority in a disciplinary case in the format as shown in form-IV annexed to this order.
 - (5) The competent authority shall issue orders for appointment of a presenting Officer under Rule 20 (5)(c) in the format as shown in Form-V annexed to this order.
 - (6) The competent authority shall frame the Memorandum of charges for imposing Minor Penalty in the format as shown in From-VI annexed to this order.
 - (7) The competent authority shall initiate Minor Penalty proceedings in the format as shown in Form-VII annexed to this order.
 - (8) The competent authority shall initiate disciplinary action in common proceedings in the format as shown in Form-VIII annexed to this order.
2. All Departments of Secretairat, Heads of Departments etc., are requested to bring these orders to the notice of all competent authorities.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.S. RAJAJEE,
CHIEF SECRETARY TO GOVERNMENT

SP/20—16

FORM-I ANNEXED TO G.O.Ms.No.82, G.A.(SER.C) DEPTT., DT. 1-3-1996

STANDARD FORM OF CERTIFICATE TO BE FURNISHED BY THE SUSPENDED
OFFICIAL UNDER F.R. 53 (2).

I.....(name of Government Servant) having
been placed under suspension by Order No..... Date.....
While holding the post of.....Do hereby certify that I have
not been employed in any business.

Signature :

Name of Government Servant :

Address :

FORM-II ANNEXED TO G.O.Ms.No. 82, G.A. (SER.C) DEPTT., DATED 1-3-1996

ABSTRACT

PUBLIC SERVICES - Sri(name and designation)
Department - Departmental proceedings under Rule 20 of the A.P. Civil Services
(Classification, Control & Appeal) Rules, 1991 - Articles of charges - Issued.

G.O.Rt.No.

Date:

ORDER:

It is proposed to hold an enquiry against Sri.....(name and designation).....Department in accordance with the procedure laid down in Rule 20 of the A.P. Civil Services (Classification, Control & Appeal) Rules, 1991.

2. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A list of documents by which, and a list of witnesses by whom, the articles of charges are proposed to be sustained are also enclosed (Annexure-II and III).

3. Sri..... (name and designation) is directed to submit within 10 days of the receipt of this order, a written statement of his/her defence.

4. Sri..... (name and designation) is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He/She should, therefore, specifically admit or deny each article of charge.

5. Sri..... (name and designation) is further informed that if he/she does not submit his/her written statement of defence on or before the date specified in para-3 above further action will be processed based on the material available.

6. Attention of Sri..... Is invited to Rule 24 of the A.P. Civil Services (Conduct) Rules, 1964, under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings.

FORM-III ANNEXED TO G.O.Ms.NO. 82, G.A. (SER.C) DEPARTMENT
DATED : 1-3-1996.

STANDARD FORM OF ORDER FOR REVOCATION OF SUSPENSION ORDER
(RULE-8(5)(C) OF A.P. CIVIL SERVICES (CCA) RULES, 1991).

Memo No.

Dated :

SUB :-

REF :-

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Whereas, an order placing Sri.....(name suspension or and designation of the Government Servant) under suspension was made/was deemed to have been made byon.....

2. Now, therefore, (the authority which made or is deemed to have made the order of suspension or an authority to which that authority is subordinate) in exercise of the powers conferred by clause (c) of sub-rule (5) of rule-8 of the AP Civil Services (Classification, Control & Appeal) Rules, 1991, hereby revoke the said order of suspension with immediate effect.

(IN THE NAME OF COMPETENT AUTHORITY/DISCIPLINARY AUTHORITY)

To

Sri.....

(Name and Designation of
Suspended Officer)

Sri.....

(Name and Designation of
Appointing Authority)

Sri.....

(Name and Designation of
Lending Authority making
Orders of suspension)

Sri.....

(Name and Designation of
The Authority making the
order of suspension)

FORM IV ANNEXED TO G.O.Ms.No.82, G.A.(SER.C) DEPARTMENT., Dt. 1-3-1996.
STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF INQUIRING
AUTHORITY

(Rule 20 of A.P. Civil Services (CC&A) Rules, 1991)

Memo.No.

Dated:

SUB :-

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Whereas, an inquiry under Rule 20 of the A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 is being held against, Sri.....(Name and designation of the Government Servcant).

2. And whereas, it is considered that an Inquiring Authority should be appointed to inquire into the charges framed against the said Sri.....

3. Now, therefore, in exercise of the powers conferred by sub-rule (2) of rule-20 of the said rule, the disciplinary authority hereby appoints Sri.....(name and designation of the Inquiring Officer) as the Inquiring Authority to inquire into the charges framed against the said Sri.....

Signature:

Designation of the Competent Authority.

ANNEXURE-I

Statement of articles of charge framed against Sri.....
(name and Designation).

Article-I: That the said Sri.....(Name and Designation) while functioning as.....During the period.....

BASIS OF THE CHARGE :

Article-II: That during the aforesaid period and while functioning in the aforesaid office, the said Sri.....(Name and Designation).

BASIS OF THE CHARGE:

Article-III : That during the aforesaid and while functioning in the aforesaid Office, the said Sri (Name and Designation).

BASIS OF THE CHARGE:*ANNEXURE-II*

List of documents by which the articles of charge framed against Sri.....(Name and Designation) are proposed to be sustained.

ANNEXURE-III

List of witnesses by whom the articles of charge framed against Sri.....(Name and Designation) are proposed to be sustained.

It will be presumed that Sri.....Is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 24 of the A.P. Civil Services (Conduct) Rules, 1964.

The receipt of the memorandum may be acknowledged.

(IN THE NAME OF THE DISCIPLINARY AUTHORITY)

To

Sri.....

FORM-V ANNEXED TO G.O.Ms.No.82, G.A.(SER.C) DEPARTMENT DATED. 1-3-1996
STANDARD FORM OF THE ORDER RELATING TO THE APPOINTMENT OF
PRESENTING OFFICER

(Rule 20 (5) (c) of A.P.Civil Services (CC&A) Rule, 1991)

Memo.No.....

Dated:.....

SUB:-

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Whereas, an inquiry under Rule - 2- of the A.P. Civil Services (CC&A) Rules, 1991, is being held against Sri(Name and Designation of the Charged Officer).

2. And whereas, it is considered that a Presenting Officer should be appointed to present on behalf of the disciplinary authority the case in support of the articles of charge.

3. Now, therefore, the Disciplinary Authority in exercise of the powers conferred by sub-rule (5) of rule 20 of the said rules, hereby appoints Sri.....(Name and designation of Presenting Officer) as the Presenting Officer.

(In the name of Dicipinary Authority)

Copy to:

1. The Presenting Officer.
2. The charged Officer.
3. The Inquiry Officer.

FROM - VI ANNEXED TO G.O.Ms.NO.82 G.A. (SER.C) DEPARTMENT,
DATED; 1-3-1996.

STANDARD FORM OF MEMORANDUM OF CHARGE FOR MINOR PENALTIES
(Rule 22 of A.P. Civil Services (CC&A) Rules, 1991.)

Memo.No.

Dated:.....

SUB:-

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Sri.....(Name and Desingation).....(Office in which working)is hereby informed that it is proposed to take action against him/her under Rule -22of the A.P. Civil Services (CC&A) Rules, 1991. A statement of the imputation of mis-conducted of misbehaviour on which action is proposed to be taken is enclosed.

2. Sri/Smt.....is hereby given an opportunity to make such representation as he/she may wish to make against the proposed.

3. If Sri/Smt.....fails to submit his/her representation within ten days of the receipt of this Memorandum, it will be presumed that he/she has no representation to make and order will be liable to be passed against Sri/Smt.....
Ex-Parte

4. The receipt of this memorandum should be acknowledged by Sri/Smt.....

(In the name of the Disciplinary Authority)

To

Sri/Smt.....

FORM- VII ANNEXED TO G.O.MS.NO: 82, G.A. (SER.C) DEPARTMENT Dt. 1-3-1996.
STANDARD FORM FOR INITIATION OF MINOR PENALTY PROCEEDINGS:

(In cases where disciplinary authority decides to held the enquiry)

(Rule 22 of A.P. Civil Services (CC&A) Rules, 1991).

Memo No.....

Dated :

SUB :-

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In continuation of memorandum No., dated issued under Rule 22 of the A.P. Civil Services (CC&A) Rules, 1991, it is considered necessary to hold an enquiry against Sri, under Rule 22 of the A.P. Civil Services (CC&A) RULES, 1991. The substance of the imputation of mis-conduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of article of charge and the imputation of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Anexxure-I) A list of documents by which and a list of witnesses by whom the articles of charge are proposedd to be sustained are also enclosed (Annexure-II and III).

2. Sri.....is directed to submit within ten days of the receipt of this Memorandum a Written Statement of his Defence.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Sri.....is further informed that if he does not submit his Written Statment of Defence on or before the date specified in para-2 above, or otherwise fails or refuses to comply with the provisions or Rules-20 and 22 of the A.P. Civil Services (CC&A) RULES, 1991, or the orders/directions issued in pursuance of the said rules the Inquiring Authority may hold the inquiry against him ex-parte.

5. Attention of Sri....., is invited to Rule-24 of the A.P. Civil Services (Conduct) Rules, 1964 under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presenumed that Sri....., is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-24 of A.P. Civil Services (Conduct) Rules, 1964.

6. The receipt of this memorandum may be acknowledged.

(in the name of Disciplinary Authority)

To

Sri.....

Enclosures: Annexures I, II and III

FORM-VIII ANNEXED TO G.O.Ms.No.82, G.A. (SER.C) DEPARTMENT Dt. 1-3-1996.
STANDARD FORM OF ORDER FOR TAKING DISCIPLINARY ACTION IN
COMMON PROCEEDINGS

(Rule 24 of A.P. Civil Services (CC&A) Rules, 1991)

Memo No.....

Dated :.....

SUB :-

Whereas, the Government Servants specified below are jointly concerned in a disciplinary case :

Sri.....

Sri.....

Sri.....

Sri.....

Now, therefore, in exercise of the powers conferred by Rules (1) and (2) of Rule 24 of the A.P. Civil Services (CC&A) Rules, 1991, the Disciplinary Authority hereby directs :-

- (i) that disciplinary action against all the said Government Servants shall be taken in a common proceedings.
- (ii) that(Name and Designation of the Authority) shall function as the disciplinary Authority for the purpose of the common proceedings and shall be competent to impose the following penalties, namely:-

(Here specify the penalties)

- (iii) that the procedure prescribed in Rules 1-20, 20 of the C.C.A. Rules, 1991 shall be followed in the said proceedings.

(IN THE NAME OF DISCIPLINARY AUTHORITY)

Copy to:

1. Sri..... (Name and Designation)

2. Sri..... (Name and Designation)

3. Sri..... (Name and Designation)

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SER.C) DEPARTMENT

Circular Memo.No. 20922/Ser.C/99

Dated: 28-9-1999.

SUB : PUBLIC SERVICES – Disciplinary cases against Government Employees–
Procedural aspects – Check-list – Communicated.

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Instructions have been issued from time to time on various procedural aspects in dealing with disciplinary cases against Government employees. For better understanding clarifications/instructions are issued on step by step procedure to be followed from the stage of initiation of disciplinary proceedings till its conclusion. Instances have come to notice that there are procedural infirmities in dealing with the disciplinary cases, resulting in legal tangle. It is keenly felt to remedy the situation.

2. A Check-list of the action at each stage to be verified on different parts namely (1) Institution of Disciplinary Proceeding, (2) Processing the Enquiry Report and (3) Awarding Penalties has been evolved and communicated herewith for guidance of the disciplinary authorities.

3. The Departments of Secretariat, the Heads of Departments and the District Collectors are requested to follow the Check list of dealing with disciplinary cases and also bring this to the notice of all other concerned authorities.

4. The receipt of the Memo., may be acknowledged.

N.V.H. SASTRY,

SECRETARY TO GOVERNMENT.

To
All Departments of Secretariat.
All Heads of Departments.
All Collectors and District Magistrate.

1. INSTITUTION OF DISCIPLINARY PROCEEDINGS:

- (i) If it is proposed to hold a detailed enquiry against any Government Servant to whom A.P. Civil Services (CCA) Rules, applies, the following points shall be kept in mind.

CHECK-LIST

- | | |
|--|----------|
| (a) Whether specific charges are framed as required in Government Memo.No.290/Ser.C/94-2, GAD., dated 1-6-1994. | Yes / No |
| (b) Whether the charges are framed in the format prescribed in G.O.Ms.No.82 G.A. (Ser.C) Department, dated 1-3-1996. | Yes / No |
| (c) Whether explanation is received from the Delinquent Officer within the time stipulated. | Yes / No |
| (d) Whether the Delinquent Officer asked for any further information/additional Documents. | Yes / No |
| (e) Whether it is decided to impose a minor Penalty. | |
| (f) Whether it is decided to impose a major penalty and to conduct detailed enquiry by appointing enquiry officer or through Commissioner of Inquiries/entrust the disciplinary case to the Tribunal for Disciplinary Proceedings for detailed inquiry. | Yes / No |
| (ii) Whether the appointment of the Inquiring Authority is in accordance with format IV Prescribed in G.O.Ms.No. 82, G.A.(Ser.C) Department, dated 1-3-1996. | Yes / No |
| (iii) Whether Presenting Officer is appointed as Per sub rule 5(c) of rule 20 keeping in view The instructions in Memo.No. 22/Ser.C/93, G.A.(Ser.C) Dept., dated 1-5-1993, and In the format of G.O.Ms.No. 82, G.A. (Ser.C) Department, dated 1-3-1996. | Yes / No |
| (iv) In any dedisciplinary case where more than two Members of Service are involved, whether Common disciplinary proceedings are instituted as per Rule 24 of A.P. Civil Services (CC.A) Rules and in Form VII of G.O.Ms.No. 82, Genl.Admn.(Ser.C) Department, dt. 1-3-1996. | Yes / No |

- (v) Whether the A.P. Vigilance Commission is consulted to refer any disciplinary case for enquiry to Tribunal for Disciplinary proceedings. Yes / No
- (vi) Whether exparte enquiry was conducted, In terms of orders issued in G.O.Ms.No.194, G.A. (Ser.C) Dept., dt. 15-3-1990. Yes / No
- (vii) Whether the time schedule prescribed in Circular Memo.No. 35676/Ser.C/98, G.A. (Ser.C) Deptt., dated 1-7-1998, and in Memo.No. 22697/Ser.C/99-5, dt.28-7-1999, is followed to complete the enquiry. Yes / No
- (viii) Whether the departmental proceedings could be delivered in person or leave address. Yes / No
- (ix) If not, whether the same is published in the A.P. Gazette/District Gazette, as the case may be.
- (x) Is the report of the Enquiry Officer as per Sub-rule (23) of rule 20. Yes / No

2. Whether the report of the Inquiry Officer contains the following:

- (i) An introductory para, indicating appointment of Inquiry Officer and the dates of hearing.
- (ii) Charges that were framed.
- (iii) Brief statement of the case of disciplinary Authority in respect of the charges enquired into.
- (iv) Brief statement of facts and documents Admitted.
- (v) Brief statement of the explanation of the Government Servant.
- (vi) Assessment of evidence in respect of each Point.
- (vii) Finding on each charge. Whether the E.O., ensured that no recommendation was made about the quantum of punishment.

3. Whether the Inquiry Officer sent the following along with the enquiry report:-

- (a) List of documents produced by the Presenting Officer/

- (b) List of documents produced by the Government Servant.
- (c) List of prosecution witnesses.
- (d) List of defence witnesses.
- (e) Deposition of witnesses in the order in which they were examined.
- (f) Written statement of defence.
- (g) Applications if any, filed during the Course of Inquiry, and orders passed Thereon, as also orders passed on oral Requests made during the inquiry.

PROCESSING THE ENQUIRY REPORT

- (i) Whether the further action on the Enquiry report is as per rule 21 of the (CCA) Rules. Yes / No
- (ii) Whether the disciplinary authority After going through the inquiry Report agree with the findings and If any error is noticed, whether the Point at which it is erred is recorded And did the disciplinary authority ask The same enquiry officer to conduct Further enquiry and report as there is No provision for denova enquiry or to Conduct fresh enquiry. Yes / No
- (iii) whether the disciplinary authority exercise His mind in arriving at the findings on the Charges and independently arrive at the Nature and quantum of punishment. Yes / No
- (iv) Whether the Andhra Pradesh Vigilance Commission is consulted as per the scheme of Vigilance Commission. Yes / No
- (v) Whether the orders in circulation are obtained in case the A.P. Vigilance Commissioners recommendations are not agreed to. Yes / No
- (vi) Whether APPSC needs to be consulted and if so, whether it was consulted.

(vii) Whether the final orders issued agree with the recommendation of APPSC.

(viii) If not whether orders in circulation obtained.

III. AWARDING PENALTIES

(i) Whether the instructions issued in U.O. Note No. 28552/Ser.C/97-1, G.A. (Ser.C) Dept., Dated 7-5-1997, are kept in view while Issuing orders. Yes / No

(ii) Whether the instructions issued in U.O. Note No. 1713/Ser.C/66-1, G.A. (Ser.C) Deptt., dated 1-7-1966 have been followed or not regarding punishment awarded.

(iii) Whether the instructions vide Memo. No. 1436/Ser.C/80-2, G.A. (Ser.C) Deptt., dated 7-2-1981, have been followed while imposing penalty of stoppage of Annual Grade Increment with cumulative effect. Yes / No

(iv) Whether the order of penalty and other Papers communicated to the delinquent Officer as per rule 23. Yes / No

N.V.H. SASTRY,
SECRETARY TO GOVERNMENT

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SER.C) DEPARTMENT

Chief Secretarie's Circular to all Secretaries/Principal Secretaries

U.O.Note No.19952/Ser.C/2000.

Dated: 27-4-2000.

SUB :- PUBLIC SERVICES - Disciplinary cases against Government Employees-
Departmental Inquiries - Time Schedule Expedite the Inquiries - Further
instructions - Issued.

REF :- Memo.No. 23537/Ser.C/99-5, G.A. (Ser.C) deptt., dt. 28-7-1999.

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A review of the work turned out by Commissioner of Inquiries till 31-3-2000, showed that disposal on an average is about 10-12-cases per month. On an average a case is taking about 6 months for disposal. This should be brought down to 3 months.

2. Government is concerned not only about the speed of disposal but also about the quality of disposal. Both this can be achieved if the disciplinary authority and Inquiring authority work properly and sincerely with mutual cooperation and coordination. The following suggestions are made in this connection.

3. An important factor in the quality of disposal, is application of mind by the Disciplinary Authority while framing charges. In many cases it is found that the draft of the Charge Memo. is prepared at section level, often copying verbatim the draft charges prepared by the Investigating Agency. Invariably at the level of the Principal Secretary/ Secretary to Government, there should be careful application of mind at the stage of drafting of the charge memo., which is an important aspect of the disciplinary proceedings. A related aspect is the non-availability of records in complete shape before the Disciplinary Authority at the time of framing of charges. It has been noticed also that in some cases the Charged Officer requests the Disciplinary Authority for permission to peruse the records/documents. It is hereby clarified that such perusal is not necessary to admit or deny the charges. So such request should be rejected, pointing out that adequate opportunity to peruse records is available during the course of the Inquiry.

4. The chairman, Commissioner of Inquiries, has already advised all the Departments that cases in which records are not received in complete shape will be returned to the Disciplinary Authority. This will apply to the pending cases also. Chairman and Members, Commissionerate of Inquiries, are requested to implement these instructions strictly.

5. Cases of enquiry where the Charged Officer has approached the A.P. Administrative Tribunal or other courts have often to be kept pending. This increases the pendency at the level of Commissionerate of Inquiries. Chairman, Commissionerate of Inquiries, is advised to return all such cases to the Disciplinary Authority. This will serve as a reminder to the Disciplinary Authority to follow up such cases and get them disposed of expeditiously and revert to Commissionerate of Inquiries at the appropriate stages.

6. It is found that the Disciplinary Authorities are routinely referring the cases to the Commissionerate of Inquiries taking advantage of the existing rules/instructions which state that all cases where the charges have not been admitted by the Charged Officers are to be referred to the Commissionerate of Inquiries. It is not the intention of these rules/instructions that there should be no application of mind by the by the Disciplinary Authority. Sometimes it is seen that in course of his reply to the charge memo., the Charged Officer has raised some relevant points eg., implicating another fellow officer, etc. Application of mind at this stage will help in ensuring that the disciplinary proceedings cover all the officers who are involved in the misdemeanour. Failure to ensure this has in the past resulted in charges being ultimately dropped against the Charged Officers in some cases.

7. There is a general tendency of Investigating Agency to cite, as witnesses, persons functioning at the lowest level or at a relatively lower level in the hierarchy, usually a dealing hand. Where the Charged Officer happens to be a Senior Officer, it would not be fair to expect such lower level functionaries (appearing as witness) to give evidence without fear or favour against the Charged Officer. This may ultimately result in the charges being held not proved. If higher functionaries are cited as witness, especially those who have actually taken the relevant decision in the file, they will be able to speak about the actual position of the file/case. This practice will impart a healthy seriousness to the disciplinary proceedings and in general, result in better responsibility accounting.

8. Care should be taken in nominating the Presenting Officer. The person nominated should be of appropriate seniority; he should be physically in a position to attend the enquiry sessions; and, most importantly, he should have access to all records pertaining to the case in full shape including the charge memo., the written defence statement (WDS) of the Charged Officer submitted to the Disciplinary Authority and other relevant documents. In several cases it has been noticed that when the Commissionerate of Inquiries asks the Presenting Officer to enter appearance before the Commissionerate of Inquiries the Presenting Officer has not been given even a copy of the Written Defence Statement submitted by the Charged Officer. He is also unaware of the case in its totality. This will, not only cause delay but hamper the quality of the presentation. In cases of departmental persons appointed as Presenting Officer, it is often found that Presenting Officer have to be changed subsequently on grounds of seniority or retirement of the Presenting Officer. These aspects must be foreseen at the time of nominating the Presenting Officer. In case of advocates appointed as Presenting Officers, when they, for the first time, see the records, including the charge memo., and Written Defence Statement of the Charged Officer, on the date of the hearing, such behavior would be unprofessional. But where non legal officers are nominated as Presenting Officer, the Disciplinary Authority has the duty of ensuring that the Presenting Officer is adequately briefed in advance about the case records and procedure of conduct of the case.

9. The disciplinary Authority must invariably enclose the following while sending the order of appointment of Presenting Officer to the Presenting Officer:-

- (a) Charge memo., with statement of imputations of misconduct and misbehaviour.
- (b) List of witnesses by whom the charges are to be sustained, and

- (c) List of documents by which the charges are to be proved, and
- (d) Written Defence Statement of Charged Officer submitted to the Disciplinary Authority along with its enclosures.

10. Based on the guidelines issued by the Central Vigilance Commission, instructions were issued in Memo.No.23537/Ser.C/99-5, G.A.(Ser.C) Deptt., dated 28-7-1999 with regard to time schedule to expedite departmental enquiries. The same are revised as follows:-

- | | |
|---|---|
| (a) Fixing date of hearing inspection of listed Documents, submission of list of defence Documents and nomination of a defence Assistant (if not already nominated). | Written two weeks from the date of appointment of the Enquiry Officer |
| (b) Inspection of documents or submission of List of defence witnesses/defence documents or examination of relevancy of documents or Witnesses, procuring the additional documents And submission of certificates, confirming inspection of additional documents by accused Officer or defence assistant. | 2 Weeks |
| (c) Issue of summons to witnesses, fixing the date of regular hearing and arrangements for participation of witnesses in the regular hearing. | 2 Weeks |
| (d) Regular hearing on day to day basis. | 2 Weeks |
| (e) Submission of written briefs by Presenting Officer and submission of written briefs by Accused Officer/Defence Assistant to Inquiry Officer. | 2 Weeks |
| (f) Submission of Inquiry Report by the Inquiry Officer. | 2 Weeks |

11. To ensure adherence to the above schedule the Secretary to Government should review all disciplinary cases on a weekly basis. Unless discipline is maintained by prompt disposal of disciplinary cases, no development can be done and achievements will be below the potential.

12. It must be ensured by the Disciplinary Authority that the documents cited by the Charged Officer as defence documents during the course of inquiry should be produced by its custodian through Presenting Officer within a time limit fixed by the Inquiring Authority.

13. Representation from the Charged Officer, if any alleging bias against the Inquiring Authority should be decided by the Disciplinary Authority or the Appellate authority within fifteen days after receipt of the representations, without fail.

V. ANANDA RAU,
CHIEF SECRETARY TO GOVERNMENT

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (COLR) DEPARTMENT

U.O. Note No. 256/COI.R/2001-3

Dated: 07-6-2001.

SUB :- COMMISSIONERATE OF INQUIRIES - Review Meeting Held on 9-5-2001 -
Certain observations made - Communicated - Regarding.

REF:- (1) This Department's U.O.Note No. 61/COI.R/98-1, Dated: 10-6-1998.
(2) This Department's U.O.Note No. 8/COI.R/99-10, Dated: 31-3-1999.

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In the Review Meeting held on 9-5-2001, it was observed that in general there was considerable delay on the part of the Secretariat Departments (Disciplinary Authorities) in sending the connected records of the case to the Inquiring Authority and also in appointing Presenting Officers after the case is entrusted to the Inquiring Authority for inquiry. In a particular case pertaining to Labour, Employment, Training and Factories Department, it was observed by a Member, Commissionerate of Inquiries, that even articles of charges were not sent to him along with the orders appointing him as the Inquiring Authority in the case. In continuation of the references cited, the Departments of Secretariat are, therefore, once again requested to ensure prompt furnishing of records to the Inquiring Authority and also to appointment of Presenting Officers on priority basis, without any loss of time.

2. It was also observed that in most of the cases the connected records are not available with the concerned Departments, while referring their files to the Commissionerate of Inquiries, for nomination of Inquiring Authority. All the Departments of Secretariat are, therefore, requested to ensure that the connected records of the cases are available in complete shape and kept ready with them, while referring their file to the Commissionerate of Inquiries for nomination of Inquiring Authority and also to confirm specifically about the fact of availability of the records with them (not with the Head of the Department) in the column provided for in the check-memo.

3. It was also observed that instructions issued by the Government on disciplinary matters from time to time are not reaching all the concerned Sections within the Secretariat Departments, resulting in variations in the processing of disciplinary cases. All the Departments of Secretariat are, therefore, requested to ensure prompt communication of instructions issued by the Government on Disciplinary matters to all the Sections concerned with disciplinary matters within their Departments.

4. In spite of instructions issued by the General Administration (Ser.C) Department in the U.O.Note No. 19952/Ser.C/2000, dated 27-4-2000, stressing on the need and importance of application of mind by the Disciplinary Authorities while framing charges, it was observed that in several of the cases pertaining to Engineering Departments charges are being framed only

against lower rank officials when they ought to have been framed against senior officers. It was also observed that in some cases of the same departments, charges have been framed by the Disciplinary Authorities against Government Servants who are not at all concerned with the case. All the Departments of Secretariat are, therefore, once again requested to ensure careful application of mind at the level of Principal Secretary/Secretary to Government during the stage of drafting of the charge-memo as this is an important aspect of disciplinary proceedings.

DR. C.S. RANGACHARY,
CHAIRMAN, COMMISSIONERATE OF INQUIRIES.

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SERVICES.C) DEPARTMENT

Chief Secretary's Circular to all Secretaries/Principal Secretaries

U.O.Note No. 58445/Ser.C/2002-2

Dated: 24-01-2003.

SUB :- Public Services - Disciplinary cases against Government Employees -
Departmental Inquiries - Procedure to be followed by fixing time schedule for
processing Disciplinary matter - Further instructions - Issued.

REF :- U.O.Note No. 19952/Ser.C/2000. G.A. (Ser.C) Deptt. Dt. 27-4-2000.

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In a review meeting, conducted by the Chief Secretary to Government, with the Chairman and other members of the Commissionerate of Inquiries on 28-01-2002, Chief Secretary emphasized on qualitative improvement in terms of disposal of inquiries without undue delay and also in terms of preparing quality reports. It is necessary that Disciplinary Authority and Inquiring Authority do their respective job seriously.

2. It is observed that though instructions were issued from time to time, highlighting the rule position and the procedure to be followed for initiating departmental enquiries, the Disciplinary Authorities, often are not doing their job properly.

3. During the process of conducting enquiries the following main deficiencies are noticed thereby causing delay in conducting inquiries against the Charged Officer :-

- (1) Undue delay in framing of charges and serving them on the Charged Officers from the date of actual offence/irregularity etc. In some cases years pass between the date of occurrence and issue of charge memo., to the charged persons;
- (2) After obtaining the Written defence Statement from the Charged Officer, Disciplinary Authority is taking a lot of time for considering it and for taking a decision about its satisfactoriness or otherwise. In most of the cases Disciplinary Authority is not having access to records while considering the Written Defence Statement, thereby not only the matter is being delayed but the quality of verification is marred due to non-availability of records.
- (3) The Disciplinary Authority is not supplying the records/material along with the order of appointment of Inquiring Authority. In some cases, it is taking months/ years in sending records., thereby delaying the inquiry.
- (4) Presenting Officer is not being appointed before entrustment of the case to the Inquiring Authority. The Presenting Officer is not even supplied with copies of Charge Memo. Written Defence Statement, access to the records.

- (5) Adequate attention is not being bestowed by the Disciplinary Authority at the level of Head of the Departments/Secretary of the Department in the disciplinary cases.

4. All the above factors contribute for the long gap of time between date of actual offence/irregularity and date of starting of the enquiry process by the Inquiring Authority, thereby weakening the case and some times the real guilty officer is escaping from penal action.

5. It is, therefore, considered necessary that in addition to the instructions issued in the reference cited the following instructions are to be followed scrupulously :-

- (1) There should not be undue delay between the actual occurrence of offence/irregularity and framing of charges. The preliminary investigation and preliminary inquiry should be conducted quickly and if the out come after examination of preliminary inquiry report reveals serious charge then charges may be framed without further delay. It has been observed that this process is so delayed that the Charged Officer, in many cases, retires from service or the charges are framed at the verge of retirement, thereby delaying and some times escaping from punishment.
- (2) As framing of charges is the initiation of disciplinary process and as it is the essence of the allegation, it should not be drafted in very general terms, such as negligence of duties, breach of conduct rules, conduct unbecoming of a Government Servant etc. The charges should be drafted in clear and appropriate terms, using simple language and it should give the correct picture. Detailed guidelines on proper framing of charges against officers have been issued vide U.O. Note No. 1041/SC.F/89-14, dated 16-8-1989 which may be strictly followed. While preparing the draft charges, the Disciplinary Authority should have all the records and other materials with it for verification of the facts mentioned in the charges. Simply accepting the draft charges sent by the preliminary enquiry officer/ Investigating Officer without verifying them with reference to records shall not be resorted. The charges should have enough documentary support for pursuing it. The witnesses selected should speak of the charges and with reference to the records. If the witness is an official witness, senior officers connected with the matter should be selected as witness. The charges so drafted should immediately be served on the Charged Officer and his written defence Statement should be obtained and duly examined.
- (3) Obtaining of written defence statement from the charged person and verifying it for its satisfactoryness or otherwise, of course with reference to the records is a must. It should be attended by a senior officer and not by the lower rank officers. If the Written Defence Statements are perused carefully with reference to records,

it will give a clear picture whether the charges can be proceeded with or not and also whether there is enough documentary support to prove the charges.

- (4) Presenting Officer is an essential and important functionary in conduct of departmental inquiries. He plays an important role because he has to present the case of Disciplinary Authority successfully on behalf of the Disciplinary Authority before the Inquiring Authority. The Presenting Officer should therefore be well conversant with the case and for this he should be provided with copies of charge memo, Written defence statement, and access to all the connected records/material well in advance of his appearance before the inquiring Authority. The Disciplinary Authority should brief the Presenting Officer adequately and give him full support and cooperation for his successful presentation of the case before the Inquiring Authority. If the Presenting Officer is a Government servant he should be senior enough and should have enough knowledge of the case for presentation before the Inquiring Authority.
- (5) Disciplinary Authorities are not sending the records to the Inquiring Authority in time or along with the order of appointment of Inquiring Authority. The Disciplinary Authorities are therefore, requested to send all connected records to the Inquiring Authority along with appointment order. They should not ask the Head of Departments concerned to send the records directly to the Inquiring Authority without themselves examining them first.
- (6) Most of the deficiencies noticed in the course of enquiries can be avoided, if disciplinary authority at the level of Secretary/Principal Secretary/Special Chief Secretary bestow personal attention to disciplinary cases. The Head of the Department also should peruse the records before they submit them to Secretariat Department, Unless the higher official show personal interest and bestow necessary importance to these matters, without treating them as routine files, the subordinate officials will also not show urgency in dealing with these cases and as a result, building up of case against a delinquent official will lose its purpose, ultimately. If senior officers who are responsible for lapses escape punishment and only junior officers faces enquiries, then the reputation of Government will be tarnished. It is, therefore, quite imperative that all the senior officials of various Departments viz., Secretaries/Principal Secretaries/Special Chief Secretaries may show personal attention to these Disciplinary cases.
- (7) It is often noticed that because of undue delay between the occurrence of an incidence of negligence/lapse, the really guilty escapes. Some times they retire and the period of four years elapse in between retirement and initiation of disciplinary proceedings and the case become time-barred and no action against

the guilty officer is possible under the provisions of the Andhra Pradesh Revised Pension Rules, 1980. In view of this, it is desirable that within one year, from the receipt of preliminary enquiry report/detailed inquiry report, all proceedings against the Charged Officer should be completed. If there is undue delay, the file should be circulated to the Chief Secretary/Minister concerned and specific time schedule should be indicated for disposal of the case and their approval taken. This will reduce scope for undue delay and consequent non-action against guilty officers.

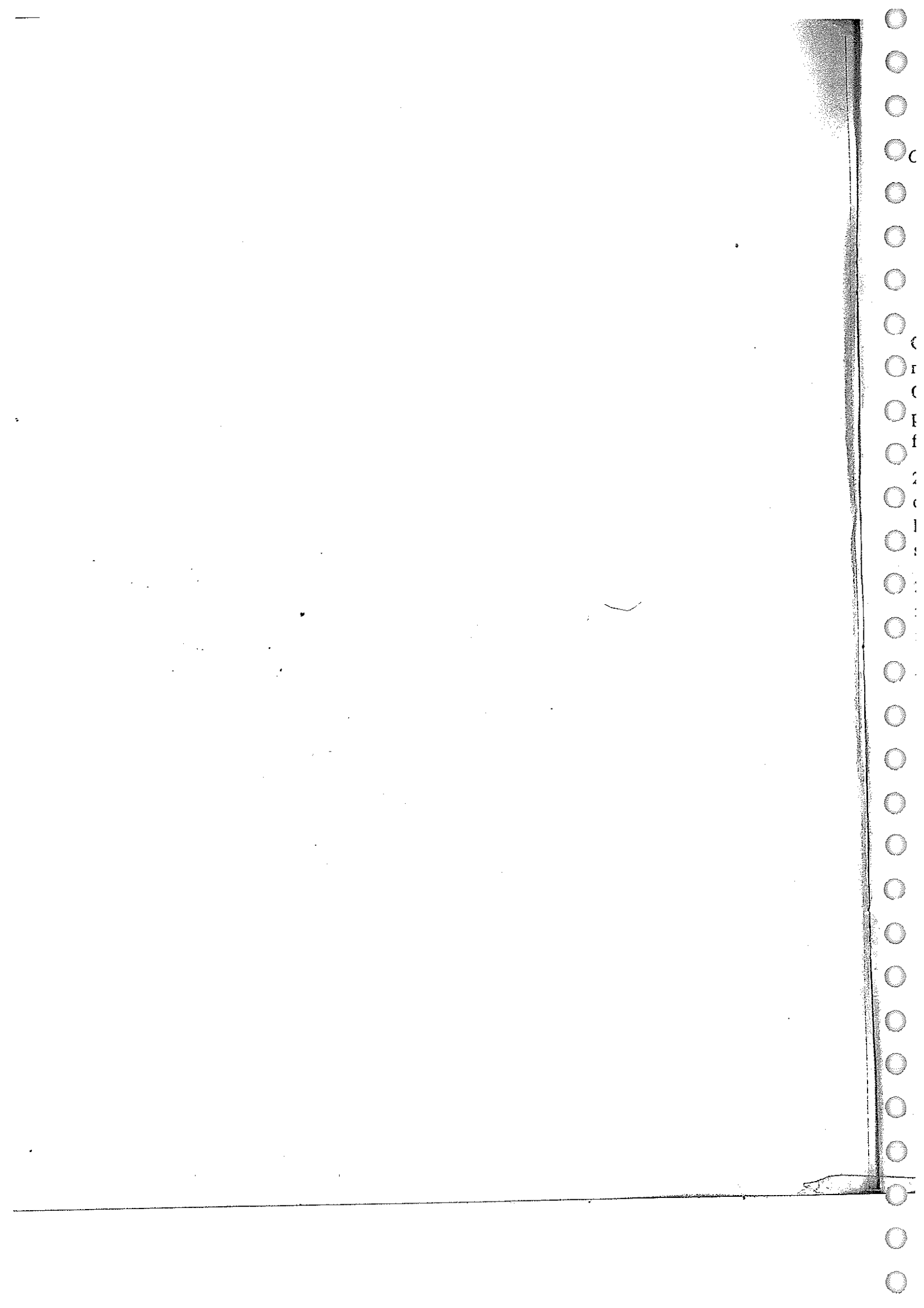
6. All the Departments of Secretariat, Heads of Departments and District Collectors shall evince personal interest and to strictly follow the above instructions. They shall also bring these instructions to the notice of their subordinates for their guidance and compliance.

7. The receipt of this memo., may be acknowledged.

SATHI NAIR,

CHIEF SECRETARY TO GOVERNMENT

*Format for preparation of Inquiry Report
by the Inquiring Authority*



GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (SER.C) DEPARTMENT

Circular Memo.No. 56183/Ser.C/99.

Dated: 15-10-1999.

SUB :- PUBLIC SERVICES - Disciplinary cases against Government Employees - Check-List in respect of "Suspension and Inquiry Reports" - Communicated.

REF :- Circular Memo.No. 20922/Ser.C/99-1, G.A. (Ser.C) Department, Dated: 28-9-1999.

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It has been observed that the Enquiry Officers appointed under rule 20 (2) of the A.P. Civil Services (Classification, Control and Appeal) Rules, are preparing the enquiry report in many different ways. No uniform structure is being followed. In order to guide the Enquiry Officers in preparing the report of enquiry, it has been considered that a suitable format be prescribed. Accordingly, a format of "Enquiry Report" has been prepared and enclosed herewith for necessary guidance/use of the Enquiry Officers.

2. A Check-List of the action in respect of "Suspension" of Government employees in disciplinary cases is also communicated herewith. The disciplinary authorities are requested to keep in view the check list while considered the need to place a member of the staff under suspension.
3. The departments of Secretariat, the Heads of Departments and the District collectors are requested to follow the Check List in dealing with disciplinary cases and also bring them to the notice of all other concerned authorities.
4. The receipt of the Memo, may be acknowledged.

N.V.H. SASTRY,
SECRETARY TO GOVERNMENT.

INQUIRY REPORT ON THE DEPARTMENTAL ENQUIRY HELD AGAINST SHRI/SMT.

Submitted by

Inquiry Officer

Vide letter No.....

Dated:.....

1. Under sub-rule (2) of Rule 20 of A.P. Civil Services (CC&A) Rules, 1991, I was appointed by the (designation of the Disciplinary Authority who appointed the Inquiry Officer), as the Inquiring Authority to inquire into the charges framed against Shri
Vide his Memo No..... Dated I have since completed the inquiry and on the basis of the documents and oral evidences adduced before me prepared by Inquiry Report as under.

2. Sri (Name and Designation) was appointed as Presenting Officer in terms of Rule 20 (5)(c) of A.P. Civil Services (CC&A) Rules, 1991 (in case a Presenting Officer is appointed).

3. Participation by the Charged Officer in the inquiry and Defence Assistants available to him/her.

The charged Officer participated in the inquiry from beginning to end. He was assisted by Shri of the O/o As Defence Assistant throughout the inquiry proceedings.

4. Article of charge and substance of imputation of misconduct or misbehaviour.

The following (three) articles of charge have been framed against Shri

Article No. I

Article No. II

Article No. III

According to the statements of imputation of misconduct or misbehaviour
(here the substance of imputation of misconduct or misbehaviour be given in brief). List of exhibited documents as shown in Annexure-I and list of witnesses as shown in Annexure-II.

5. Case of the Disciplinary Authority.

(The case of the Disciplinary Authority should be discussed with reference to the documentary and oral evidence available in support of the charges, separately for each charge).

6. Case of the Defendant.

(The case of the defendant including points made out by him in his defence evidence, his written statement of defence and in brief. There should be discussed charge wise highlighting the arguments on the basis of which he has refuted the charges levelled against him.

7. Analysis and Assissment of Evidence.

The Inquiry Officer has to give his own logical and reasoned analysis and assessment of evidence in respect of each charge separately.

8. Findings.

On the basis of documentary and oral evidence adduced in the case before me and in views of the reasons given above. I hold that the folowing charge is proved/not proved against Shri

Charge No. 1

Charge No. 2

Charge No. 3

Charge No. 4

9. Annexure-I containing list of Executive documents and Annexure-II containing list of witnesses examined are enclosed.

Sd/-.....

Inquiry Officer

N.V.H. SASTRY,

SECRETARY TO GOVERNMENT.

SUSPENSION

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| (i) Whether the order of suspension is in the format prescribed in G.O.Ms.No. 411, Genl. Admn. (Ser.C) Deptt., dated 28-7-1993 read with G.O. Ms.No. 59, Fin & Plg. (F.W.FR.I.) Deptt., dated 7-3-1995. | Yes / No |
| (ii) Whether the orders for payment of subsistence allowance issued in accordance with FR53. | Yes / No |
| (iii) Whether the order of suspension is reviewed by the authorities empowered according to the orders issued in G.O.Ms.No. 480, G.A. (Ser.C) Deptt., dated 7-9-1993 and also in G.O.Ms.No. 86, G.A. (Ser.C) Deptt., dated 8-3-1994, as the order of suspension shall be in force till conclusion of Disciplinary Proceedings. | Yes / No |
| (iv) While reviewing the order of suspension, whether the quantum of payment of subsistence allowance is reviewed in terms of G.O.Ms.No. 296, Finance and Planning (FW.FR.II) Deptt., dt 14-10-1996 | Yes / No |
| (v) Whether the employee under suspension furnished the certificates as prescribed in G.O.Ms. No. 82, G.A. (Ser.C) Deptt., dt. 01-03-1996 | Yes / No |
| (vi) Whether the order to revoke suspension is in the format III of G.O.Ms. No. 82, G.A. (Ser.C) Deptt., dated 1-3-1996, is followed. | Yes / No |
| (vii) Whether the instructions issued in Memo No. 554/Ser.C/93-6, G.A. (Ser.C) Deptt., dated 26-12-94 in disciplinary cases arising out of ACB reports in order to place a Member of service under suspension are observed. | Yes / No |
| (viii) Whether the period of suspension is regulated in terms of F.R. 54-B on conclusion of disciplinary proceedings | Yes / No |

N.V.H. SASTRY,

SECRETARY TO GOVERNMENT

