

AP Civil Services **CCA rules 1991.**

**“Particular reference to charge
memo”**

BY-
K. Prabhakar
Dy. Director(sw) Retd.

Compiled by
K.Prabhakar, Dy. Director (SW) Retd.

AP/TS Civil Services CCA rules 1991

- Contains 46 Rules:
- 2 Schedules
- 4 Appendices
- Schedule I- State Services
- Schedule II – Subordinate Services
- Appendix I – General Subordinate Services
- II – Authorities imposing minor penalties
- III - Authorities imposing minor & major penalties against Subordinate Officers.
- Authorities in respect of Police Etc...

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

AP civil services CCA rules 1991.

Origin :-

Articles 309- COI empowers Governor to make rules.

Article 310- pleasure theory.

Article 311 - (a) No removal /dismissal without competent authority.

(b) Reasonable opportunity being heard will be given to a G.S .

Article -312 –All India Services .

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

- 1. There is no yard stick prescribed to award punishments to Govt. servants under CCA rules.**
- 2. The penalty should be proportionate to the gravity of misconduct or crime .**
- 3. The DA should act like a judge in discharge of his duties.**
- 4. Action of DA should be based on just and sufficient grounds only .**
- 5. Punishments should be imposed only on good and reasonable grounds .**

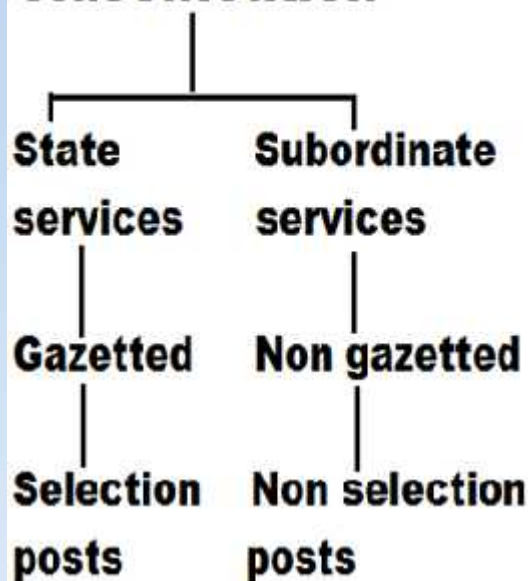
6. **DA/IA should provide reasonable opportunity at all levels in the disciplinary proceedings to the G.s.**
7. **No double jeopardy is applicable under CCA rules.**
8. **Procedure prescribed by rules and principles of natural justice should go hand in hand throughout the course of disciplinary case .**
9. **All actions of DA are subject to judicial review.**
10. **Whenever the DA rejected the inquiry report he should state cogent reasons for his disagreement.**

11.* The Govt. has prescribed all relevant formats for suspension, revocation, charge, punishment etc. under C.C.A rules 1991. the relevant formats must be used, otherwise the disciplinary cases will be vitiated in the A.P.A.T./ Courts.

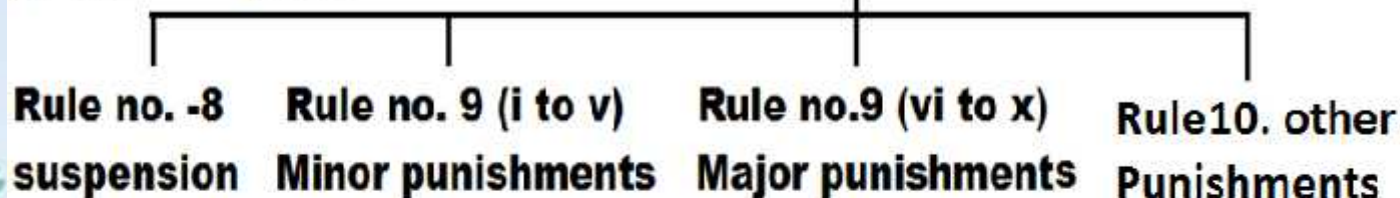
Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

AP Civil Services rules 1991

Classification



Control



Appeal rules 1991



Govt servant

1.LGS Appendix i, 2.Forest Gaurds, 3.A.P Police, 4.A.P Spl. Armed Police, Firemen of fire dept.for 15 days suspension & fines

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Not applicable

- 1. All India services.**
- 2. Judges of High court**
- 3. casual employment**
- 4. Contract labour**
- 5. Village establishment.**
- 6. Purely temporary employees.**

Before suspension

- 1. The gravity of the misconduct and its nature and the effect on the image of the employee, the post he holds in Govt. / Employee should be considered.**
- 2. Whether purpose cannot be served by keeping under suspension, transfer him to another non-focal post to a far off place where he will not be able to tamper with records/ evidence and influence his colleagues. Allowing him to go on leave.**

Suspension when?

- ❑ **Disciplinary action is pending / contemplated .**
- ❑ **When engaged in subversive activities/ against state .**
- ❑ **Where criminal case is pending /criminal misconduct.**
- ❑ **Involved in public scandal/ ACB/ vigilance cases.**
- ❑ **If he detained in police custody on a criminal charge for more than 48 hrs.**
- a. Deemed suspension order to be issued.**

- A member of service may be placed u/s from service even if the offence for which he was charged does not have bearing on the discharge of his official duties. (Goms no.27,G.A.D, Dt. 24.01.2002)
- The order of suspension in criminal case in detention exceeding 48 hrs.(in police custody) Ceases to be operative as soon as the criminal proceedings , on the basis of which G.s was arrested and released on bail, are terminated. (Goms no.27,G.A.D, Dt. 24.01.2002)

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

- Where a penalty of dismissal, removal, or compulsory retirement from service upon G.s u/s is set a side in appeal or on revision or review under these rules and the case is remitted for further Inquiry or Action or with any other directions.
- The order of his suspension shall be deemed to have been continued in force from the date of original order, shall remain in force until further orders.

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

When dismissal, removal, compulsory retirement set a side or declared or rendered void, where the competent authority decides to hold a further Inquiry against him or allegations placed on the G.s u/s until further orders, in case of where the court has passed order on technical grounds .

*** The suspension order will be in force till it is revoked by the competent authority.**

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

- ❖ **Immediately after his arrest the G.S shall intimate his superior officer ,even later released on bail subsequently.**
- ❖ **Failure to do so will expose him to disciplinary action .**

Effect – of suspension.

Immediately after receipt of order, relief to be specified, when holding stores or cash – competent authority should decide the effect of order after checking stores and cash.

Orders of suspension – formats.

(GO.MS. No. 411, G.A.D, dt. 20.07.1993)

**ANNEXURE I :- Form of order of suspension
(where charge sheet has been issued)**

under rule no. 8 (i) of A.P.C.S. CCA rule 1991

**ANNEXURE II:- Form of order of suspension
(where disciplinary proceedings are**

contemplated

under rule no. 8(i) of A.P.C.S. CCA rule

1991

**ANNEXURE III:- Form of order of suspension
(where a case has been registered and it is
under investigation)**

under rule no.8(i) of A.P.C.S. CCA rule 1991

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Order of suspension

1. **Come into force forthwith or from the date of relief.**
2. **Cannot be operate with retrospective except in deemed suspension.**
3. **Remain in force until it is revoked.**
4. **Expires on the date/end of the period (rule 10) if any specified.**
5. **Cannot be revived retrospectively.**
6. **Can be revoked by authority, which issue the order or by a superior authority.**

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Note- A borrowing authority has power to suspend.

An order of suspension is appealable within 3 month grounds of suspension should be furnished.

**Review on Suspension Orders : Orders Issued GO.
M.S GA No 578 Ser – C Dept Dated
31.12.1999.(Modification of GO. MS. GA Ser-C
Dated 07.09.1993**

A. Member of Service in Subordinate service / NGO's

- a) The 1st review of Order of suspension after six months shall be the : The Appointing authority
- a) The Second and subsequent reviews shall be where RJD exist : The Regional Authority
- b) Otherwise the 2nd and subsequent review will be by: H O D
- c) Where the appointing authority is HOD is six month of review : H O D

Note : Even if suspension order given by higher authority, the review shall be down as ordered above expect that a report on the results of review shall be sent to the higher authority for information on record.

- **Members of service in State Services (Gazetted Officers)**

A. Where the order of suspension is : 1st 6 Months'
Review by Regional by issued Regional Authority.

2nd and subsequent reviews by : HOD

B. Where Regional Authority Excites and order of
Suspension 1st & 2nd level : HOD Gazetted officers
Issued by the HOD

C. Even the suspension order issued by the Govt.
review shall be done as ordered above expect that
previous approval of the Govt. to the result of the
review before issue the reinstatement

D. In respect 3rd level and above Gazetted Officers the
review of suspension at an interval of 6 months shall
be the GOVT. only

- Review Orders Of Suspension – Existing Orders Reiterated – Further Instructions – Issues.

(Vide GO. MS NO. 526 GA Sec-c Dept. Dated 19.08.2008.)

Accordingly Govt. has directed that :-

- ✓ The employees who are U/S for a period of exceeding two years shall be reinstated pending finalization of Disciplinary cases / Criminal Case against them.
- ✓ However in exceptional cases, where the charged officers or not cooperating for completions of investigation / Inquiry.
- ✓ Where Inquiry / investigation could not be completed due to pendency of litigation.
- ✓ A committee headed by the Principal Secretary / Secretary of Administrative Dept.- HOD of the ACB and HOD of the Dept. concern shall review the orders of suspension against employees who continued U/S and take a decision to continue such employee U/S beyond two years duly recording the reasons for such decision.

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Suspension Order Should Contain the Following

- ❑ Should be mentioned about subsistence allowance. Otherwise the disciplinary case will be vitiated in the Court of Law.**

In a Charge Sheet It Should invariably mention Rule 24.

- ❑ Should also mention about rule no 24 of A.P.C.S conduct rules 1964.(not to influencing authorities for furtherance of interests)**

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Status of employee u/s

- 1. He will be a full member of Govt. service.**
- 2. Shall be provided with substances allowance.**
- 3. No employment during the suspension period.**
- 4. Not to be free, to go any where .**
- 5. No TA will be provided.**
- 6. Resignation should not be accepted.**
- 7. His post should not be filled up.**
- 8. Need not insist him to sign in the attendance register.**
- 9. No interim relief can be sanctioned.**

What is significance of the Charge Memo/ Sheet:

Issue of the charge sheet of the constitutional obligation cast by article – 311 (2) which mandates:

“ No person has a foresight shall be dismissed or removed from service or reduction of rank except after an inquiry in which he has been informed of charges against him and give reasonable opportunity.

Principles of natural justice: No one can be condemned and heard in the constitutional of India. article- -311(2).

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

In case where preliminary enquiry or investigations has been concluded the DA may take a decision on preliminary enquiry and prefer charges which can be sustained in toto against the employee.

1. Article of charges framed.
2. Statements or imputation of misconduct or misbehaviour.
3. List out the documental evidence earmarked fro inquiry.
4. List of oral evidence in support of the inquiry in writing and only relevant witness to be taken into account.
5. There is no limit about no' of charges in a charge memo, however selective and effective charges to be considered.

PRELIMINARY ENQUIRY:

- On receipt of complaint or petitions or reports the fact find inquiry may be ordered to establish a case against the Govt. Servant.
- It is a must. And also mandatory because DA cannot create in security or in a sense of fear among the Govt. Servants.
- The DA must prove the allegations against Govt. Servants, so carefully by collecting documentary as well as recorded evidence with witness against whom the charges should be sustained.
- The burden of proof lies with the DA (it is not the obligation of Govt. Servant to prove his innocence).
- The DA's in TS/AP are showing the annexure of intense (Annexure – III) as NIL.
- So it is not giving an opportunity for Govt, Servant to cross examine the witness during the course of inquiry. So the Govt. Servant can deny the case under the principles of natural justice for not providing him reasonable opportunity in the case.

Compiled by K.Prabhakar, Dy.

Director (SW) Retd.

Contd....

• Charge how should be made from preliminary Enquiry?

- 1) All relevant documentary evidences as well as recorded statements which can be relate in support of the allegations to be proved by the DA. Efforts must be made to collect and include it in PE.
- 2) The DA or his delegate can go for preliminary enquiry for the purpose.
- 3) It is also permissible to interrogate the GS and also record his versions in the form of statement.
- 4) The GS should not be charge sheeted recklessly and without sufficient grounds.
- 5) The principles of natural justice will not applicable to the GS during the coarse of preliminary enquiry.

Note:

- (a). Framing a charge without preliminary enquiry is a vague charge and cannot be sustained.
- (b). Charge should not be vague: Deficient in details relative to the misconduct or misbehaviour may be described as vague charge.
- (c). There is no necessity to quote rules.

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

What is a charge?

A charge sheet or memo may be described as prema – facia proven an essence of allegation setting out the nature and accusations in general terms such as

1. Negligence of duties in official performance.
2. In efficiency.
3. Accepting of substantial work.'
4. False measurement of execution of works.
5. Execution of work below specifications.
6. Breach of conduct rules.
7. In subordination.
8. Infidelity/ negligence of duty.
9. Absence of duty (without proper permission or grant of leave).
10. Unbecoming of public servant etc...

The bearer of Charge(GS):

The Govt. Servant (who is bearing the charge) has committed something each should not have been done or failed to do something which would have been done something or have has failed to do something which he has ought to have been done.

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

CHARGE SHEET:

- ❖ Charge sheet should be in accordance with the prescribed form as per

G.O.MS. No: 82, G.A, Ser. C Dept..., Dated: 01-03-1996.

- ❖ Charge sheet is borrowed from Criminal Law.

- ❖ A show cause notice is not a charge memo in terms of Rule

No:20 or 22 of CCA Rules – 1991. If a reply to a show cause

notice considered unsatisfactory by the DA, then formal departmental proceedings are initiated against Govt.

Servant starting from charge sheet to him.

- ❖ Charge sheet should be framed with great care and competence.

- ❖ Basic material in preparing of charge sheet and the annexure –II of charge sheet can be taken from the preliminary enquiry report.

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

❖ How articles of charge framed?

Ans: (a) One must go through preliminary enquiry report and list all the charges that come his/her misconduct in relevant case (such as theft, negligence, non - compliance of departmental instructions, failure to safeguard the govt. property / facilitating theft. ACB rides/ vigilance surprise cheques, reports or internal audit or external audit by AG and departmental inspections. etc...

(b) Annexure – II Statement of imputations of misconduct or misbehaviour. The evidence must be the part of preliminary enquiry report. Efforts must be made to collect and include it.

Compiled by K.Prabhakar, Dy.

Director (SW) Retd.

Articles of Charge/s:

- After preliminary verification DA will frame charges against G.S.(but it is a must) along with imputations.
- It should be drafted in prescribed format (II in GOMS no 82 GA service C 1.03.1996).
- Charge should have basis. (Ex: petition, inspection report , audit report, misappropriation, embezzlement of cash etc).
- Place, time, date and year of misconduct done should be specified.
- Violation of code of conduct rule should be mentioned.
- Violation of administrative/financial lapses or other codes in vogue.
- List of documentary evidence.
- List of witness (recorded for the purpose).

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Charge how it should be.?

1. Prima facie proven essence of allegation.
2. It should be based on facts only.
3. Language should be brief, clear, precise and unambiguous and free from vagueness.
4. Separate charge for each misconduct be mentioned.
5. Should not contain expression of opinion of the D.A.
6. Should not be the other charge which was already adjudicated .
7. Preferably in third person
8. Avoid multiplication of charges.
9. If its issue is delayed and issue without any justification.
10. Charge sheet should be specific.

Note: Misconduct or misbehavior with good and sufficient reasons should be the base for the charge. Code of Conduct Rules violated or the other codes in vogue.

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Grounds for the challenging of charge

- 1. If it is not in conformity with the law or procedure.**
- 2. Non application of mind by the D.A.**
- 3. If it does not disclose any violation of code of conduct rules.**
- 4. If it is vague.**
- 5. If it is stale allegation.**
- 6. If it is issued with malafied intention.**
- 7. If it discloses Bias.**

A specimen of an article of charge:

That Sri(name and designation of Govt. Servant at the time of framing of charge), while functioning as (designation at the time of misconduct) from.....to.....(period) demanded and obtained an amount of Rs. 5,000 as illegal gratification from Sri..... Contractor..... address on at (date and time)..... in his office (mention any other place) promising to pass his bill of execution of work (give the name of work) without objections threatening otherwise to withhold payment, which constitutes misconduct of failure to maintain absolute integrity an devotion to duty and commission of an act unbecoming of Govt. servant, in violation of sub rules- (1) and (2) of rule 3 of the APCS (Conduct Rues – 1964).

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Minor punishment rule 9 (I to v) with or without Inquiry.

- I. Censure: Promotion will be stopped for one year.**
- II. With holding of promotion: Period should be mentioned in the orders.**
- III. Omitted.**
- IV. With holding increment without cumulative effect (not exceeding 3 years).**
- v.(a)Suspension: Where he was already suspended.**
- v.(b)Reduction to a lower stage in time scale not exceeding three years. (not adversely effect for pension)**

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

- **However if DA consider necessary , depending upon the nature of charge held, an Inquiry as in the case of major penalty proceedings to arrive at truth , he may hold such Inquiry after considering the representation of GS and record of Inquiry.**

If any concluded the D.A may take appropriate decision on the findings of I.A. and penalty to be imposed.

Major penalties(rule 9 vi-x)

VI. With holding increment with cumulative effect.

VII. Lower stage of time scale, grade, post or service.

VIII. Compulsory retirement.

IX. Removal.

X. Dismissal.

➤ **There is no chance for the DA to impose Major punishment without conducting Inquiry.**

Procedure for imposing minor punishment

- **In case of minor penalty the employee should be informed in writing of proposal to take action against govt. servant and the imputation of misconduct /misbehavior on which action is proposed to be taken and give a reasonable opportunity to make such representation within the stipulated time.**
- **If it is not necessary to conduct an Inquiry, the D.A. can imposed minor punishment.**

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.

Major penalty, rule no 20 CCA rule s 1991 drastically amended as per go_{ms}. 337 GA service © dated 20/07/2006

- 1. After confirmation of preliminary verification D.A: frame charges against G.S.**
- 2. Explanation by the G.S within : 10 days.**
- 3. D.A should hear the G.S at the time of defense statement.**
- 4. DA should obtain the signature of the Govt. servant on, how may of charges agreed or denied.**
- 5. The DA should ask whether any documents required for G.S. if so, he will send them to I.A. during the course of Inquiry.**

- 6. Inquiry Officer/Presenting officer will be appointed by D.A(both should be senior officers over G.S.)**
- 7. I.A will issue notices to the G.S and ask him to choose defense Asst.**
- 8. On the opening of Inquiry day fixed at place & time of conducting Inquiry by I.A, he will inform P.O and G.S.**
- 9. G.S. after the verification of documents he will attend for regular Inquiry along with P.O.**
- 10. The I.A will hear the case and draw up a program to complete the Inquiry within 2 or 3 days.**

11. On the day of Inquiry the I.A starts Inquiry with the presentation of the case by P.O.

12. Then G.S is allowed for cross examination the P.O.

13. The P.O will reexamine the case before the I.A.

14. Basing on the examination cross examination and reexamination of witness and documents by the P.O. and G.S. prepare the list charges proved or not proved basing on the reasons and evidence.

15. I.A. submits its report on Inquiry to the D.A.

- 16.G.S. & defense Asst. will answer the P.O. suitably to the written briefs.**
- 17.D.A. will supply Inquiry report to the G.s to file his defense statement if any within 15 days .**
- 18.D.A. will conclude Inquiry after obtaining approval vigilance & A.P.P.S.C, and issue final orders of major punishment.**
- 19.Appeal / revision / review can be taken up at the dept. level.**
- 20.If aggrieved the G.S. can approach A.P.A.T / H.C / S.C.**

Defense Asst.

The G.S can have a assistant of defense in his case before I.A (G.O.memo No.657/service-c/94.4.GAD 09.03.1995 and rule 20(5) C.C.A. rules as amended in G.O.m.s no.8388/ ser.-C GAD 12.03.2004)

- 1) He should be an employee of A.P Govt.**
- 2) He should not be linked with the case otherwise.**
- 3) He should not act as defense Asst. in more than 2 cases by that time.**

Note-If the P.O is legal expert then the G.S shall also have defense Asst. with legal knowledge.

Introduction – Appeal

By providing an appeal in the relevant civil service rules, a G.S has been given a right to move a higher authority against the order of punishment or otherwise passed against him by an authority lower than the appellate authority. The right to appeal from the Disciplinary Authority should be decided on the footing of law applicable to each case.

The basic principle of appeal is that, that in the event of the subordinate authority being legally competent to pass the order the appellate authorities order as it would washes it and takes its place.

Compiled by K Prabhakar, Dy.
Director (SW) Retd.

Appellate Authority (CCA rules 1991)

Appellate Authority is the authority who can entertain an appeal of the Govt. servant submitted by G.S against the order of penalty passed by the disciplinary authority / competent authority.

The appellant authority is under obligation to consider:-

- I. Whether the procedure has been compiled with and if not, whether such noncompliance has resulted in violation of any conditional provision or in the failure of justice.**
- II. Whether the findings are warranted by the evidence or record; and**
- III. Whether the penalty is adequate, inadequate or Severe or to set aside the case as acquittal.**

He can confirm, enhance, reduce or set aside the penalty or remit the case with any direction as he deems fit.

The AA has the power even to enhance the penalty in the appeal submitted by the effected employee for relief. While enhancing the penalty, the appellant should be given an opportunity to make representation against such enhancement to a major penalty an Inquiry should be conducted if not already held.



Thank you

Compiled by K.Prabhakar, Dy.
Director (SW) Retd.