

TS/AP Civil Services

CCA rules 1991.

BY-

K. Prabhakar

Dy. Director (sw) Retd.

Need of Training:

Procedural irregularities to be eliminated:

- The disciplinary inquiry is a highly technical affair and affording of reasonable opportunity is the essence of it.
- But the inquiring officers are not specially trained for the purpose, with the result that many technical irregularities are creeping into the disciplinary inquiry thus resulting in a challenge in a Court of Law to the consequential action.
- The short coming can be remedied if only officers are trained in the Law of services in general and disciplinary inquiries in particular.

TS/AP 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...

TS/AP Civil Services CCA rules 1991.

Q: Why disciplinary proceedings are inducted in administration?

A: Discipline means orderly behavior, i.e.. Voluntary willingness of employees for compliance of Rules , regulations and instructions given by the Government for their employees.

It is a tool used by the administration to impose or to enforce appropriate behavior and conduct to ensure harmony and to increase productivity/services/safety and security in the work place/office or organization.

1) To eliminate improper behavior/conduct among Government employees.

2) To create win-win situation among subordinates and management functionaries.

Note: Employer can take disciplinary action against employees; But not to take vengeance against them.

Punishments are threefold:

a) It is intended to make Government servant to suffer for his misconduct/mischief in the Government service.

b) It is also intended to work as deterrent to other employees in the office/ organization.

*C) In addition to the above, it is also intended to Recover the loss caused by the Government Servant due to his negligence or mishandling of things by them, in addition to the punishment proposed.

TS/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 .

- 1. There is no yard stick prescribed to award punishment to Govt. servants under CCA rules.**
- 2. The penalty should be proportionate to the gravity of misconduct or crime .**
- 3. The Disciplinary Authority 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. The Inquiry Authority/DA should be with open mind and unbiased.**

- 7. DA/IA should provide reasonable opportunity at all levels in the disciplinary proceedings to the G.s.**
- 8. Double jeopardy is applicable under CCA rules.**
- 9. Procedure prescribed by rules and principles of natural justice should go hand in hand throughout the course of disciplinary case .**
- 10. All actions of DA are subject to judicial review.**
- 11. Whenever the DA rejected the inquiry report he should state cogent reasons for his disagreement.**
- 12. Violations of Code of Conduct Rules or other codes will attract disciplinary actions.**
- 13. Without appointment of IA there is no chance for DA to impose major penalty under these Rules.**
- 14. The DA cannot change the IA according to his whims and fancies'.**

15. There are Appeal, Review and Revision of disciplinary cases by the Government. In a an Appeal punishment may be reduced or enhanced or acquittal.

16. Without appointment of IA there is no chance for DA to impose major penalty under these Rules.

17. The DA is empowered to take actions on Government employees ; but he has no right to harass them .

18. The DA cannot change the IA according to his whims and fancies.

19. There are Appeal, Review and Revision of disciplinary cases by the Government. In a an Appeal punishment may be reduced or enhanced or acquittal.

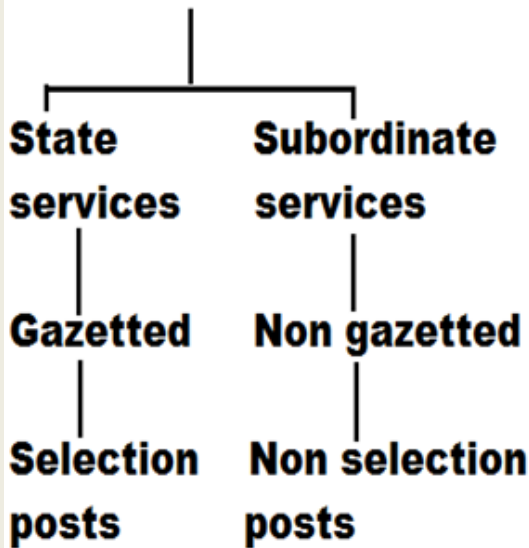
Note:

Procedure laid down in the rules and principles of natural justice should go hand in hand throughout the disciplinary cases; otherwise the case will be vitiated in the Court of Law.

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.

TS/AP Civil Services rules 1991

Classification



Control



Appeal rules 1991



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

These Rules shall apply for every Government Servants except the following:

- 1. All India services**
- 2. Judges of High court**
- 3. casual labour**
- 4. Contractor labour**
- 5. Village establishment**

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)

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.

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.

Orders of suspension –formats Prescribed.

(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

- ❖ **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:-

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.

Subsistence Allowance under suspension:-

FR 53 read with Government memo no 40986/489/A2 FR II F&P

Dt:- 01-04-2000

1. Basic Pay 50% (Before month salary)
2. Proportionate DA on 50% of above Pay
3. Allowances = Full CA + CCA +HRA.

FR 53(i)(ii)(b) Circular memo in full (before month)

Note :- Not Sanctioning of subsistence allowance is a crime.

Government memo 29730/A2/FR II/96 (F&P) FW FR II
department dt:-14-10-1996

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.

**Note- A borrowing authority has power to suspend.
An order of suspension is appealable within 3 month
grounds of suspension should be furnished.**

**Suspension order should be in prescribed Performa
choose appropriate from available under GOMs No. 411 GAD
20.07.1993.**

**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 issued by Regional Authority : 1st 6 Months' Review by 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. hear by 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 Sectary / Sectary 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.

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)

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.

Preliminary enquiry:

Aim: Collection of records, registers, witness and documents to frame the charges and also to sustained them.

- It is mandatory in any disciplinary proceedings to initiate charges against erring employees after preliminary enquiry.
- DA should satisfy before any action to be initiated against GS.
- It may be ex parte too.
- It is also permissible to interrogate the GS.
- Note: GS should not be charged recklessly and without good and sufficient reasons.
- The principle of natural justice are not applicable for preliminary enquiry.

Admission guilt:

In a answer or defence statement against charges levelled against GS and then he/she admitted on all the charges framed against them, there will be nothing more for the DA to enquire into.

Exparte proceedings:

- Disciplinary proceedings should be concluded even if the GS withdrawn from inquiry abruptly (Not filed defence statement nor evading receive charge memo).
- Inquiry should be held valid even if the GS absence deliberately .
- In fact the GS should not utilize the cross examination an account of his absence.
- Even then the inquiry conducted in his absence will not be unfair.
- The GS lost reasonable opportunity to meet evidence during course of inquiry to defend him.

Charge

- After preliminary verification DA will frame charges against G.S.(but it is a must)
- It should be drafted in prescribed format (II in GOMS no 82 GA service C 1.03.1996)
- Charge should have basis. (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)

Charge how it should be?

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

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.

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)

- **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.

Major penalty, rule no 20 CCA rule s 1991 drastically amended as per go_{ms}. 337 GA service © dated 22/07/2006

- 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 defence 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. D.A will ask the GS to choose defence 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. & defence 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 defence statement if any within 15 days .**
- 18. D.A. will conclude Inquiry after obtaining approval vigilance & A.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.**

Guidelines for Inquiry Officers – Highlights:

- ❖ The IA should conduct inquiry on the charges which were denied by the GS.
- 1. Domestic inquiry must be bonafide and honest.
- 2. IA appointment should be made on his name, not by his designation.
- 3. IA is a Quasi –Judicial Authority.
- 4. IA should acquainted with the case properly.
- 5. He should be well acquainted with the procedure of conducting domestic inquiry.
- 6. Inquiry recorded by his predecessor will hold good.

7. I.A should be with open mind/ unbiased.
8. He should neither be a witness nor any interest in the outcome of the case.
9. He should provide fair chances for the both parties.
10. He should not put leading questions to the PO; but can seek clarity.
11. He cannot apply technicalities and procedures of courts to find out truth.
12. Commonsense point of view will be more appreciated in domestic inquiry.

13. Minor mistakes and small omissions may be ignored.
14. He should be fair and firm.
15. He should be judicious.
16. He should not impart his personal knowledge into the inquiry.
17. No discrimination among the charged officers by the IA in case of common proceedings.
18. IA's findings should be based on entirely on the evidence adduced.
19. He should just do what is Lawful without being a legalist.

ASSESSMENT OF EVIDENCE AND REPORT OF INQUIRY AUTHORITY:

1. IA should ascertain, what was their role assigned to the GS specifically to the charge, what was expected of him, and what he did or committed to do.
2. He should conclude logically whether and which of the articles proved or not.
3. Then Judge whether the GS with in his knowledge and experience behaved with due care and attention prudently and honestly.
4. Whether the GS violated the law, rules, procedures he has expected to follow while discharging duties.

5. Whether the GS knew or ought to have known the propriety and the results of his acts.
6. Every act of GS is expected to his bonafide, honest and reasonable.
7. The IA considering the oral and documentary evidence, circumstance evidences , witness should then be recorded in conclusion of each charge proved or not.
8. IA should particularly ensured that replies on facts which have come into evidence and which the GS had opportunity to refute it.

After the conclusion of inquiry he shall prepare a report to the DA.

The IA report shall contain the following:-

- 1. Articles of charges and the statement of misconduct or misbehavior.**
- 2. defence statement of GS.**
- 3. An assessment of evidence in respect of each charge.**
- 4. The findings on each article of charge and reasons thereof.**
- 5. The further defence statement if any submitted by GS.**
- 6. The oral and documentary evidence assessed during course of inquiry and their impact on their charges.**
- 7. Written briefs filed by PO and answers by GS during the course of inquiry.**

IA should submit the inquiry report to the DA who has appointed, within a reasonable time.

If not charges will be framed against the IA under Rule (3) (1) of Code of Conduct Rules for his negligence to conduct inquiry in inordinate delay.

Standard proof required in domestic inquiry and in criminal trial.

| | Domestic inquiry | | Criminal trial |
|---|--|---|---|
| 1 | Pre-ponderance of probability | 1 | Proof beyond the reasonable doubt |
| 2 | Quasi-Judicial inquiry | 2 | Pucca Judicial proceedings |
| 3 | Misconduct / Misbehaviour in official duties | 3 | Offences committed against State / Law |
| 4 | Punishments will be imposed as per Rule No 9 (I to X) in CCA Rules | 4 | Punishments will be given as per the prescribed procedure laid down in Law/ Rules |
| 5 | Evidence Act is not applicable | 5 | Evidence Act is totally applicable |
| 6 | Hear say evidence is admissible | 6 | Hear say admissible is not applicable |
| 7 | Some evidences is necessary | 7 | Total evidences is required |
| 8 | Cr.Pc is not applicable | 8 | Cr. Pc is applicable |
| 9 | Reasons and findings are on admissible in common parlance | 9 | Reasons and findings should be strictly in logical frame work ⁵² |

Principles of natural justice in CCA Rules, 1991:

Aim: To prevent miscarriage of justice.

They don't supplant the law; but supplement of it.

- The departmental inquiries also have to be held in accordance with the principles of natural justice; which are fully incorporated in CCA Rules, 1991.
- The duty of the IA towards GS to ensure Principles of natural justice to be applied carefully.
- IA delegate of DA have clear responsibility towards DA.
- Departmentally inquiry should be bonafide and honest.
- The role of IA to find out all the truth and facts of each charge against GS.

*** IA need not follow legal techniques and judicial precedence. The IA primarily concerned with the principles of natural justice are that.....

- The GS should be given opportunity to present his case fairly.
- Evidence should be taken in the presence of GS.
- He should be given an opportunity to cross examine witness and also documents of Managements.
- He should also given opportunity to produce his own witness and documents.
- If the PO having legal background, the GS can also engage a legal expert as defence Asst.
- Procedural fairness may be incorporated in a disciplinary case to meet the end of justice.

- GS should be given an adequate notice about the proceedings, including reasonable time and opportunity to file his defence statement.
- Proceedings should be done to be fair to all parties.
- Ignore irrelevant matters in the case.
- Fair play and due process of law shall be maintained throughout in disciplinary case.

***The principle of natural justice only operate in areas not covered by any law validly made.

Charged officer

- 1.** Receive clear cut charge memo from D.A.
- 2.** Should file a defence statement within 10 days.
- 3.** He should be allowed by the D.A to hear his case.
- 4.** He may agree /deny the charges and required to attest them before the D.A.
- 5.** He is eligible to have a defence Asst.

- 6.** He will cross examine the management witness furnished by P.O.
- 7.** He should also submit answers to the written briefs forwarded by the P.O.
- 8.** He can utilize the principles of natural justice / reasonable opportunity.
- 9.** He should co-operate with the inquiry officer to conduct inquiry smoothly and quickly.
- 10.** He is entitled to have I.As. report from the D.A. to file further defence statement.

Presenting officer

- 1.** He should go through the case before presenting to I.A.
- 2.** Whatever the papers presented to I.A that should be marked a copy to the G.S.
- 3.** He should produce all relevant documents and witness to prove a case against G.S.
- 4.** P.O can examine / reexamine the witness and documents presented by the G.S.
- 5.** He can also place written briefs to G.S to get required information from G.S.
- 6.** He should act impartially to prove a case against G.S.

defence Asst.

The G.S can have a assistant of defence 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 defence Asst. in more than 2 cases by that time.

Note-If the P.O is legal expert then the G.S shall also have defence 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.

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.

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.

SPEAKING ORDERS:-

Final Orders are speaking orders and are free from ambiguity or vagueness.

An order which contain not only the conclusions and directions but also the reasons that have lead to conclusions.

Essential Ingredients of Speaking order:-

Context:- The order the narrate the background of the case. The circumstances that have caused the issues of the orders have to be brought out clearly in the introductory portion of the order.

Contention:- Rival submissions by different parties, where ever applicable must be brought out in the order.

Consideration:- The order should explicitly evaluate the submissions made by the parties vis-à-vis each other in the light of relevant statutory provision.

Conclusion:- Outcome of the consideration is ultimate purpose of the order. It should be ensured that each conclusion arrived at the order must rest on **FACTS** and **LAW**.

Thank you