

**DR. MCR HUMAN RESOURCE DEVELOPMENT  
INSTITUTE OF ANDHRA PRADESH : HYDERABAD**



**DISCIPLINARY  
&  
VIGILANCE PROCEDURES**



Dear Participants,

The State Government of Andhra Pradesh has launched a major Training and Human Resource Development initiative. For effective and efficient implementation of various programmes taken up by the Government, well trained and well informed official machinery is a must. The Government had been introducing a large number of New Programmes and launched a series of measures aimed at Administrative Reforms with the sole objective of Providing SMART (Simple, Moral, Accessible, Responsive, Transparent) Government and for providing satisfaction to the citizen.

No initiative or programme of any organisation can be successfully implemented if the functionaries are not fully involved in the programme. The best way to involve would be to make each functionary aware of his role-functions and responsibilities and making him fully conscious of what is expected of him. To achieve this, it has been considered necessary to assess the training needs of every functionary. An exercise has been launched getting the information through the OMR Formats. I am sure you too might have filled in the OMR format to facilitate our appreciation of your background, your requirements and your training needs.

It has also been felt necessary that every functionary in the department should be provided with booklets giving comprehensive information about the working of his department and also the specific job to be done by him as a functionary of the department. It has also been proposed to conduct various orientation courses, technical update programmes, general administration packages necessary for the day to day working etc. The mandate is that every public functionary should be exposed atleast to one training module every year.

In order to meet the above objectives, Dr. MCR, HRD Institute of Andhra Pradesh is bringing out a series of booklets (in coordination with the concerned Departments) covering various aspects of administration. This material can be used as course material while conducting training programmes, or general reference material by you during your day to day working.

The volume on Disciplinary and vigilance procedures was brought out in January 1999, covering important aspects of preventive & punitive vigilance. In addition the various formats prescribed by Govt. for use in Disciplinary procedure, the procedure of inquiry in the shape of a mock inquiry and the effect of the disciplinary action on the individual are also covered. Many organisations like the vigilance commission, ACB, vigilance & enforcement dept. and various resource persons viz. Sri A. Venkat Rao, IPS (Retd.), Sri I.V. Ratna Rao, SP (Retd) CBI, Sri C.B. Shankarnarayanan IA & AS (Retd), Sri A. Venkaiah, Sri B.S. Prakasa Rao & Sri N. Kesava Murthy formerly Sr. Faculty members of the institute have contributed in preparing the synopsis on various topics. The institute acknowledges their contributions. We are thankful to Sri G.P. Rao, the then Vigilance commissioner and Sri R. Kamalanathan, the present Vigilance commissioner who has taken keen interest in guiding this effort.

Considering the changes brought out and amendments issued by the Govt., from time to time the Second Edition is revised and updated. One additional Chapter on checklists to help to follow the procedure laid down without any deviations or omissions, is added now in this Volume. The information given in these series is for training purpose only and cannot be the basis for any litigation or legal action.

Please go through the materials. If you have any suggestions, please send them directly to the Director-General, Dr. MCRHRD Institute of Andhra Pradesh, Road No. 25, Jubilee Hills, Hyderabad-33. Please quote the series number and the title of the booklet while sending suggestions.

We propose to update and revise these booklets periodically incorporating the suggestions made by the participants.

Hyderabad

Date : 22 - 3 - 2004

**PVRK PRASAD IAS**

Director General

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# Chapter 1

## PUBLIC SERVANT

Chapter II of the Indian Penal Code entitled 'General Explanation' provides definitions/descriptions for the various terms used in the Code. The object of this Chapter was to prevent courts from wilfully misunderstanding the provisions of the Code (I.P.C.) and cunning criminals from evading its provisions. The term "Public Servant" is dealt with in Section 21 of this Chapter.

### 1.1 Section 21 of I.P.C.

**Public Servant :-** The Words "Public Servant" denote a person falling under any of the descriptions hereinafter following, namely:

**First :-** (Omitted)

**Second :-** Every Commissioned Officer in the Military, Naval or Air Force of India.

**Third :-** Every Judge including any person empowered by law to discharge, whether by himself or as member of any body of persons, any adjudicatory functions.

**Fourth :-** Every officer of Court including liquidator, receiver or Commissioner of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or, to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court of Justice to perform any of such duties.

**Fifth :-** Every juryman, assessor, or member of a panchayat assisting a Court of Justice or Public Servant.



**Sixth :-** Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent Public Authority.

**Seventh :-** Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement.

**Eighth :-** Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to Justice or to protect the public health, safety or convenience.

**Ninth :-** Every officer whose duty it is, as such officer, to take, receive keep or expand any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue process, or to investigate, or to report on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government.

**Tenth :-** Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district.

**Eleventh :-** Every person who holds any office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

**Twelfth :-** Every person

- (a) In the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government.
- (b) in the service or pay of a local authority a corporation established by or under a Central, Provincial or State Act or a Government Company as defined in Section 617 of the Companies Act, 1956.

#### Illustration

A Municipal Commissioner is a public servant.

Explanation 1 :- Persons falling under any of the above descriptions are public servants, whether appointed by the Govt. or not.

Explanation 2 :- Wherever the words "Public Servant" occur they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3 :- The word 'election' denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.

**1.2** As seen above, this section enumerates as to who is a public servant. The expression Public Servant occurs in many sections of the code, like Chapter IX (Offences by or relating to Public Servants-Sections 161-171); Chapter X (Contempt of lawful Authority of Public Servants Sections 172-190) and Section 409 (Criminal Breach of trust by a Public Servant). It also finds mention in Sections 195, 217, 218, 219, 332, 333 and 353 of the IPC.

Section 2 of the Prevention of Corruption Act of 1947 states that the expression Public Servant for the purpose of that Act would mean a Public Servant as defined in Section 21 of the IPC.

On the civil side, Section 2(17) of the code of Civil Procedure defines a "Public Officer".

**1.3** Thus, all categories of persons enumerated in clauses 1 to 11 of Section 21 and those who satisfy the conditions laid down in clause 12 of the same section would come under the category of Public servants. A careful reading of clause 12 would reveal that it covers a wide range of persons, Viz:

- (a) Those in the service of Government.
- (b) Those in the pay of the Government.
- (c) Those who are remunerated by fees or commission for the performance of any public duty by the Government.
- (d) Those in the service of a local authority, corporation, Govt. Companies, etc.
- (e) Those in the pay of a Local authority, corporation, Govt. Companies, etc.

It may be noted that the nature and status of duties are irrelevant.

#### 1.4 Distinction between a "Government Servant" and a Public Servant.

Section 14 of the I.P.C. defines as to who constitutes a "Servant of Government."

##### **Section 14**

"The words Servant of Government" denote any officer or servant continued, appointed or employed in India by or under the authority of Government."

Section 17 of the I.P.C. defines 'Government'

##### **Section 17**

"The word Government" denotes the Central Government or the Government of a State".

On comparison, it will be obvious that Section 21 is wider in scope than that of section 14 and that the terms 'Public Servant' and 'Government Servant' are not synonymous. Therefore, while all 'Government Servants' would be 'Public Servants' All 'Public Servants' need not be 'Government Servants'.

## **Statutory Public Servants**

1.5 There are some functionaries under Local and Special Laws, Who have been declared as 'Public Servants' for purpose of penal action. As they owe their status to the law that had created them, they are referred to as Statutory Public Servants. They have been declared as Public Servants in these laws, to place their status above contest. An important point to be kept, in mind is that a 'Public Servant' need not necessarily be appointed by the Government.

1.6 Thus before one embarks on any action under Anti Corruption Laws, he should make sure that the person under investigation satisfies the legal requirements to be a public servant. Courts have given copious rulings on the issue who is a Public Servant. In case of doubt, these rulings could be referred to in any standard work on Indian Penal Code. Employees of Public undertakings and Ministers are Public Servants. Members of the Legislative and Parliament are not Public Servants.

(Courtesy from Introduction to anti corruption work, by Sri S. Subramanian, I.P.S.)

## Chapter 2

# ROLE OF VIGILANCE IN PUBLIC ADMINISTRATION

Public Administration in India is all pervasive. Its involvement with the people is total. Although prior to Independence, maintenance of law and order was the primary task of the alien Government, its role expanded considerably with the advent of democracy and Independence. The people of India constituted India into a sovereign democratic Republic and assigned to the new state the task of bringing about socialism. In the very preamble of our Constitution, the Republic has been directed to secure to all its citizens social, economic and political justice. Further, in one of the directives under part IV of the Constitution, it has been laid down that "the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social economic and political shall inform all the institutions of the national life". It has also been laid down that "the state shall in particular strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only among individuals but also amongst groups of people residing in different areas or engaged in different vocations".

In pursuance of the above basic goal laid down in our Constitution, the state has, in addition to maintenance of peace and tranquility, taken upon itself the task of planned economic development of the country. In the successive Five Year Plans, great emphasis has been laid on removal of poverty and unemployment with a view to bringing about a just, social and economic order. To prevent growth of big private houses in the economic field, the public sector has been assigned significant role in key economic sectors. As a result, the commanding heights of the economy are in public hands. Many large public sector undertakings are in the infrastructure sector, like the railways; ports; airways; roads, power generation; transmission and distribution; oil drilling and

refining; fertilizer production; steel makings; coal mining; heavy engineering etc. Import economic instruments; like Banks and Insurance have also been nationalised to facilitate planned development and socially purposeful lending. The state also plays a major role in providing various social services, like education, health, drinking water, urban and rural housing. In addition, it undertakes numerous welfare activities, concerning the weaker sections, like the scheduled castes and the scheduled tribes. Priority has naturally been given to agricultural development in our planning strategy as bulk of the people are dependent on agriculture and their economic well-being depends on higher agricultural productivity. Small and marginal farmers, agricultural labourers and rural artisans have been covered under various rural development programmes and projects. In sum, the spread of governmental activities is very large. The state is omnipotent and omnipresent, by enlarging its sphere in the economic arena, the state has tried to ensure that there is no concentration of wealth in a few hands and that the benefits of economic growth are shared equitably by all sections of the people. The founding fathers of our Constitution had a great sense of history when they assigned primacy of place to socialism. They must have realised that to ensure peace, harmony and stability of our society, all members of the Indian family must have equitable share in its growth, development and prosperity. They knew that injustice and economic inequalities in the past had led to social and political upheavals in many countries which had to face bloody revolutions, like the French, the Russian, and the Chinese revolutions. It was, therefore, an act of wisdom and foresight on their part to base the structure of our democratic Republic on the hard and durable foundation of socialism.

For such an economic, social and political arrangement, the state had naturally to play a great role in the life of the people. Public administration had to carry out these new and challenging tasks. Considering the variety and magnitude of the tasks, the size of the public administration machinery and its personnel had of necessity to be gigantic.

Under the new dispensation, all sections of the people come in regular contact with administration at different levels, i.e., local, state and central for their day-to-day work. The main concern of the local bodies is in the areas of health, sanitation, education, water supply, electricity and housing. Practically, all citizens living within the area of any local body, be it a notified area, council, a municipality or a corporation, have dealings with its administration for one item of work or the other. The work may relate to approval of housing plans, getting water or electricity connections, assessment or payment of local taxes, etc. At the state level also, people have dealings with the state administration in the areas of education, health, communication, assessment and

payment of various state taxes, getting licences and permits of all kinds. The farmers come in contact with the district, subdivisional, tehsil and block administrations to get various facilities and state assistance meant for them. These may be in the areas of agricultural extension services, irrigation facilities, timely supply of seeds, fertilizers, pesticides and cooperative credits, different kinds of emergency relief at times of natural calamities, like floods, cyclones, drought, fire accidents, epidemics, etc. All sections of the people do at times need police help to protect their life or property. At the central level, the people have dealings with the central administrative machinery, directly under government or employed by its several important public sector undertakings, like the Railways, Post activities in the areas of industrial licensing, import and export, trade, customs, excise, income tax, etc., being different categories of people in contact with the concerned administrative machinery.

Although the above mentioned expanded role of the local bodies, state and central administrations was meant for the economic development and welfare of the people, unfortunately, people in general do not have this happy feeling. Their experience with public administration is generally quite the opposite and their views about administration are by and large adverse. There is a widespread feeling that administrative machinery is not only slow moving and inefficient but also largely corrupt, indifferent and callous. The personnel employed in public administration, by and large, are neither motivated nor committed to bring about any social or economic advancement of the common man which was the main purpose in assigning a bigger role to administration, in the lives of the people. In no area of administration, people feel that they can get even the legitimate things done in the normal course. To make the over expanded, lethargic and corrupt machine move, either someone influential has to put in a word or somebody's palm has to be greased. There is no smooth sailing anywhere and people have to pay speed money and run from pillar to post to get any work done in any local, state or Central Government offices. The common talk, these days, in any gathering veers round the near open and well entrenched corruption prevailing in practically all public offices. Different and clever modus operandi is adopted by different public functionaries to get their pound of flesh. There are known fixers and commission agents to show the way in the dense and dark bureaucratic jungle and it is difficult for any traveller to find his way alone without their hired assistance. People narrate their own sad experiences as to how they had to pay illegal gratifications to get either an electric connection or a gas connection or water connection or for railway reservation through some middlemen. Similar is the tale of woe for getting a telephone connection in a town or a city, or tube-well connection in a village.

Hardly anyone says that his work was done without harassment or without payment of illegal money or without any one's assistance. Similarly, one comes to hear of many instances of sub-standard stores being purchased or good items of inventory being clandestinely sold as scraps to make illegal personal gain. It is a most routine to hear about large-scale leakages of sales tax, income-tax, customs and excise revenues with the connivance of some departmental people. Some corrupt persons in charge of assessment and collection of taxes or duties get away after obtaining substantial shares for themselves, individually or collectively, thereby depriving the public exchequer of its full revenues. There are many reported cases of illegal selling of timber from state forests, coal from nationalised coal mines, power from state power distribution system, cement and steel from public sector factories or stock yards. There are also talks that huge quantities of unwanted stores are purchased and later allowed to be wasted or pilfered. Government hospitals suffer from lack of essential medicines, as often there may be either paper purchases or illegal leakages or callous wastage. Public transport system is also burdened with huge losses, to a large extent due to leakages of revenue, pilferage of stores, spares and lubricants and public property clandestinely misappropriated on a large scale by or with the connivance of the employees for personal gain. It is the common belief that due to poor or dishonest management of public sector undertakings in the core areas, like power generation, coal mining steel making or rail and road transportation, the production costs are unreasonably high and productivity unduly low. Consequently, prices have to be raised every now and then to make up the losses, yet losses go on mounting due to unchecked malpractices and corruption. It is like storing water in a leaking vessel; one may keep on filling the vessel from time to time and yet it keeps on emptying itself due to the many leaking points. The prevailing malpractices all round, leakages of revenue, clandestine misappropriation, pilferage, or wastage of public property and assets is undoubtedly putting a heavy burden on the honest workers and honest tax-payers. Generally, people are having a very poor opinion about the health and integrity of our administrative machinery. Even the intellectual and the ideologist are increasingly coming round to the feeling that with such an inefficient and largely dishonest machinery, there may be little hope of bringing about any rapid economic development, leave alone ushering in of socialism in the foreseeable future. People have, in fact, started questioning the wisdom of further expanding the role of public administration in the fields of social and economic development. The ever mounting cost of administration, in brief, is considered to be a burden round the neck of the people without much matching gain. One is rather disappointed to see that state involvement in many economic and social fields is becoming both costly and counter productive. There are clear signs of diminishing returns from the investments already made. The lesson is coming home that one should swallow only as much as one can

properly chew and digest. One wonders if it is not time to apply the reverse gear to stop further deterioration of administrative standards, integrity and values.

There are numerous causes for this fall in the standards of integrity and efficiency of our public administration. A few important ones are as follows: Firstly, the general social climate has become highly materialistic and no scruples or ethical values worry the people in going ahead. The spread of materialistic culture has become so widespread that all is considered to be fair in making money. No means appear to be questionable. The emphasis appears to be more on making rather than earning money. There are increasing number of cases of vulgar display of wealth by the socially high ups in their style of living, housing and social functions. Since government employees are part of this new society, they could not remain guardians of traditional virtues, unaffected by the excessive materialistic culture. Many of them too, without inhibition, indulge in money making by foul means whenever suitable opportunities come their way. There are, of course, plenty of avenue and opportunities for this due to the wide ranging involvement of government in regulatory, welfare and economic activities as narrated earlier. Secondly, the temptation for corruption is aggravated on account of inadequate remuneration of government and public sector employees at all levels. The salary scales and other perquisites have not kept pace with the price rise and inflation. Naturally, when there is, on the one hand, poor remuneration but, on the other hand, ample opportunities for extra income through corruption, growing number of government servants tend to succumb to temptation. This is further facilitated by the absence of adequate external vigilance or much social stigma. To begin with, corruption may start in a small way among some people only but it keeps on increasing like cancer and after a while becomes deep-rooted, widespread and incurable. It also develops great immunities and resists easy detection or cure. Being highly contagious, it is able to spread with comparative ease to more and more people working together in any office or factory. At this stage, there is little shame in making extra money. In fact, when it has become widespread and common, the competition drifts to raising its rates and levels by adopting novel methods. Commission agents also appear on the scene to get a share. They also prevent direct exposure of the bribe-takers and bring some order in fixing workable rates in the free market of corruption. Fixed rates of bribery become known cost factors for any one to decide whether to avail of any Government benefit, facility, permit or contract, in fact, practically for all kinds of dealings in public offices. Thirdly, in a democratic setup, corrupt elements in public services try and find persons of power and influence, inside or outside government to shield and protect them. The internal code of conduct and rules of discipline of government employees get seriously impaired due to outside interference in personal management; undesirable pulls and



pressures are brought about in matters of postings, transfers and promotions. These, no doubt, disturb the internal chain of command and control. There is little fear of higher ups of any misconduct or hope of protection from them in cases of unjust treatment. Consequently, a feeling develops among public servants that good work hardly gets rewarded and bad conduct seldom gets punished if there is some godfather to protect. When there is an unhappy situation of this kind, anti-corruption law or vigilance agencies, like the CBI and the Central Vigilance Commission, find it difficult to make visible impact on prevention of corruption in public administration. Effective vigilance requires the existence of an effective chain of command to enforce discipline and good conduct among public servants. Effective chain of command is possible if there is an in-built arrangement to reward good work and punish misconduct without any outside interference, pulls or pressures.

There was a time when corruption and malpractices were confined to few people at the lower levels, and in a few departments only. Unfortunately, with the spread of governmental activities, fall in the real wages of government employees, outside interference in administration and consequent dilution of the chain of command and general decline in moral values, one cannot say with confidence now, that there are many or any area of public administration which are free from malpractices or corruption. The disease has spread with varying degrees of intensity, practically to all levels and to all departments of government and its public sector enterprises. However, in spite of this prevailing gloom, fortunately it is also a fact that there are still a large number of people at all levels and in all departments and in the public sector, who still perform their duties with sincerity, dedication and honesty. In spite of the general decline in values, their conduct remains beyond reproach and they provide hope and light in the darkness. With such people around, certainly all is not yet lost. Even though the percentage of honest people in the vast public administration machinery may not be as large as one would like, yet they are able to make the system move however, slowly. It is one of the important functions of the vigilance machinery in administration and the Vigilance Commission to protect such honest individuals against false allegations, arbitrary action and harassment by the interested parties. It is unfortunate that the number of false and motivated complaints is so large that the task of catching the really guilty ones becomes very difficult. It is not uncommon to find the corrupt public servants mounting campaigns against the honest ones if they happen to come in their way of money making. They also easily enlist the support and cooperation of outside beneficiaries to harass and harm the honest public servants. One has, therefore, to exercise due care and caution before investigating complaints of corruption or misconduct coming from irresponsible quarters. The general reputation of the concerned

public servant and his record of service has to be taken due note of before he is subjected to any enquiry. It is for this reason that anonymous complaints, where the complainant does not disclose his identity are generally not to be acted upon unless there are easily verifiable facts.

Even though the people have learnt to live with corruption, as they feel helpless and find no alternative, it is not in the longterm interest of our society and the state to tolerate the existence of this fatal disease. Corruption and malpractices in government machinery and the public sector undertakings will defeat the very purpose of our planning and seriously retard the economic progress of the people. The task of bringing about a just, social and economic order desired by the illustrious founding fathers of our Constitution will be frustrated. The greater danger is that we may slip into a situation where might will be right and there will be no effective laws to regulate and enforce good conduct amongst public functionaries. We will revert to the law of the jungle, making life short, nasty and brutish. Such chaos may ultimately end in fearful social and political disorder and turmoil. If things are not checked quickly, people may get fed up with the present public administration machinery and may destroy it. No state institution, once it ceases to be useful, and becomes a source of exploitation or harassment, howsoever, seemingly powerful it may be can survive the wrath of the people. Such an institution is bound to be cast aside, like any waste material, by the current of history. This has happened in the past to many social and political institutions in many countries, where these institutions became useless parasites. We must, therefore, foresee these gloomy prospects and take urgent corrective measures to make our administration both efficient and clean and must not allow it to become a burden on the people. Happily, of late, this awareness has come and some corrective measures have been initiated to effectively deal with the problem of corruption in administration. These measures relate to areas of preventive, detective and punitive vigilance. Action plan, in these three areas, is briefly as given below:

### Preventive Vigilance

- (a) Simplification of rules and procedures.
- (b) Reducing the area of discretion and patronage.
- (c) De-regulation, where possible, to reduce the points of corruption and harassment to the public.

- (d) Introduction of public information and assistance counters in departments and places having public dealings.
- (e) Setting up of redressal of public grievances machinery in each ministry.
- (f) Systematic and surprise inspections by senior officers.
- (g) Monitoring disposal of cases with a view to checking delays.
- (h) Curbing outside interference in administration and personnel management.
- (i) Improving wages and service conditions of public servants.

### **Surveillance and Detection**

- (a) Greater surveillance and intelligence in corruption prone areas, particularly at public contact points by strengthening the vigilance machinery, where necessary.
- (b) Closer watch on officials of doubtful integrity by vigilance machinery.
- (c) On a selective basis, moveable/immovable assets of persons of doubtful integrity to be checked and verified periodically.
- (d) As a follow-up action of (c) above, traps and raids to be organized, where necessary.

### **Deterrent Punitive Action**

- (a) Investigation of cases to be speeded up according to a time bound schedule.
- (b) Procedure for disciplinary action to be improved for speedier finalization of cases and deterrent punishment awarded.
- (c) Provision of summary trial by courts in cases of corruption and provision for deterrent punishment.
- (d) Legislative measures for confiscation of ill-gotten wealth.

- (e) Provision for premature retirement of persons of doubtful integrity to be enforced more rigorously to weed out corrupt element.
- (f) Close monitoring of all anti-corruption measures.
- (g) Wide publicity of punishment awarded to guilty persons.

Greater emphasis is being laid on preventive vigilance as admittedly prevention is better than cure. This is a more positive approach to vigilance in the sense that root-causes of malpractices and corruption need to be identified in different areas of administration and appropriate preventive action taken by way of improvement of the system itself so that such malpractices do not occur. The scope for mischief needs to be completely eliminated or at least considerably reduced. The existing rules, procedures and practices are being reviewed by each ministry in order to see that ambiguities are removed and unnecessary paper requirements are done away with. Wherever possible, procedures and practices are to be simplified and due publicity given for the benefit of the people in general. The whole intention is to ensure that people do not have to run to government offices for every little work. To the maximum extent possible the need for personal contact with the government machinery has to be reduced. In certain areas, use of computers would also eliminate scope for corruption, like reservation of seats in the railways and airlines. Banking and insurance services may also go in for greater computer use to be able to supply quicker information and render more efficient customer service.

As mentioned earlier, one single important factor responsible for corruption is the involvement of government on a very large scale in the areas of socio-economic development. Many of these governmental activities may not be proving as useful or beneficial as was the expectation. A review of such governmental activities need to be initiated to see what items of work could be given up without any serious departure from the main goals of socio-economic development. If this task is seriously undertaken, it may at least prevent further expansion of government machinery if not its curtailment. Will it not be better to do less work more efficiently and honestly with beneficial results rather than take up too much of multifarious work and do it perfunctorily, causing waste of public money and harm and annoyance to the people? A more pragmatic approach to the role of the state and spread of governmental activities is, therefore, called for as a long-term measure for prevention of corruption. We have got to derive lessons from our own experiences that there are after all limits to useful economic and welfare work by governmental machinery. It need not poke its nose in every thing for the simple

reason that more it tries to do, more it becomes counter-productive. All the schemes that may glitter on paper, may not turn to be gold in the hands of government. In the process, the instruments of administration may also get spoiled and alienated from the people losing their faith and confidence. In plain language, plans of attaining our socialistic aspirations through an expanded government machinery need to be viewed more realistically.

Another important cause of corruption in public services, as stated before, is the poor remuneration of public servants of all categories. Suitable improvements in the pay scales and other service conditions, including retirement benefits and pension of government employees may reduce temptation for corruption due to inadequate wages. Inadequate wages is again due to employment of a very large army of people and hence the incapacity to pay them well. The number of Central Government employees alone of all categories would be about 5 million. To pay them on the average Rs. 100 p.m. extra would cost the public exchequer about Rs. 600 crore a year. This figure would be staggering if we take into account the Central and state public sector employees as also state and local body employees any wage increase of one category has necessarily to be matched by similar increases of other categories. Then there are several lakh of civil and defence pensioners to be taken care of. All these do suggest the need for a more critical review of the expansion of public administration in different fields. We must cut our coat according to the cloth available.

Another important factor leading to corruption in the government machinery is the gradual decline in discipline among all categories of employees. It is hoped that outside interference in administration and personnel management will be removed in accordance with the new strategy and the chain of command restored. This will make the internal and external vigilance agencies more effective for preventive as well as punitive action. It may be pretty difficult to bring any order or inculcate any values in a large indisciplined workforce. Catching and punishing a few, here and there, may not have much desired impact. It is, therefore, very necessary to restore internal discipline by giving requisite power and authority at different levels of administration. There has to be both fear and sense of responsibility in doing one's work sincerely and honestly. In a large governmental organization, corruption cannot be effectively curbed by any single centralized agency. This task has to be carried out by equally effective departmental agencies at different levels. Their effectiveness will depend on eliminating outside interference.

Another long-term measure to deal with corruption in administration, which lies

outside the administrative field, is to take suitable measures to discourage and condemn vulgar display of private wealth and ostentatious living by any one. Needless to say that the top echelons of society and government, public servants and public men, leaders of society, business and industry, have to set examples of simple living and high thinking. By personal example of good conduct, they could bring about a change in the prevailing value system for the better. Higher they are, greater is their responsibility to keep the moral environment clear. General social environment does affect functioning of public services as well.

Again, since politics and administration are inter-linked and inter-twined, it will be difficult to make a visible dent on prevention of corruption among public servants without enforcing adherence to correct values among public men, i.e, all those who hold any post or public office of are in a position to exercise any influence on public functionaries. For this, our law for prevention of corruption may have to be given a fresh look so as to expand its scope and strengthen its penal provisions. Any abuse of public office or influence for private gain has to be publicly condemned and penalized. Ill-gotten wealth should also be confiscated fully after due enquiry.

For immediate action, some aspects of preventive vigilance need to be highlighted. These are setting up of effective machinery for redressal of public grievances and effective monitoring or disposal of cases at different levels by senior officers. Often cases are delayed with a views to harass & extract money from persons concerned. Regular and effective monitoring by senior officers as well as periodical inspections and surprise checks are called for. Normal inspections of lower field formations and offices by senior officers have greatly suffered due to good deal of their time in less productive work and in running around. There is also a growing craze for media attention and publicity among public servants. Consequently, routine work, which does not attract TV or press coverage is generally neglected. There is also a tendency to indulge in window dressing and cheap publicity rather than silent hard work. This publicity mania among all public servants must be frowned upon. Public servants craving press publicity often turn out to be stunts and nine-day wonders. Anonymity is the best virtue of a truly honest and efficient public servant.

Long tenures in different supervisory posts are also necessary for planned action. Holders of sensitive posts/seats at the cutting edge level need, however, to be rotated at comparatively shorter intervals.

The above mentioned administrative measures need to be urgently taken to

improve the clearnliness and efficiency of the administrative machine. Some measures have already been initiated in these directions by different Central ministries. However, a good deal more remains to be done for better results. In brief, the strategy being followed for prevention of corruption in public services may be summarized as below.

1. Reduce its scope by
  - (a) review of governmental activities to eliminate unnecessary work.
  - (b) simplification of rules, procedures and practices and general system improvements.
  - (c) better supervision, inspections and monitoring.
2. Reduce temptation to corruption by upgradation of pay-scales and service conditions.
3. Better policing and vigilance to:
  - (a) exercise greater check on corruption prone areas and individuals.
  - (b) identify hard-core corrupt elements.
  - (c) take exemplary punitive action against corrupt elements by removal and dismissal from service.

Needless to say that corruption among public servants, in fact, in case of holders of any public office, should be considered as a social crime and should be more severly dealt with than any ordinary crime. The problem of corruption is, indeed, very grave and calls for urgent remedial action on all fronts. Both short-term and long term measures in the preventive, detective and punitive areas need urgent attention to check-further spread of corruption in our administration. One must recognize that power corrupts and absolute power corrupts absolutely and, therefore, eternal vigilance on the conduct of all public men and officials exercising any state power through any of its organs, is essential to keep them on the right path. Good conduct of all others has a bearing on the good conduct of government and public sector employees, since all work together for the main purpose of bringing about a just, social, economic and political order for the benefit of the people of India.

Courtesy: (Talk delivered by Shri U.C. Agarwal, Central Vigilance Commissioner to the Members of the Association of Indian Diplomats on March 10, 1986 at New Delhi)

## Chapter 3

# FINANCIAL VIGILANCE FOR ORGANISATIONAL EXCELLANCE

The main concern for any organisation is to ensure that :- all expenditure is covered by a budget provision.

- no expenditure is incurred without proper financial delegation of powers or authority.
- all the expenditure is incurred only after following the prescribed procedure such as calling for quotations/tenders and accepting the economical offers.
- expenditure incurred brings about the best possible results keeping in view the efficiency, economy and effectiveness aspects.
- all receipts due to Govt. have been assessed and collected properly and remitted into Govt. Account.
- all the receipts and expenditure are accounted for immediately in one account record or the other.

To secure accountability for the funds at the disposal of various spending officers and to prevent misappropriation of receipts/expenditure continuous financial vigilance is essential. Some of the important areas requiring special attention are as follows:

The budget, representing the first level document of accountability and a prespending discipline should be prepared on a realistic basis by making a critical and meaningful forecast of the receipts and expenditure for the ensuing year. Over pitching of expenditure provision in budget gives rise to indiscipline in spending as several departmental offices resort to unnecessary expenditure to spend the available funds



giving rise to several irregularities. The receipts due to Government are not also assessed realistically with the result the expected receipts are not realised giving rise to difficult in cash management. The concept of zero Based budgeting can be introduced with advantage to any organisation to ensure that maximum revenues are realised by suggesting enhancement of several types of fees levied by the department to make them commensurate with the services rendered and all expenditure proposals are scrutinised properly to justify their inclusion in the budget.

A critical monitoring of the implementation of budget is essential to ensure that the receipts are realised as per anticipations and expenditure is incurred economically to bring about the expected results. The Drawing officers and revenue collecting officers will have to furnish monthly statements of expenditure and receipts to the higher officers who get an opportunity to review the reported figures against budget anticipations. All variations require detailed investigation to ensure that they do not conceal any misappropriation.

The Drawing officers and revenue collecting officers will have to ensure that the transactions are recorded immediately as they arise and necessary reconciliation arranged with the Treasury to satisfy themselves that there are no fraudulent bills or any inflated amounts in the bills drawn. The remittances made to treasuries should also be reconciled to ensure that the receipted challans are genuine.

The Personal Deposit Accounts maintained by all the officers require special attention on the part of Heads of offices to prevent any unusual drawal of funds from such accounts.

The stores account will have to be reviewed properly and periodically to ensure that purchases are not made unnecessarily and where purchases are made the supporting entries are recorded without omission. Physical verification of the stores should be arranged periodically by independent stock verifiers and action taken for discrepancies noticed. Whenever there is a transfer of an officer handing over/taking over should be documented properly under intimation to higher officers.

The official-in-charges of any valuables is required to furnish necessary security deposits. Special caution is needed where persons-in-charge of cash, stores or equipment are about to retire. The last pay and allowances should be released only after obtaining a No Due certificate. Where shortages are noticed immediate action should be initiated by framing charges against the officials before retirement.

Periodical inspection of the subordinate officers should be done by the Senior officers of the Department to examine the systems and procedures connected with the utilisation of budget, drawal of money from treasury, their accountal in the records, disbursement to officials concerned, realisation of dues to Govt. and their remittance to treasury.

The public Accounts Committee has expressed concern over deterioration in the standards of financial management in various offices. Some recommendations requiring attention are:-

- ensuring reconciliation at various stages right from drawal of funds till their disbursement and accountal.
- preparation of Detailed bills in respect of advances drawn on Abstract Contingent bills and action taken for refund of the un-used funds.
- Recovering advances given to employees/others and also interest thereon without any interruption.
- Attending to audit observations communicated by the Internal and External Audit and to settle long pending audit objections.
- Preparing replies for discussion by public Accounts Committee in respect of audit paras included in CAG's Report.
- Finalising Disciplinary Cases against employees without delays.

Officers at different levels should undertake a critical study of the systems and procedures particularly those connected with purchases and their disposals and the delegation of the financial powers to see whether they serve the organisational objectives in an effective manner. Such studies will go a long way in creating healthy standards and excellenace in any organisation.



## Chapter 4

# PREVENTIVE AND PUNITIVE VIGILANCE

All the Departments of the State Government and its instrumentalities viz., the local and public authorities i.e., Municipalities, Zilla and Mandal Praja Parishads, Public Sector undertakings and Corporations, as well as Government Companies etc., are structured as independent entities under the control of their respective Heads of Departments/Organisations, who in turn function under the overall control of the State Government. Each of these departments and organizations are therefore, primarily responsible for the efficient and effective functioning of their departments duly ensuring probity and integrity on the part of all their officials. It is the primary responsibility of these Heads of Department/Organizations to ensure, inter-alia, that the officials of their departments/organizations perform displaying the essential requirements of Public administration viz., efficiency, responsiveness, impartiality, objectivity, probity and integrity and discipline. The Departmental Manuals, Statutes, Rules & Regulations and Disciplinary Codes (Conduct Rules and Classification, Control and Appeal Rules) are the main instruments in the nature of internal control systems through which Heads of departments/organizations have to exercise due and effective control over the functioning of the officials so as to ensure that all the above requirements of public administration are met.

Internal control systems available to the Government departments/organizations are by way of measures devised as checks and balances to ensure that in the performance of duties the officials do not misuse or abuse their powers and authority for deriving personal benefit or advantage or wrongful gain to themselves or to others. Such checks and balances in other words constitute what are called "Vigilance Procedures".

The dictionary meaning of the word "Vigilance" is "Watchfulness, Caution and Circumspection" in respect of actions of Government Servants/public Servants aimed at ensuring proper and orderly conduct of public administration. The primary object of vigilance is to guard against maladministration and corruption and to detect and deal with the errant employees and punish them. The most important aspect of vigilance is pro-active or preventive vigilance, while the remaining two aspects are purposeful monitoring and prompt detection and punitive vigilance. All these three aspects of vigilance have to be clearly understood and effectively implemented by the supervisory officers and more importantly by the Chief Vigilance Officers/Vigilance Officers (CVOs/VOs). The problems of mal-administration and corruption mostly arise out of misuse or abuse of the vast array of discretionary powers and due to the maze of labyrinthine and complicated procedures and contrived delays. All these aspects of vigilance, which taken together constitute the totality of Vigilance Procedures have been designed as effective measures to check and mitigate mal-administration and corruption by pre-empting malafied actions, detecting misfeasance and malfeasance and meeting out deterrent penalties.

- (a) Pro-active or Preventive Vigilance measures are designed to check and mitigate 'Opportunity' factor, which mainly paves the way for maladministration and corruption. Important preventive vigilance measures are :
- i) Identification of Corruption prone and sensitive areas and critical zones of corruption.
  - ii) Identification of employees of ill-repute and those suspected to be indulging in malpractices and corruption. Not posting such employees to corruption prone or sensitive posts. Vigilance Officers and Chief Vigilance Officers to prepare and maintain list of officials of doubtful integrity.
  - iii) Identification of touts, middlemen and agents, not allowing them access to other than authorised authority by maintaining visitors' register.
  - iv) Issuing handouts, information booklets etc., for enlightening people on their rights and eligibilities and duties removing their ignorance and improving their awareness by fuller utilization of mass media.
  - v) Introduction of public information and assistance counters, single window system for scrutiny and receipt of applications as per pre-published checklists.

- vi) Easy accessibility of supervisory officers to the members of public, earmarked officers to visit public contact points at rush hours.
  - vii) Cultivating techniques to gather information from a cross-section of the people on various aspects of work and misconduct of officials.
  - viii) Simplification of Rules & Procedures to cut-down delays; de-regulation where feasible to reduce scope for corruption and harassment; reforms in systems.
  - ix) Reducing powers of patronage and discretion, particularly at lower levels.
  - x) Curbing outside interference in administration and personnel management.
  - xi) Safeguarding legitimate interests of honest officials.
  - xii) Amelioration of service conditions of officials.
- (b) Purposeful monitoring and prompt detection measures are designed on the principle of 'a stitch in time saves nine. These measures are :
- i) Surprise checks and inspections by senior officers and monitoring disposal of cases with a view to checking delays and misuse or abuse of discretionary powers.
  - ii) Purposeful review of audit and inspection reports and initiating prompt follow-up action.
  - iii) Closer watch on officials of doubtful integrity by checking on a selective basis, their annual property returns and intimations regarding movable and immovable assets.
  - iv) Keeping watch on rendezvous points where officials meet the parties to confer favors on them for personal gain.
  - v) Collecting information about lavish hospitality being habitually accepted by officials from parties having official dealings and initiating prompt remedial action.

- vi) Initiating follow-up action in respect of above matters for organizing traps and raids with the help of A.C.B. on notoriously Corrupt Officials.
  - vii) To maintain close liaison with A.C.B. and the Vigilance and Enforcement Department for ensuring prompt aid and assistance to them in various matters dealt with by them.
- (c) Punitive Vigilance and deterrent punishment are measures designed to effectively overcome the factor of impunity, which otherwise emboldens dishonest officials to resort to habitual misconduct. These measures are :
- i) To ensure prompt initiation and speedy completion of disciplinary cases strictly abiding by the principles of natural justice.
  - ii) To ensure blacklisting of dishonest Contractors/Suppliers of stores etc.
  - iii) To ensure imposition of deterrent penalties in charges held proved in grave delinquencies; similarly to ensure imposition of summary penalty following Court conviction of officials on charges of moral turpitude.
  - iv) To give wide publicity of punishments/penalties awarded to guilty officials.
  - v) To activate provisions relating to premature retirement of officials of doubtful integrity.
  - vi) Close monitoring of all anti-corruption measures.

## PROCEDURE AND MODALITIES OF SECRET AND CONFIDENTIAL ENQUIRIES

The purpose and object of making secret and confidential enquiries are as follows:

- 1) The discreet and confidential enquiry is intended to ascertain whether the Complaint is prima facie true and if so the nature of further action to be taken.
- 2) To keep the identity of the Complainant/source of information as well as

the identity of the accused official confidential; if the identity is compromised there is a threat of the complainant/source being intimidated, coerced or influenced to dis-own the complaints/information. If the identity of the accused official becomes known, he may either himself tamper with the records or influence his colleagues to do so, besides approaching and making efforts to adversely influence the Complainant. When such a thing happens, the Complainants will suspect the integrity and credibility of the investigating agency/enquiry agency. Where the accused official has a good reputation and where his identity is not kept confidential he may suffer loss of reputation and mental anguish. This will lead to demoralisation of honest officials.

During such an enquiry, statements of persons/officials examined discreetly should not be recorded. Scrutiny or persual of departmental records should be done informally by contacting the Head of the Office/Department concerned. No written requisition for this purpose should be given. The departmental authority should be cautioned that the verification is strictly confidential and information concerning the same should not be disclosed to any other employees and more so to the accused official. Where it is possible the name of the accused official need not be disclosed to Head of the Office/department and details ascertained without directing the needle of suspicion on any particular official.

Information has to be gathered through resort to 'watch' and surveillance methods about questionable/suspicious activities of the accused official. Documents if any with the complainant/source should be verified.

In respect of anonymous and pseudonymous complaints containing specific and verifiable allegations, the Head of office/department has to take into consideration the reputation of the accused official before deciding to initiate a discreet and confidential enquiry.

When number of allegations are made, it is not necessary during a discreet and confidential enquiry to go into all the allegations. It would suffice if the serious or grave allegations among them are probed into to ascertain whether there is any element of truth in them warranting initiation of appropriate further action.

The essence of Secret and Confidential Enquiries is the care taken not



only to follow the above principles but also to complete such an enquiry speedily. Reports of such enquiries should be classified as 'Secret' and not disclosed to anyone except the competent authority; they will not be referred to in any disciplinary cases.

## CLASSIFICATION OF DOCUMENTS & THEIR SAFE CUSTODY

For purposes of vigilance and anti-corruption matters, all correspondence and documents should be classified either as secret or confidential and where warranted even as Top secret. This grading is made on the principle of restrictive security known as "Need to Know", so that the information contained in such documents is known only to the few who are required and authorised to process it. These few officials can be held accountable for maintaining secrecy till the action required to be taken is completed.

Top-secret documents should be kept in the custody of Head of Office/ Department; those marked secret in the custody of the Gazetted Officer dealing with the matter, while confidential documents should be in the custody of the Section Officer/Superintendent.

## COLLECTION OF DOCUMENTS, VALUES OF DOCUMENTARY EVIDENCE - ASSISTANCE OF VIGILANCE OFFICERS TO INVESTIGATING OFFICERS OF THE ANTI-CORRUPTION BUREAU.

Section 3 of the Indian Evidence Act interprets 'Document' to mean any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

Of the three types of evidence i.e. oral, documentary and non-documental, documentary evidence will be the most clinching to prove the facts in issue and relevant facts. Documents speak for themselves and will constitute direct or circumstantial evidence or both. Therefore, they should be taken over at the earliest point of time when enquiries are initiated, to ensure that they are not tampered with or destroyed. If there are any procedural delays in doing so, it should be ensured that they are kept in the custody of either the Head of office or a responsible Gazetted officer.

The contents of a document may be proved either by primary or secondary evidence. The original document is primary evidence, while its certified copies or photostat copies or oral account of its contents given by a person who has himself seen it is secondary evidence. Where it is not legally possible to produce the original document before the Court/Enquiry Officer for valid reasons, secondary evidence relating to the document may be given. The execution of a document and its authorship or genuineness are proved by proving the signature and handwriting of the person who made the document. Mere proof of handwriting is not proof of contents, which have to be proved by evidence of a person who can vouchsafe the contents.

The evidence relating to the handwriting of a document may be given by its executant i.e., the person who wrote it or by a person who saw the executant writing and signing it or a person familiar with the writing and signature of the executant or by the testimony of the handwriting expert or on the basis of another link in the chain of correspondence being proved to the satisfaction of the court.

As per Government instructions given from time to time, whenever requisitions are given by officers of the A.C.B., for supply of documents, the Vigilance Officers have to ensure that this is done within a fortnight or at the most within a month positively. Where original documents cannot be made available for any valid reasons, extracts or photostat copies duly certified should be made available. However the Head of office should give a certificate in such instances that the originals are in safe custody and will be made available at the appropriate time.

The Investigating Officers (I.Os) of the A.C.B. have powers under section 91 Cr. P.C. to issue written requisitions for production of documents and the persons to whom they are addressed are legally bound to hand-over the documents within the specified time. The I.Os also have powers to conduct searches of premises under sections 93/165 Cr. P.C. to seize documents.

The C.V.Os/V.Os have to render due assistance to the I.Os of the A.C.B. during their investigations by way of ensuring that the A.C.B. Officers are made aware of relevancy of various documents in terms of procedures prescribed, legal provisions applicable, particularly all contemporaneous records, so that the I.Os do not miss taking over all documents having evidentiary value. It is likely that for want of such assistance the I.Os may miss taking over vital

documents due to their not being fully aware of rules and regulations of the department or organisation in question.

## **MAINTENANCE OF SECRET RECORDS AND LIST OF CORRUPT OFFICIALS**

The C.V.Os/V.Os are required to maintain Confidential and Secret records pertaining to:

- i) Complaints received and nature of disposals.
- ii) Points and places prone to corruption.
- iii) Lists of middlemen, touts and agents; Contractors suppliers etc., blacklisted.
- iv) Professional petition mongers.
- v) References received from various anti-corruption and Vigilance agencies and response there to.
- vi) Agreed list of Suspect Officers and list of Gazetted public servants of doubtful integrity.
- vii) Periodical returns to be submitted to the Vigilance Commissioner.

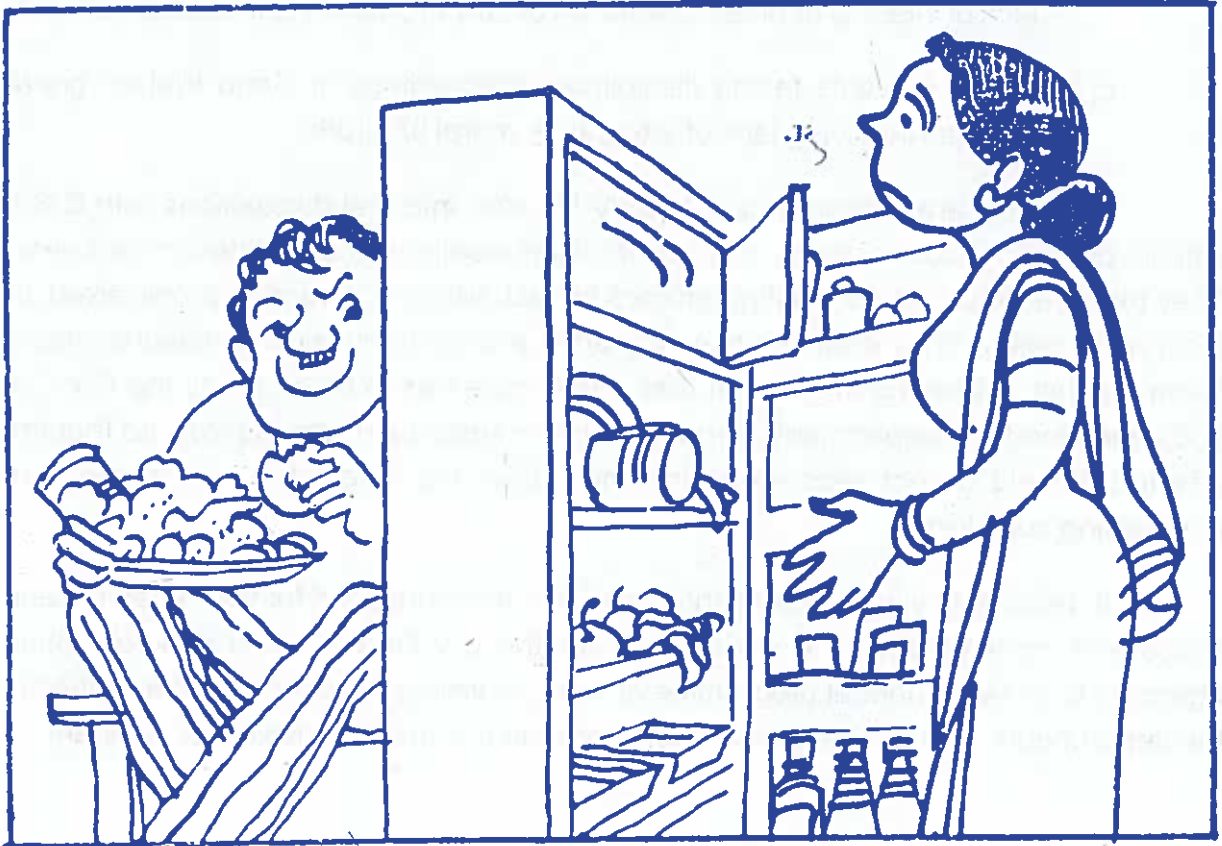
As per the procedural instructions issued by the Central Vigilance Commission, all Central Government Departments, Central Public Sector Organisations maintain through their C.V.Os/V.Os the following lists as 'Secret' documents:

- i) Agreed list of Suspect Officers. Where the reputation (current period) for integrity of officers is not sound and where there are reliable indications and reasons to strongly suspect that they are indulging in corrupt practices, their names are entered in the Agreed Lists.
- ii) List of Gazetted Public Servants of doubtful integrity falling under the following categories.

- a) Public servants convicted by Courts of Law on offences affecting integrity and moral turpitude but on whom, in view of exceptional circumstances, a penalty other than dismissal, removal or compulsory retirement has been imposed.
- b) Public servants awarded major penalty after disciplinary proceedings for lack of integrity or gross dereliction of duty in protecting the public interest.
- c) Public servants facing disciplinary proceedings or Court trial on grave charges involving lack of integrity or moral turpitude.

Such lists are prepared by C.V.Os/V.Os after informal discussions with C.B.I. officers during periodical review and coordination meetings and updated once a year. They form the basis for not posting officers in such lists to Corruption prone areas or focal point posts. They enable closer vigilance and anti-corruption measures being taken against officers figuring in the lists. Every care has to be taken by the C.V.Os/ V.Os and Heads of Departments/Organisations to keep such lists 'Secret', so that the affected officers do not become aware and outwit and defeat the very purpose of maintaining such lists.

In relation to vigilance and anti-corruption measures and for their effective and successful implementation, it is desirable for the C.V.Os/V.Os and anti-corruption agencies to draw up annual programme of work, covering the calendar of activities in the departments or organisations wherein corruption is institutionalised or rampant.



## **Chapter 5**

# **DUTIES AND RESPONSIBILITIES OF VIGILANCE OFFICERS**

As per order's issued in GOMS No. 421 dt. 3-8-1993 of GA (ScD.) Dept, there will be one Chief Vigilance Officer for each Secretariat Department and Vigilance Officers in all subordinate and attached Offices and in all Government undertakings/Government Companies and such of the Institutions as may be notified by the Government from time to time. The Chief Vigilance Officer may not be lower than the rank of a Deputy Secretary to Government and the Vigilance Officer shall be selected from among the senior officers of the department. In Government Undertakings/Government Companies and such other Institutions as may be notified by the Government from time to time the Vigilance Officers may be of such rank as may be decided by the Head of the Undertaking in consultation with the Commission. The Chief Vigilance Officers shall be appointed in consultation with the Commission and the Vigilance Officers in subordinate and attached offices shall be appointed in consultation with the Chief Vigilance Officer of the Department concerned. No person whose appointment as Chief Vigilance Officer is objected to by the Commission shall be so appointed.

The Chief Vigilance Officer and the Vigilance Officers besides being the link between the Commission and the departments should be the special assistants to the Secretary to the Government, in the department or head of the Government Undertaking/ Government Company/such of the Institution as may be notified by the Government from time to time concerned in combating corruption, misconduct and malpractices in the Department/Government Undertaking/Government Company/such of the Institution as may be notified by the Government from time to time. The Chief Vigilance Officers will be responsible for co-ordinating and guiding the activities of other Vigilance Officers

in the attached and subordinate offices and other organisation for which his department is responsible to the Legislature.

Collectors of Districts shall be the Chief Vigilance Officers for their Jurisdiction. Their functions will be:

- i) to entrust any complaints, information or case for enquiry to the Anti Corruption Bureau or the concerned Departmental Officer at the district level as per the instructions to be issued from Government from time to time.
- ii) to ensure that investigations by Anti-Corruption Bureau or departmental officers are conducted expeditiously.
- iii) to ensure that the existing procedures in the district offices are examined with a view to eliminating factors which provide opportunities for corruption and malpractices.

The vigilance Commissioner will assess the work of the Chief Vigilance Officers and the assessment will be recorded in the character roll of the said officers according to the procedure prescribed by the Government from time to time.

### **FALSE COMPLAINTS :**

The Commission will take the initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against Public Servants.

## Chapter 6

# INQUIRIES BY EXTRA DEPARTMENTAL FORUMS

### 1. ANDHRA PRADESH VIGILANCE COMMISSION :

As per G.O.Ms. No. 368 GA (SC-D) dept., dt. 29.6.93, the institution of Vigilance Commission as it existed in the past, has been revised and restored its original role and functions. A scheme defining the jurisdiction and powers of the vigilance commission has been formulated in G.O.Ms. No. 421, GA (SC-D) dept., dt. 3.8.93 as amended in G.O.Ms. No. 424, GA (SC-D) Dept. dt. 26.8.94. The functions of collectors of districts who were the Chief Vigilance Officers within their jurisdiction, are laid down in G.O.Ms. No. 552, GA (SC-E) dept., dt. 15.11.94. All employees (both teaching & Non-teaching) including Registrars working in the Universities in the state are brought within the jurisdiction and powers of Vigilance commission in G.O. Ms. No. 242, GA (SC-E) dept., dt. 16.6.95.

### 2. DIRECTOR-GENERAL, VIGILANCE ENFORCEMENT DEPT. AND EX-OFFICIO PRINCIPAL SECRETARY TO GOVT., GAD:

The original scheme of this organisation has been laid down in G.O.Ms. No. 269, GA (SC-D) dept., dt. 11.6.85. Consequent on the constitution of A.P. Vigilance commission w.e.f. 30.6.93, the DG, Vigilance & Enforcement is looking after the 'Enforcement function' i.e. prevention of leakages of revenue by



Revenue earning depts., vide G.O. Ms. No. 618, GA (Vig & Enf) dept., dt. 22.11.93.

The main Objects of Vigilance Enforcement Department is Providing a clean & efficient administration in the State. Lacunae in the realisation of goals from the points of view of V & E Dept. are :

- a) Leakage of Revenue/Tax evasion.
- b) Loss of States 'Wealth and Natural Resources'.
- c) Misuse/wastage of funds.
- d) Lack of streamlining of Rules & Procedures in Govt. Depts.

The V & E Dept. is constituted into four wings viz 1) Development Wing 2) Engineering Wing 3) Natural Resources Wing 4) Revenue Wing. The role and functions of these wings are :

## Development Wing

Role of State is promoting welfare of the people. About 70% of State expenditure in A.P. is incurred on developmental programmes. Developmental Services are broadly classified into two categories.

- 1) Economic Services : Eg. Irrigation, Command Area Development, Drainage, flood control, development of roads & transport, sericulture, Agriculture, Rural Development Programmes through JRY, DRDA, SFDA, MFDA quarrying & mining.
- 2) Social & Community Services :- Education, Housing family welfare, welfare SCs/STs/BCs; Women & Child Development.

## Functions :

- a) Appraisal of various projects & programmes involving heavy expenditure, social welfare schemes, large scale loss of revenue to the Govt.
- b) Prevention of wastage or swindling of public funds, better execution of

works; increased efficiency and-work for ushering in a clean and corruption free administration.

- c) Streamlining systems & procedures so that public funds are well spent and benefits of developmental programmes reach the target group.

## ENGINEERING WING

Monitoring of execution of civil works: The list of contracts finalised by various Engineering wings of A.P., costing 25 lakhs & above is sent to V & E Dept. every quarter. The Engineering wing of V & E inspect the works, conduct quality tests and submit reports to the Head Office with regard to :

- a) Award of works:- Whether there was competitive bidding or not; whether excess bid amount was fixed; irregularities in the preparation of estimates etc.,
- b) Quality of works executed :- Whether works are being executed according to time frame fixed; various materials used in the execution are of required quality or not; tests are conducted to ascertain the quality of works executed; collusion between contractors & officials etc.,
- c) Collection of Royalty/sales tax on the works executed.
- d) The Engineering Wing also submits appraisal reports on various projects under execution, system's improvement reports relating to award of contracts to toll-gate collection; use of biteman in Engineering works; etc are sent.

## NATURAL RESOURCES WING

Protection of Mines & Mineral wealth; forest wealth of the State. Special efforts are being made to curb:

- a) illegal quarrying or mines/minerals;
- b) evasion of royalty/sales tax
- c) collusion of contractors with staff of Mines & Mineral dept.

- d) Smuggling of forest produce: check on saw mills
- e) implementation of Tribal Development Projects etc.

## REVENUE WING

- 1) Prevention of evasion of taxes/loop holes in the assessment procedures
- 2) Streamlining of tax laws/exemptions

## 3. TRIBUNAL FOR DISCIPLINARY PROCEEDINGS :

This was constituted by the State Govt., under an act of the State Legislature Act 2 of 1960. Judicial officers of the rank of District judges are appointed by the Govt., as members of this tribunal. The State Government may refer to this tribunal for inquiry and report the cases relating to Gazetted and Non-Gazetted officers in respect of matters involving misconduct committed by them. The final report of the tribunal shall be referred to the vigilance commission for advice. (1) G.O.Ms. No. 304 A (Ser-B) dept. dt. 3-6-89 (2) Govt. Memo No. 1560/Ser-B/89-1 DAD dt 11.11.89 (3) G.O.Ms. No. 514, GA (Ser-C) dept. dt. 15.10.94 (4) G.O. Ms. No. 387 GA (Ser. C) dept. dt. 13.9.95.

## 4. COMMISSIONERATE FOR DEPARTMENTAL ENQUIRIES:

The State Govt. constituted a Commissionerate of Enquiries for conducting disciplinary proceedings against the following Gazetted officers of State Govt., and All India Service officers serving in connection with affairs of the State.

- a) All Gazetted officers whose appointing authority is the state Govt.
- b) All other officers where the appointing authority is the Govt., or head of the Dept., and enquired into by the Anti Corruption bureau.

The final report of the Commissioner shall be referred to the vigilance Commission for advice.

## 5. INSTITUTION OF AP LOKAYUKTA AND UPALOKAYUKTA:

This Act (Act 11 of 1983) is intended to curb political corruption among certain

classes of public servants. All State Govt. officers drawing a pay scale above the scale of Rs. 3880-8140 in the 1993 revised pay scales, are brought under the purview of this act. The Disciplinary Authority shall consider the recommendations of the Lokayukta & Upalokayukta and impose any of the penalties specified in rule 9 of APCS (CCA) rules, 1991.

The Institution of A.P. Lokayukta & upa-Lokayukta came to exist by an Act of the Legislature (vide Act 11 of 1983) with effect from 1st November 1983, vide G.O.Ms. No. 496, GAD Dt. 12-10-1983. The Most Prominent features of this Institution are :

- a) Independence from the Executive control.
- b) Informal Procedure and easy accessibility to complaints.
- c) Almost free and prompt services/redressal of grievances, to the citizens.

The following matters or actions of public servants can form the subject matter of a complaint to the Institution:

- a) Any administrative action involving abuse of power for personal gain or to harm anyone.
- b) Administrative actions motivated by improper or corrupt motives causing loss to the state or to any person.
- c) All acts involving outright corruption or lack of integrity.

There are three methods for the Lokayuktha or upa-Lokayuktha to investigate into the above acts, as noted below.

- a) Any citizen or aggrieved person may prefer a complaint to the Institution
- b) The Lokayuktha or Upalokayuktha may take up investigation on the basis of the information received by them otherwise than the way of complaints, like news papers, reports etc.
- c) The Institution may act on a reference made by the Governor.

The following public Servants fall under the purview of the Institution:

- a) Ministers, Members of Legislature (Whether Present or Past), Chairman of Zilla Parishads, Presidents of Mandal Parishad, Mayors of Municipal Corporations, Chairman of Municipal Councils other than those of a second and third grade Municipal Councils, Office bearers of statutory corporations and Government Companies, any society registered under the Societies Registration Act or any Cooperative Society.
- b) All Officers holding a Post carrying a scale above the scale of pay of Rs. 3880-8140 in the 1993 Revised Scales of pay.

The Chief Minister or the Chief Justice or any Judge of the High Court, a member of Judicial Service, any officer or servant of any court in the State, Chairman and Members of Public Service Commission, Chief Electoral Officer, Speaker and Dy. Speaker of the Legislature Assembly, Chairman & Dy. Chairman of Legislature Council, staff of Legislature Secretariat, Chairman & Members of A.P. Administrative Tribunal are excluded from the purview of the Institution.

## 6. ANTI CORRUPTION BUREAU:

The primary function of the department is to enforce the provisions of the 'Prevention of Corruption Act, 1988. 'Trap' (Corruption of cash, kind & services) and 'Disproportionate assets' fall under the definition of 'criminal misconduct' and envisaged in this central act. The ACB has become an investigating arm of the vigilance commission.

The Anti-Corruption Bureau was constituted by the Government of Andhra Pradesh in January, 1961, to enquire and to investigate into certain specified offences pertaining to corruption and other kinds of malpractices involved by public servants with a view to improve the moral tone of administration. The Bureau functions under the administrative control of the Chief Secretary to Government in the General Administration Department. It is headed by the Director, who is of the rank of an Inspector-General of Police with Headquarters at Hyderabad, assisted by Addl. Director of the rank of Deputy Inspector General of Police. The State is divided into seven ranges. The City Range is under the Charge of a Deputy Director who is of the rank of Addl. Supdt. of Police and the remaining ranges are under the charge of Dy. Supdts. of Police. They are

assisted by Inspectors of Police each incharge of a district. A team of non-Police Officers drawn from Revenue, Engineering and Commercial Taxes Departments is also inducted into the Bureau to render technical assistance to the Investigating Officers of the Bureau in complicated cases. The Bureau is also provided with Law Officers to assist in conducting prosecutions and to lead evidence for prosecution in the Tribunals for Disciplinary Proceedings.

The State Government or the Vigilance Commissioner entrusts enquiries/ investigations to the Bureau whenever they receive complaints relating to integrity of Public Servants. In so far as traps are concerned, investigations are conducted under the statutory provisions of the Prevention of Corruption Act and Sections 161 to 165 and Sec. 165-A of the I.P.C. Apart from these, there are other types of cases which fall under the category of Departmental misconduct, where the public servants act in a manner which is not in conformity with the Rules and Procedures laid down by the Department as a result of which pecuniary loss is caused to the Government or undue pecuniary gain is caused to others. In cases where there is not enough evidence to launch prosecution in a Court of Law, they are referred to the Tribunal for Disciplinary Proceedings for conducting enquiry and to give its findings about the allegations against the concerned Public Servants. In cases where it comes to the notice of the Bureau during the enquiry that the public servants had merely contravened Departmental Rules and Regulations, the case is referred to the Department for taking Departmental action against the public servants.

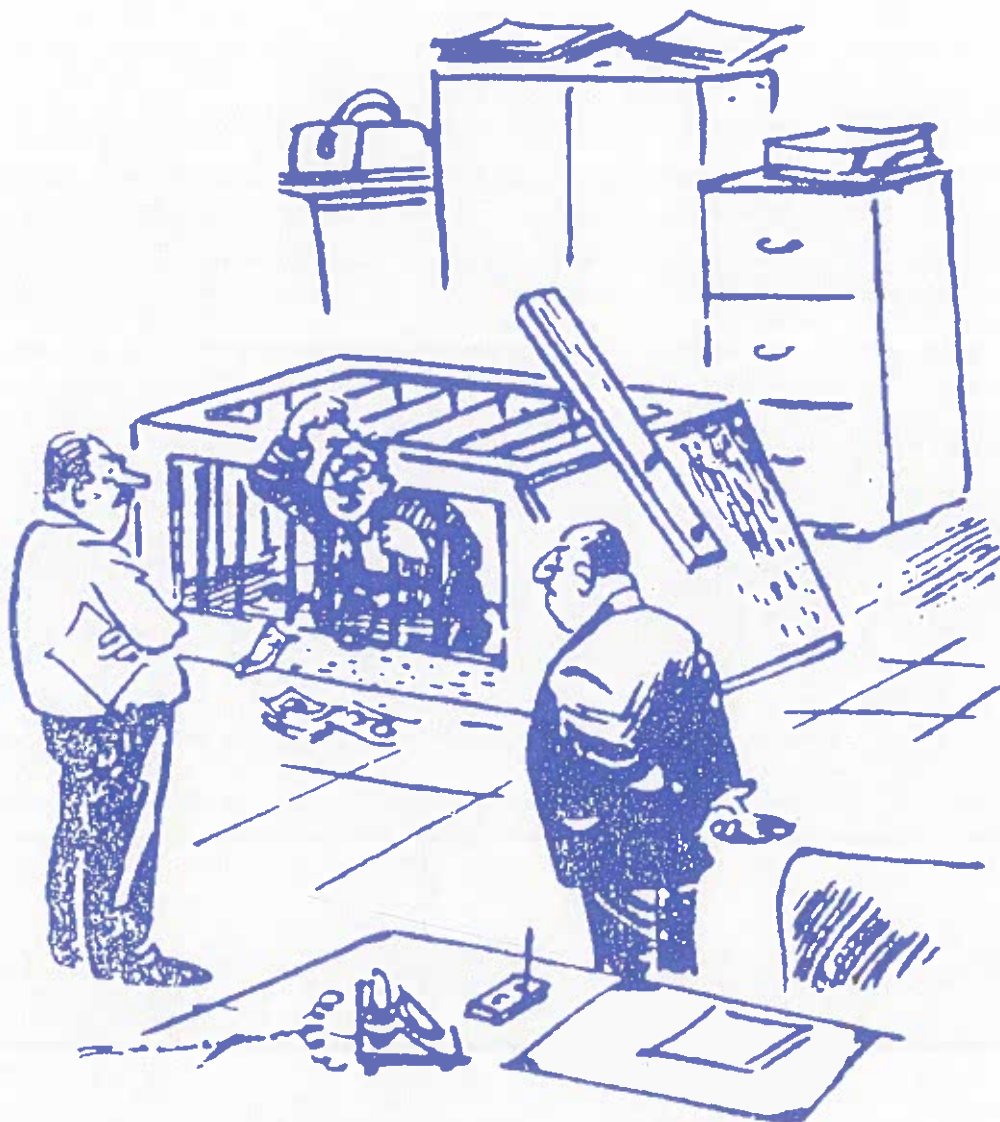
The Bureau is primarily concerned with cases of corruption and the persons who are aggrieved by the demands of corrupt public servants approach the Bureau for taking action against the erring officers. In such cases traps are organised by the officers of the Bureau and the corrupt Public Servants are caught red-handed. The most effective way of controlling corruption is by way of organising successful traps. It requires a specialised technique to organise traps and the officers of the Anti Corruption Bureau are given training for this purpose.

After the completion of enquiries/investigations, the Bureau sends a report to the Govt, through the Vigilance Commissioner, who tenders his advice to the Government regarding further action to be taken in the matter. The Bureau continues to follow up the cases of corruption till they are disposed in the courts or in the Tribunal for Disciplinary proceeding/Departmental Proceedings.

In cases where false complaints are made against Public Servants, action is taken under the relevant provisions of the Indian Penal Code against persons who make such false complaints. The Anti-Corruption Bureau has also been acting as a check against malicious and vexatious complaints which are motivated by personal reasons. Instances are not wanting where honest Public Servants have been protected from unscrupulous complaints. Thus the Anti-Corruption Bureau keeps a constant vigil in this unending struggle for maintaining a clean administration in the affairs of the State.

## 7. ANDHRA PRADESH PUBLIC SERVICE COMMISSION :

Under article 320 (3) (C) of the Constitution, the State Public Service Commission shall be consulted by the state on disciplinary matters affecting a person serving under the Govt., of a State in civil capacity. Regulation 17 (1) of APPSC regulations lays down the penalties requiring consultation with the commission. The advice of the commission is not however, binding on the State Govt.



This is most unfair! Other corrupt officials were not trapped this way, sir!





## Chapter 7

# ETHICS AND SOCIAL RESPONSIBILITY

## THE MALAISE

Max Weber a German sociologist described for the first time the history of Bureaucracy, its institutional qualities, characteristics and suggested an ideal Rational organization for this institution.

## BRIEFLY STATED

1. Bureaucracy is a hierarchically organized body of human beings who are operating under set codes, rules and regulations and paid for their work, who are subject to constant internicine problems; who are neutral, rulebound (precedent-bound often) and secretive (there in lies its power).
2. It has a rational objective for its existence and a rational manner for its performance.
3. The members of this organization are aiming constantly to improve themselves, their status and emoluments.

## DYS-FUNCTIONAL

Prof. Robert Merton calls dys-functionalism a characteristics of Bureaucratic organization. By that he means that a function performed by a Bureaucrat becomes counter productive or produces bad results which are the antithesis of their objective.

Complicatedness, Corruption, dilatoriness, beating about the bush are now an accepted way of life with Bureaucracy all the world over. It is a question of degree in most countries, more so in developing economies.

## THE NEED: SOCIAL RESPONSIBILITY

Every Bureaucrat has a responsibility to society. The Directive Principles of State Policy in our Constitution clearly give a purpose and directions to both Central and State Governments. Hence, the need for commitment to service of common man and development of the country. An ideal servant is one who :

- a. Understands the weakness of himself and his system and works in order to overcome it in the most effective manner for which he has at his command both ancient and modern tools (concepts and techniques).
- b. Acts as 'change-agent' to help the people of the country who are often steeped in old and useless (often dangerous) traditions in agriculture, social behaviour (bonded labour for eg.) etc.
- c. Optimizes the scarce resources that are at his command and allocates them towards long, medium, and short-range betterment of people's lot (for eg. Education is a long range input, employment is a short range input) by reducing inequalities.
- d. Innovates and finds solutions rather than complains.
- e. Brings in a climate of cooperation and goodwill through a helpful attitude and achieves his objectives through quick decisions.

## THE SOLUTION

The Bureaucrat must aim at

- a. Better training of himself and his staff.
- b. Developing a sense of social and ethical responsibility.
- c. Managing laws, rules and regulations to enable him to perform tasks legally.

- d. Developing enormous patience and affection for the down trodden and even anger at those evil sections of society which keep at check Government's efforts to reduce social inequalities (Black-moneyed man, Hoarders, Smugglers and like).

Ethical behaviour goes beyond a normatively moral behaviour (which no doubt is very important). It involves an extra over way of life where a bit of preaching is added to a lot of practicing of the 'brotherly spirit' so that his authority helps him to implement in practice what the concepts preach.

## SOCIAL RESPONSIBILITY OF CIVIL SERVANT IN INDIA

Mahatma Gandhi once said that all the Industrialists were to regard themselves as holders of trust for the nation. A civil servant also must adopt this maxim for his existence. Civil Services help Governments to make laws and implement them:

- a. For preventing concentration of wealth and monopolistic and restrictive trade practices (M & RTP Act).
- b. For setting up controls in vital sectors of the economy such as Industry (Eg. Industry Regulation Act), Food and Civil Supplies (Essential Commodities Act, Agriculture, Fertilizers, seeds and pesticides quality control measures).
- c. For a better and equitable distribution of assets through measures like (i) Land Reforms (ii) Subsidised Infrastructure building and subsidies for weaker sections and areas of society (iii) Reservation quotas, scholarships in educational institutions and employment (iv) Minimum wages laws.

All these objectives and tasks need a committed civil service.

*When the last great scorer comes to write against  
your name, He writes not that you had won or lost,  
but how you conducted yourself in a just and  
equitable way the game of life...*

**-Rig Veda**

## Chapter 8

# MAXIMS FOR PUBLIC SERVANTS

### I. YOU AND YOUR JOB

1. You are a public servant.
2. Effect of any action on the people should never be over looked.
3. Do not forget the human aspects of administration
4. Be action minded.
5. Be constructive.
6. Collect and master the details and the facts without being their slave.
7. Take scrupulous care of accounting for public funds.
8. Take adequate care in using of government property.
9. Follow rules but do not become their slave.
10. Value official reports, informal discussions and personal visits.
11. Make regular and thorough inspections.
12. Note the importance of following up of orders or actions.
13. Pick the right man for the right job.
14. Do not neglect uninteresting, unimportant or routine work.

15. Recognise the importance of arriving at quick decisions.
16. Give a patient hearing to all the parties.
17. Not merely do justice, but people should know that justice is done.

## II. YOU AND YOUR CO-WORKERS

1. Pick the right man for the right job.
2. Maintain the dignity and self confidence of your subordinate.
3. Commend freely and openly, but rebuke sparingly and secretly.
4. Be objective, responsible and just in confidential reports.
5. Do not let down your colleagues.
6. Put yourself in the other persons shoes.
7. Do your own job and let your subordinates do their own.

## III. YOU AND THE PUBLIC

1. You are the servant of the people
2. Always visualize what impression your actions and orders will make on the people.
3. Administration deals with human beings.
4. Seek public esteem, not cheap popularity.
5. Public are interested in your achievements, not in your difficulties.
6. Anonymity, an essential virtue.
7. Public esteem is a tremendous moral booster.
8. Justice and duty before popularity.

9. You are a servant of the people, not of any party.
10. Both your justice and integrity should be demonstrable and provable before the public.
11. There is always room for honest differences of opinion.
12. Accessibility, a great virtue in a public servant
13. Public impression a useful corrective to official reports.

#### IV. YOU AND THE PEOPLE'S REPRESENTATIVES

1. Find your way though advised selfishly.
2. Remember facts are more important than advice.
3. Loyally carry out proper orders and instructions of the political executive.
4. Self interest has a place in public life.
5. Take advice and co-operation from all parties but make your own decisions.

#### V. YOU AND YOURSELF

1. Efficiency in action is yoga.
2. Your health is a must for your job.
3. Develop a healthy and cheerful personality.
4. Keep abreast of the times.
5. Your job, worthy of choice by the very best.
6. Just rewards shall not by pass you.



7. To thine own self true.
8. A sense of humour is essential

## VI. FINAL MAXIMS

1. Not merely follow and practice these maxims yourself but train and encourage your colleagues, subordinates or co-workers to do the same.
2. Example is better than precept.

***NONE OF US IS AS STRONG AS ALL OF US***

## Chapter 9

# A.P. CIVIL SERVICES (CONDUCT) RULES 1964

## GENERAL

- 1.1 Under the proviso to article 309 of the Constitution of India, which empowers the Governor to make rules regulating inter alia, the conduct of Government employees, the A.P. Civil Services (conduct) Rules 1964 came to exist.
- 1.2 These rules contain the do's and don'ts of Government servants.

## SCOPE

2. Government employee is defined as any person who is a member of Civil Service of the State of Andhra Pradesh or holds any civil posts under the State or in connection with the affairs of the State, whether he is on duty or under suspension or on leave or on foreign service, either within or outside the State.

## FAMILY

3. These rules are also applicable to the members of the Family of the Government employee. "Member of the Family" includes the spouse, son, daughter, step son or step-daughter of such employee whether residing with such employee

or not and any other person related to and residing with, such employee and wholly dependent on such employee; but does not include a spouse legally separated from such employee or a son, daughter, step-son or; step-daughter who is no longer in any way dependent upon such employee or of whose custody such employee is deprived by law.

#### **4. FUNDAMENTAL RIGHTS OF INDIAN CONSTITUTION**

4.1 ARTICLE : 14 Equality before law.

4.2 ARTICLE : 15 Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

4.3 Article : 16 Equality of opportunity in matters of Public Employment

4.4 Article : 19 Rights to freedom

4.4.1 Freedom of speech and expression

4.4.2 Freedom of assembly

4.4.3 Freedom of association

4.4.4 Freedom of movement

4.4.5 Freedom of residence and settlement

4.4.6 Freedom of Profession, Occupation, trade or Business.

#### **5. RESTRICTIVE PROVISIONS OF CONDUCT RULES**

5.1 Restriction on constitutional rights

5.1.1 Taking part in politics and elections

5.1.2 Joining of and Forming Associations

5.1.3 Demonstrations and Strikes

- 5.1.4 Connection with Press and Radio, Criticism of Government
- 5.1.5 Acquisition and Disposal of Property
- 5.2 Restriction on personal Rights
  - 5.2.1 Private Trade and Employment
  - 5.2.2 Investing, Lending and Borrowing
  - 5.2.3 Collection of Subscription
  - 5.2.4 Acceptance of Gifts
  - 5.2.5 Public Demonstrations
  - 5.2.6 Vindication of Acts and Character
  - 5.2.7 Canvassing of outside influence
  - 5.2.8 More than one marriage
  - 5.2.9 Consumption of Intoxication drinks
- 5.3 The ultimate aim of such restrictions which forbid the Government servant to do certain acts is mainly intended to improve the tone of Public Service. The relationship between the Government and the Government servant is governed by the Law of Master and Servant relationship.
- 5.4 A Government servant is expected to maintain a reasonable and decent standard of conduct and not bring discredit to his service by his misdemeanour.
- 5.5 Thus neglect by a Government servant of his wife and his children in a manner unbecoming of a Government servant, may be regarded as a good and sufficient reason to justify action being taken against him.
- 5.6 If the Government were to sit back and permit its officials to commit

any outrage in their Private Life, provided it falls short of criminal offence, the result may very well be catastrophic fall in the moral prestige of the Administration.

5.7 The State could demand a certain standard of conduct from the Government servant not only while performing their official duties but in their private life as well.

5.8. Arguments are often raised to the effect that in view of the complexities of modern life, the consideration of expediency should outweigh the considerations of Honesty. Consideration of expediency may be irresistible at times but their evils are merely to be put up with and not to be extolled or prescribed as standards of life and work.

5.9 A Public Officer is not at liberty to amass fortune by taking illegal gratification even though willingly given.

6.1 Every Government Servant should At All Times :

6.1.1 maintain devotion to duty

6.1.2 maintain absolute integrity, discipline, impartiality and a sense of propriety.

6.1.3 do nothing which is unbecoming of such employee or derogatory to the prestige of Government.

6.1.4 not act in a manner which will place his official position under any kind of embarrassment

6.1.5 exercise his best judgement in the performance of his official duties except when he is acting under a direction from his official superior.

6.2 Integrity is uprightness, honesty or purity.

6.3 Devotion to duty is faithful service.

6.4 Unbecoming of a Government servant is unmannerly attitude, insubordination, lack of decorum, laziness, corrupt habits, shirking of

responsibility and other things which are normally branded as unworthy of a Government servant.

- 6.5 The dictionary meaning of misconduct is given as bad management, mismanagement, culpable neglect of an official in regard to his office. It is a transgression of some established and definite law or a forbidden act. It implies a wrongful intention and not a mere error of judgement. Misconduct is something more than mere negligence. It is the intentional doing of something when the doer knows to be wrong or which he doer recklessly, not caring what the result may be. It is a sufficiently wide expression and covers any conduct which in any way renders a person unfit for his office or is likely to tamper or embarrass the administration. In this sense, grossly improper or unbecoming conduct in public life may also become misconduct and may render an officer liable to disciplinary action.
- 6.6 Moral is concerned with right and wrong or duty which one owes to one's fellow beings or to the society in general.
- 6.6.1 Moral turpitude is a reprehensible Act contrary to the accepted notions of right and customary rule or code of conduct accepted by the society. It would mean anything done contrary to justice, honesty, modesty or good morals.
- 6.7 Corruption includes all improper and selfish exercise of power and influence attached to a Public Officer.
7. No Government employee can associate himself with an association, the object or activities of which are prejudicial to the interests of the Sovereignty and Integrity of India or Public Order.
8. He should not participate in strike or absent from duty or work without permission, or neglect his duties with the object compelling any superior officer or Government to take or omit to take official action or indulge in demonstrative fast like hunger strike or refuse to receive his pay.
9. No gifts can be accepted the prominent exception being a gift of a value of less than Rs. Two hundred from personal friends on ceremonial occasions such as weddings.

10. Every Government employee (other than members of last grade service) should, on first appointment to the Government service, submit to Government a statement of all immovable properties whose value exceeds Rs. 20,000/- in the forms prescribed in Annexure-I and II to Sub-Rule 9.
11. He should also submit before 15th January of every year, a declaration in the forms given in Annexure I and II of Rule 9 (7) of all immovable/ movable property owned, acquired or inherited by him or held by him on lease/or on mortgage, either in his own name or in the name of any member of his family.
12. Every Government Servant shall intimate to the competent authority within 15 days from the date of receipt of foreign currency or foreign goods of the value exceeding Rs. 10,000/- from any person by him or by any member of his family or by any person on their behalf.
13. No Government employee should except after previous intimation to the head of the Department acquire or dispose of or permit any of his family member to acquire or dispose of, any immovable property by exchange, purchase, sale, gift or otherwise either by himself or through others. If such a transaction is conducted from a private dealer (not a regular or reputed dealer), the previous sanction of the Head of the Department Appointing authority/Regional Officer/District Collectors/ Other District Officers, as the case may be, as specified in sub-rule (10) of rule 9 should be obtained. Same is the case with the movable property exceeding Rs. 20,000/- in value.
14. The violation of above and or any of the following rules of conduct, would be treated as negligence/misconduct and is required to be dealt with under the A.P. Civil Service (CCA) Rules 1991.

**RULE NO. NATURE OF PROHIBITION IN THE CONDUCT RULES**

- 3 - B Adopt dilatory tactics or wilfully cause delays
- 3 - C Indulge in sexual harassment with any working women

- 4 - Strikes
- 5 - Demonstrations
- 6 - Acceptance of gifts, services, entertainments, address and other forms of felicitations.
- 7 - Collection of subscriptions or other pecuniary assistance in pursuance of any object.
- 8 - Lending, borrowing and insolvency
- 9 - Acquiring or disposing of immovable or movable property.
- 10 - Indulging in private trade, business and investment.
- 11 - Promotion and management of companies in private capacity.
- 12 - Private employment.
- 13 - Publication of books.
- 14 - Communications of official documents or information
- 15 - Connection with press.
- 16 - Participation in radio broadcast and contribution to newspapers and periodicals
- 17 - Criticism of the policy or action of Government or any other state govt. or central Government.
- 18 - Evidence before any committee, commission or other authority.
- 19 - Taking part in politics and elections.
- 20 - Vindication of acts and character of Government employee.
- 21 - Working with or under relatives in Government service.
- 22 - Employment of a member of the family in a private firm.



- 23 - Government employee not to deal in his official capacity with matters concerning himself, his relatives or dependants.
- 24 - Influencing authorities for furtherance of interests.
- 25 - Bigamous marriages.
- 26 - Dowry
- 27 - Drinking

**A rule once made, restricts  
the freedom of its own maker**



"Rules are Rules!"



Here is the written explanation you wanted for my coming late yesterday, sir!

## Chapter 10

# ANDHRA PRADESH CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES 1991

### PART - I : GENERAL (Rules 1-3)

1.1 The APCS (CCA) Rules 1991 (G.O.Ms. No. 487 GA (Scr. C) Dept., dt 14.9.92) were published in the A.P. Gazette on 1st July 1992. These rules came into force with effect from 1 October 1992. These rules are intended to be applicable to every Government servant who is a member of the Civil Service of the State, whether permanent or temporary, a Government Servant whose services are temporarily placed at the disposal of the Govt. of India, the Government of another state or a company, corporation or organization owned or controlled by Government, or a local or other authority and a Central Government employee, employee of other state Government and Employee of a Local Government of A.P. who is temporarily working with the State Government. These rules define Disciplinary authority as one who is competent to impose any of the penalties specified in rule 9 or rule 10.

### PART-II : CLASSIFICATION (Rules 5-7)

2.1 The Civil services of the state are classified into :

- i) The State service-included in schedule I (Gazetted officers),  
and

- ii) The subordinate services-included in schedule II (Non Gazetted employees).

### **PART-III : SUSPENSION (Rule-8)**

- 3.1 A member of the service may be placed under suspension from service:
  - 3.1.1 Where a disciplinary proceedings against him is contemplated or is pending, or
  - 3.1.2 Whether in the opinion of the component authority, he has engaged himself in activities prejudicial to the interest of the security of the state, or
  - 3.1.3 Where a case against him in respect of any criminal offence is under investigation, inquiry or trial.
- 3.2 The authorities component to suspend members of state and subordinate services are laid down in rules 12-15.
- 3.3 A Government servant shall be deemed to have been placed under suspension by an order of the authority competent to place him under suspension:
  - 3.3.1 With effect from the date of his detention if he is detained in custody whether on a criminal charge or otherwise for a period exceeding fortyeight hours.
  - 3.3.2 With effect from the date of his conviction if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding fortyeight hours and is not immediately dismissed or removed or compulsorily retired consequent to such conviction.
- 3.4 An order or suspension, may at anytime, be modified or revoked by the authority which made the order or by any authority to which that authority is subordinate.
- 3.5 The State Government have prescribed proforma for issuing the orders

of suspension in G.O. Ms. No. 411 GA (Ser. C) Dept. dt. 28.7.93 for the guidance of the competent authorities. Similar proforma for continuance under suspension after review, in intervals of six months has been prescribed in Govt., memo No. 904/Ser. C/67-1 GAD dt. 29-5-1967. The checklist prescribed in Govt. Circular Memo No. 56183/ Ser-c/99 GAD dated 15-10-99. should be kept in view.

- 3.6 The object of placing an officer under suspension is generally to facilitate easy collection of evidence from witnesses who may hesitate to depose against an officer so long as he is in office, or to prevent an officer from tampering with witnesses or records. In many cases it is not quite necessary to keep the officers under suspension after a certain period.
- 3.7 The circumstances in which a disciplinary authority may consider it appropriate to place a Government servant under suspension as indicated by the Government, are detailed below. These are only intended for guidance and shall not be taken as mandatory.
- 3.7.1 Cases where continuance in office of the Government servant will prejudice the investigation, trial or any inquiry (eg. apprehended tampering with witness or documents).
- 3.7.2 Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which the public servant is working.
- 3.7.3 Where the continuance in office of the Government servant will be against the wider public interest other than those covered by (1) and (2) above, such as, there is a public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals particularly corruption.
- 3.7.4 Where allegations have been made against the Government servant and the preliminary inquiry has revealed that a prima facie case is made out which would justify, his prosecution or his being proceeded against the departmental proceedings and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service.

- 3.7.5 In the first three circumstances, the disciplinary authority may exercise his discretion to place a Government servant under suspension even when the case is under investigation and before a prima facie case has been established.
- 3.7.6 Certain types of misdemeanor or where suspension may be desirable in the four circumstances mentioned are indicated below :
- 3.7.7 Any offence or conduct involving moral turpitude.
- 3.7.8 Corruption, embezzlement or misappropriation of government money, possession of disproportionate assets, misuse of official powers for personal gain.
- 3.7.9 Serious negligence and dereliction of duty resulting in considerable loss to Government.
- 3.7.10 Desertion of duty
- 3.7.11 Refusal or deliberate failure to carry out written orders of superior officers.
- 3.7.12 In respect of the types of misdemeanor specified in (9) (10) & (11) above, discretion has to be exercised with care.
- 3.8 It should also be considered at an early stage whether sending the officer on leave (if he is willing to take it) will not be suitable step to take. This of course, will not apply in all serious cases where there is good prima facie case.
- 3.9 The authority competent to suspend the Government servant, while issuing the orders of suspension should invariably mention in the said order the subsistence allowance which should be paid to the Government servant concerned. The order of suspension cannot be given with retrospective effect. Every order, notice and the other process made or issued under these rules (Vide rule 42) should take effect only from the date of :
- 3.9.1 Service of that order on the delinquent by delivering or tendering it in person, if he is on duty.

- 3.9.2 Communication of that order to the delinquent by registered post to the address given by him, if any or of his usual place of residence.
- 3.9.3 Publication in the A.P. Gazette, if it cannot be so served or communicated.
- 3.10 Where a Government servant is suspended, he is free to go wherever he likes, but he must leave address with the head of the office, or if he is himself the Head of the office, with his immediate superior. He must also leave his address with the officer, if any, holding an inquiry into his conduct. He must obey all orders to attend any inquiry into his conduct and if he fails to do so, the inquiry can be held in his absence.
- 3.11 A member of a service who is deemed to have been suspended by an order of the competent authority if he is detained in custody on a criminal charge or otherwise, for a period exceeding fortyeight hours, and if such a Government servant is released on bail, the competent authority may revoke the orders of suspension and admit him to duty or grant him leave during the period, if applied for by him, if the said authority thinks fit to do so having regard to the nature of the charge and other circumstances of the case. The mere fact that the member of the service has been granted bail, does not give him a right to be restored to duty.
- 3.12 When a penalty of dismissal, removal or compulsory retirement imposed on a member of a service who has been placed under suspension is set aside in appeal or review or by a decision of a court of law and further inquiry or action is contemplated shall be deemed to have continued under suspension from the date of the original order of dismissal, removal or compulsory retirement until further orders.
- 4.1 The authorities which are empowered to suspend certain members of state services are specified in rule 13. Where no such specific provision is made the concerned regional authority if any is competent to suspend members holding initial Gazetted Posts. The Head of the Department is competent to suspend members holding second level Gazetted posts. If there is no Regional authority, the Head of the Department can exercise his power in respect of both the initial and second level Gazetted Officers. In the absence of specific provision, the immediate



superior Gazetted officer vide 14 (1) (a) or higher authority including appointing authority or any highest authority (including Government) is competent to exercise this power of suspension in respect of subordinate services.

- 4.2 In trap cases, the Government servant should be suspended immediately after the trap basing on the preliminary report of the Anti Corruption Bureau. If there is likely to be any interregnum between the trap and the actual relief of the trapped officer after being placed under suspension, the competent authorities should consider whether the officer could be transferred immediately so that material evidence is not destroyed and the arrangements should be made to relieve trapped officer forthwith.
- 4.3 In disproportionate assets cases, the accused officer need not be suspended immediately following the registration of the cases. But he may be transferred to a far off non-local post to avoid likelihood of his tampering with the records and influencing the witness.
- 4.4 If, however, the Anti Corruption Bureau finds during investigation that there is reasonable ground for believing the accused officer has deliberately failed to co-operate with the investigating agency or that he is trying to tamper with the official records or influencing the witnesses or bringing pressure on the investigating officers, it is open to the disciplinary authority to place the accused officer under suspension, at that stage, based on the recommendation of the Anti Corruption Bureau to that effect.
- 4.5 In cases other than those mentioned above, the disciplinary authority should consider and decide the desirability of placing the accused officer under suspension, if he is not already under suspension as and when charge sheet is filed against him in the court or where after investigation, it is decided to initiate regular departmental action for imposing any of the major penalties and a charge memorandum is served in this regard.
- 4.6 The cases of loss and fraud are usually reported to the police and officials involved who are placed under suspension continue to be under suspension till they surrender or are apprehended by the police and

prosecuted, resulting in either the case dragging on for a long time or if and when the absconding officials are apprehended and proceeded against, they are required to be paid the subsistence allowance, if they produce a certificate of non-employment.

- 4.7 In such cases, the disciplinary authorities shall take the following action.
- 4.7.1 A certificate should be obtained from the local police authorities to the effect that whereabouts of the officials concerned are not known. This certificate should be placed on record in the connected file.
- 4.7.2 A brief statement of the allegations should be prepared and kept on the file.
- 4.7.3 The disciplinary authority should himself record on the file the fact that the whereabouts of the officials concerned are not known and that the police authorities have also certified to that effect and, therefore, it is not reasonably practicable to hold the inquiry contemplated under Rule 20. The disciplinary authority can then take recourse to rule 25 where there is provision to dispense with the enquiry. Reasons for not holding inquiry should then be recorded in writing and the disciplinary authority issue orders imposing such penalty, as it deems fit. The allegations and charges have to be briefly discussed in the punishment orders. Normally in such cases, the punishment that could be meted out would be either removal or dismissal from service.
- 4.8 A reference to the report/recommendation made by the higher authority, Anti Corruption Bureau and Vigilance & Enforcement dept. should be avoided in the orders of suspension issued by the competent authority in order to establish that the competent authority has exercised his power independently.
- 4.9 Where the work and conduct of an emergency employee are not satisfactory he should not be placed under suspension pending inquiry as it involves financial loss to Government nor should disciplinary action be initiated against them but he should be discharged from service in terms of his appointment by an innocuous order so far to avoid complication.

- 5.1** Review of the orders of suspension after a period of every six months should be undertaken as specified below :
- 5.1.1** In the case of Gazetted officers, if the suspension order is issued by the Regional authority the first review after six months will be done by him only. The second and subsequent reviews will be done by the Head of the Department at six monthly intervals. When no Regional authority exists and the Head of the department ordered suspension of first and second level Gazetted officers such order shall be reviewed every six months by him only.
- 5.1.2** If the original order of suspension is issued by Government all reviews including first review shall be done as ordered above except that prior approval of the Government to the result of the review shall be obtained when the review leads to reinstatement before reinstatement orders are issued.
- 5.1.3** In respect of third level and above Gazetted categories of officers, the review of order of suspension, at an interval of every six months shall be done by Government only.
- 5.2** In respect of members of the subordinate service the first review of the order of suspension after six months from the date of issue of orders shall be by the appointing authority. The 2nd and subsequent reviews of the order of suspension shall be by the Head of the department at an interval of every six months. Where the appointing authority is Head of the department itself, the review of the order of suspension at an interval of every six months shall be by the Head of the department only. Even if suspension is ordered by the higher authority the review shall be done as ordered above, except that the report on the result of review shall be sent to higher authority for information & record.
- 5.3** It may not be desirable to place an officer under suspension for a long period or indefinitely. Therefore, in all cases where a member of service is placed under suspension, action regarding investigation or inquiry as the case may be, should be undertaken on priority basis with utmost speed at all levels keeping in view the limits fixed for the inquiries at all stages and disciplinary proceedings should be finalised and orders

issued as early as possible. Even in respect of criminal cases filed in the special courts for SPE and ACB cases, efforts should be made by authorities concerned that the trial is completed at the earliest possible period so that the member of service is not continued under suspension for longer period.

5.4 However an outer limit of two years has been prescribed from the date of suspension, failing which the Govt. servant may be reinstated without prejudice to the proceedings being pursued. In exceptional cases, especially where there is deliberate delay caused due to non co-operation of the employee concerned suspension beyond two years can be continued.

5.5 Payment of subsistence allowance should not be withheld pending review of suspension.

## **PART-IV : CONTROL (Rules 9-10)**

6.1 Control is sought to be achieved by providing for the imposition of the following penalties on Government servants for their acts of negligence and misconduct. These penalties may be imposed on members of the state and subordinate services for good and sufficient reasons.

## **MINOR PENALTIES**

- i) Censure
- ii) Withholding of promotion
- iii) Recovery from pay of the whole or any part of the pecuniary loss caused to the state Government or local authority or corporation, by negligence or breach of orders.
- iv) Withholding of increments without cumulative effect.
- v) Suspension (as a specific penalty) where a person has already been suspended under rule 8.

## MAJOR PENALTIES

- vi) With holding of increments with cumulative effect.
  - vii) Reduction to a lower rank in the seniority list, or to a lower post, not or being lower than to which he was directly recruited, or to a lower time scale not being lower than to which he was directly recruited or to a lower stage in a time-scale.
  - viii) compulsory retirement
  - ix) Removal.
  - x) Dismissal.
- 6.2 It is misnomer to consider the minor penalty as of little or no significance. According to G.O. Ms. No. 342 GAD (Ser) dt. 4-8-97, any minor penalty debars promotion for a minimum period of one year. Withholding of increments with cumulative effect bars promotion for twice the Period of stoppage.
- 6.3 The penalty of fine vide rule 10 (i) may be imposed only on a member of last grade service and holders of other posts specified in Appendix 1 to the rules.
- 6.4 The penalty of suspension for a period not exceeding 15 days may be imposed on Forest guards, directly recruited members of A.P. Police Subordinate service, A.P. Special Armed Police service and certain categories of A.P. Fire Subordinate Service, vide rule 10 (ii).
- 6.5 "Censure" is a formal penalty which in the form of reprimand imposed on a person who is guilty of a blame worthy act of omission or negligence.
- 6.6 Removal of a person does not disqualify him from future employment but dismissal shall ordinarily disqualify him from future employment.
- 6.7 In every case in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing of forbearing to do any official act, is established, the penalty of removal or dismissal shall be imposed.

- 6.8 To improve the tone of administration, the Government have since ordered that in all proved cases of misappropriation, forgery, outraging modesty of women bribery and moral turpitude penalty of dismissal shall be imposed

## **AUTHORITIES COMPETENT TO IMPOSE PENALTIES ON GAZETTED OFFICERS**

- 7.1 The authorities which are competent to impose certain penalties on some members of the state service are given in rule 11. In the absence of such specific provision in rule 11, the general rule is that every Head of the Department declared to be the appointing authority may impose on any member of the state service holding an initial or second level gazetted post under his control, any of the penalties specified in clauses i to viii of rule 9 (GO Ms. No. 428 GA (Ser. C) dept. dt. 13.10.99. Government alone have the power to remove or dismiss Gazetted officers. Government being a higher authority to the Head of the department can impose any penalty on Gazetted officers after consultation with the APPSC wherever necessary.

## **COMPETENT AUTHORITIES TO IMPOSE PENALTIES ON SUBORDINATE SERVICES (Rule 14)**

- 7.2 The authorities competent to impose certain penalties on members of some subordinates service (Non-Gazetted) are specified in rule 14 and in appendices, II, III & IV. In the absence of such specific provision, the general rule is that the penalties of (i) Censure (ii) Fine (Clause (i) of rule 10) (iii) withholding of increments (Clauses (i) and (iv) of rule 9) can be imposed on a Government servant by his immediate superior gazetted officer or where the appointing authority for such member is a non gazetted officer, such officer or any higher authority. The officer next above the immediate superior Gazetted officer or appointing authority or any higher officer may impose the penalty or recovery from pay.
- 7.3 The appointing authority or any higher authority may impose on a member of the subordinate service the penalties of withholding of

promotion for any specific fault or misconduct, suspension to the extent considered necessary, reduction, compulsory retirement, removal and dismissal.

7.4 Where in any case a higher authority has imposed or declined to impose a penalty, a lower authority shall have no jurisdiction and where in any case a lower authority has imposed penalty or exonerated a member, it shall not debar a higher authority from exercising his powers. His orders shall supersede any order passed by a lower authority (Rule 18)

7.5 **PERSONS LENT :** Where the service of a person is lent by one department to another or to Govt. of India the instructions in rules 30 and 31, as amended in Go. Ms. No. 20 Gl. Adm. (Ser-c) Dpt. dt. 20-1-2000 shall be followed.

## **PART-V : PROCEDURE FOR IMPOSING PENALTIES (Rules 20, 21, 22 & 23)**

### **MINOR PENALTIES (Rule 22)**

8.1 No order imposing the penalties I to V of rule 9 or 10 shall be passed by the authority competent to impose the penalty except after the member of the service is informed in writing of the imputations of misconduct or misbehavior and the proposal to take action against him and given an opportunity to make representation in the standard form VI or VII prescribed in Go. Ms. No. 82 GAD. (Ser-c) dt. 1-3-96, depending on the gravity of the charge(s). Representation, if any, is taken into consideration and examined. When an inquiry is conducted under Rule. 20, there is no need to give further opportunity to the charged officer and a minor Penalty may be imposed on the basis of evidence adduced during the inquiry.

8.2 The record of proceedings in such cases of minor penalty should contain :

8.2.1 A copy of the intimation to the Government servant of the proposal to take action against him.

8.2.2 A copy of the statement of imputations of misconduct or misbehaviour

- delivered to him.
- 8.2.3 His representation, if any.
  - 8.2.4 The evidence produced during the inquiry, if any.
  - 8.2.5 The advice of the APPSC, if any.
  - 8.2.6 The findings on each imputation of misconduct or misbehaviour.
  - 8.2.7 The orders on the case together with the reason therefor.
- 8.3 A disciplinary authority competent to impose any of the penalties specified in clauses (i) to (v) of rule 9 or in rule 10, may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (vi) to (ix) of rule 9, notwithstanding that such disciplinary authority is not competent to impose any of the latter penalties.

## MAJOR PENALTIES (Rule 20)

- 9.1 An elaborate procedure prescribed in Rule 20 for imposing major penalties. Under Art. 311 of the constitution no civil servant can be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges and given a reasonable opportunity of being heard in respect of those charges.
  - 9.1.1 Under clause (4) of rule 20, it is the responsibility of the disciplinary authority to undertake the work of framing charges and to deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of 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. (The form No. II prescribed should be used).
  - 9.1.2 On receipt of the written statement of defence, or if no written statement of defence is submitted by the Government servant, further inquiry needs



to be conducted in respect of charges not admitted in the former case and Ex- parte inquiry in the later case.

- 9.1.3 The disciplinary authority shall necessarily appoint an Inquiry Officer when he proposes to conduct detailed inquiry in cases where, in his opinion, the charge if proved, warrants imposition of major penalty, instead of himself taking up the inquiry, unless the appointment of Inquiry Officer becomes impossible in view of the non-availability of the Officer in the Department. (Govt. Memo. No. 46733 GI. Adm.(Ser.-c) Dpt, dt. 22-10-1999).

For appointment of Inquiry Officer form IV should be used.

- 9.1.4 The government servant may either appear himself in person before the Inquiring authority or may take the assistance of any other Government servant or retired Govt. servant to present the case on his behalf subject to the conditions laid down in clause (8) of rule 20.

- 9.2 The manner in which such an inquiry officer has to conduct the inquiry and submit his report to the competent authority is dealt within rule 20 (23). A format is prescribed for submission of Enquiry Officer's report in Govt. Circular Memo No. 56183/Ser-c /99 GAD dt. 15-10-1999.

- 10.1 On receipt of inquiry report, disciplinary authority shall first see whether it conforms to the check list prescribed in Govt. Circular Memo No. 20922/ Ser-c/99 GAD dt. 28-9-99, and take action as per rule 21, and instruction in Govt. U.O. Note No. 11107/Ser-c/99 GAD. dt. 1-3-99.

- 10.1 (a) When it is proposed to award a major penalty he shall furnish a copy of inquiry officers report to the person charged and allow a reasonable time not exceeding one month to submit his further representation, if any, on inquiry officers report, vide rule 21 (4), However if the gravity of the charged held proved warrants only minor Penalty, it may be awarded straightaway.

- 10.2 There is no need to give any opportunity to the charged officer to make a representation against the penalty proposed to be imposed, in view

of Art. 311 (2) of the Constitution as amended by the 42 nd amendment Act 1976 to the constitution of India.

- 10.3 Where the authority to impose the punishment is the State Government, it is necessary, before passing an order, to consult the AP Public Service Commission. in the cases mentioned in Govt. Memo No. 32667/98-99 dt. 3.5.99. With a view to hastening the process of finalization of cases, Government ordered that the department should forward the proposals to the APPSC in complete shape including information on all the items referred to in the check list appended to Govt. Memo No. 655/Ser. C/ 99-1 GAD dt. 17.8.90. A copy of the letter of the Public Service Commission containing its advice, may, if applied, be supplied to the accused Government servant. Where such advice has not been accepted, a brief statement or the reasons for such non-acceptance shall be furnished to the Government servant concerned along with a copy of the case, vide rule 44. As instructed in Govt. U.O. Note No.43946/Ser-c/2000-3 GAD. dt. 12-10-2000 consultation with APPSC. is not necessary before a major penalty is imposed on those who are convicted in a Court of Law or Special Courts for Special Police Establishment and ACB Cases.
- 10.4 The final order containing the decision of the authority competent to impose the penalty, should be a self contained speaking order. Even where the order is passed by the Government, the order should set out briefly the relevant facts, findings, advice of the Commission and Government's decision thereon. It should be signed by an officer authorized to sign orders on behalf of the Government. Such an order should be communicated to the accused Government servant and his acknowledgment in token of having received it, should be obtained and kept on record.
- 10.5 The following types of cases may merit action for imposing one of the major penalties. These are meant for guidance and not to be treated as yard stick for imposing a major penalty.
- 10.5.1 Cases in which there is a reasonable ground to believe that a penal offence has been committed by a Government servant but the evidence forthcoming is not sufficient for prosecution in a court of law eg.

- 10.5.2 Possession of Disproportionate assets.
- 10.5.3 Obtaining or attempting to obtain illegal gratification.
- 10.5.4 Misappropriation of Government property, money, stores.
- 10.5.5 Obtaining or attempting to obtain any valuable thing or pecuniary advantage without consideration or for a consideration which is not adequate.
- 10.5.6 Falsification of Governments records.
- 10.5.7 Gross irregularity or negligence in the discharge of official duties with a dishonest motive.
- 10.5.8 Misuse of official position or power for personal gain.
- 10.5.9 Disclosure of secret or confidential information even though it does not fall strictly within the scope of official secrets act.
- 10.5.10 False claim on the Government like T.A. claims, reimbursement claims etc.,
- 10.5.11 To ensure clean and efficient administration it was directed in G.O.M.S. No. 2 Gl. Adm. (Ser-c) Dpt. dt. 4-1-1999 that in all proved cases of mis appropriation, bribery, bigamy, corruption, moral turpitude, forgery and outraging the modesty of women, the penalty of dismissal from service shall be imposed, as already mentioned in para 6.8 ante.
- 11.1 The procedure laid down in Rule 20 of the AP Civil Service (CCA Rules) in regard to the imposition of major penalties, need not be followed in certain exceptional cases, as mentioned in rule 25, viz:
  - 11.1.1 When a person is punished on the ground of conduct which has led to his conviction on a criminal charge.
  - 11.1.2 Where an authority competent to impose penalty is satisfied that for some reason to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing

cause.

11.1.3 Where the Governor is satisfied that in the interest of security of the state it is not expedient to give to that person such an opportunity or to hold such inquiry.

11.1.4 Where it is proposed to impose any of the penalties specified, on the basis of the report of the Lokayukta or Upalokayukta, the disciplinary authority shall take action on the basis of the recommendation contained in that report (rule 27).

## COMMON PROCEEDING (Rule 24)

12.1 According to rule 24 where two or more members of the same service or different services are concerned in any case, the Government or any other authority competent to impose the penalty of dismissal from service on all such members may make an order directing that disciplinary action against all of them may be taken in a common proceeding. If the authorities competent to impose the penalty of dismissal on such members are different, such authorities not being the Government, an order for holding such inquiry in a common proceeding may be made by the highest of such authorities with the consent of the other authorities competent to impose the said penalty on others.

12.2 It is for the highest authority who orders joint inquiry to see that the penalty imposed is proportionate to the seriousness of the charges held proved, keeping in view their degree of culpability/seriousness of lapses held proved, while imposing the penalty in such cases.

12.3 When two or more persons are involved in one case, the magnitude of involvement of all the delinquent officers may not be the same and the degree of culpability may also vary from person to person. As such it may not be possible to impose the same penalty uniformly on all the charged officers, irrespective of the degree of their involvement. If the same penalty is imposed on all such delinquent and maligned officers involved in a case, ignoring their degree of culpability and involvement, such action is liable to be questioned. As such, it may not be legally

valid to prescribe any guidelines or yardsticks for imposing penalty in such cases. The competent authority who orders such a joint inquiry should ensure that the members of service involved in disciplinary cases are imposed the penalties keeping in view their degree of culpability/seriousness of lapses/charges held proved.

- 12.4 The disciplinary authority should take a comprehensive view by taking into account the totality of the circumstances and the extent of involvement of each of delinquent officers while inflicting the punishment.

## ACQUITTAL BY COURTS

- 13.1 The Supreme Court of India in Corporation of Nagpur Vs Ramachandra (1981) (2 Sec 714-AIR 1984 SC. 626) has made the following observations :

13.1.1 "The other question that remains is if the respondents are acquitted in the criminal cases whether or not, the departmental inquiry pending against the respondents would have to continue. This is a matter which is to be decided by the Department after considering the nature of the findings given by the criminal court. Normally where the accused is acquitted honorably and completely it would not be expedient to continue a departmental inquiry on the very same charges or grounds or evidence, but the fact remains, however, that merely because the accused is acquitted, the power of the authority concerned to continue the departmental inquiry is not taken away or its discretion in any way fettered. However, as quite some time has elapsed since the departmental inquiry has started, the authority concerned will take into consideration this factor in coming to the conclusion if it is really worthwhile to continue the departmental inquiry in the event of the acquittal of the respondents. If, however, the authority feels that there is sufficient evidence and good grounds to proceed with the inquiry, it can certainly do so".

13.1.2 In the light of the above judgement of the supreme Court of India it is clear that the acquittal of the accused officer by the competent court, is no bar to initiate departmental inquiry against the delinquent officer.

13.1.3 The disciplinary authority may, if it comes to the conclusion that an

order imposing a penalty on a Government servant on the ground of conduct which had led to his conviction on a criminal charge should be issued, pass such an order without waiting for the period of filing an appeal, or, if an appeal, has been filed, without waiting for the decision in the first court of appeal. Standard form for such an order is annexed to Government Memo No. 169/Ser.C/77-8 GAD dt. 10.2.78.

13.1.4 Whether, despite the acquittal, the facts and the circumstances of the case are such as to call for a departmental action against the Government servant on the basis of the misconduct on which he was previously convicted, departmental inquiry may be ordered, in standard form No. II annexed to the Government memo.

13.1.5 In case where Government employees is removed or dismissed or reduced in rank after complying with the requirement of article 311 (2) of the Constitution of India or of the provisions of rule 20 of the A.P. Civil Service (Classification, Control and Appeal) Rules, then the order of removal, dismissal or reduction in rank, is not affected by his acquittal in a criminal court, if he is prosecuted in addition to the departmental action taken against him. If however, a Government employee is removed or dismissed or reduced in rank, solely on the ground of conduct which led to his conviction on a criminal charge, without complying with the requirements of the aforesaid article or rule and if his conviction is eventually set aside by the appellate court, or by the High court, in revision, then the order or removal, dismissal, or reduction in rank as the case may be cannot stand, and that order will have to be reviewed.

## UNAUTHORIZED ABSENCE-WILFUL AND PROLONGED ABSENCE FROM DUTY WITHOUT PROPER LEAVE

14.1 In circular Memo No. 4481/A/128/fR.I/88, Fin & Plg. (Fin. Wing F.R.I) dept., dt. 7.7.88 Government have issued instructions ordering concerned departmental authorities to initiate disciplinary action against those employees who remained absent from duty without proper leave and pass appropriate orders on the basis of the disciplinary proceedings by following the procedure laid down in APCS (CCA) Rules. In spite of these instructions the following questions arise for consideration :

- 14.1.1 Whether a member of service who remained absent from duty with proper leave can be permitted to join duty if he gives joining report pending further action to determine or regulate the period of absence by taking disciplinary action or otherwise.
- 14.2 According to F.R 18 and rule 5-A of the A.P. Leave Rules, 1993 and the Note-I thereunder, no Government servant should be granted leave of any kind for a period exceeding five years and that wilful absence from duty not covered by grant of any leave shall be treated as "dies-non" for all purposes viz, increments, leave and pension.
- 14.3 Neither F.R 18 and rule 5-A of the A.P. Leave Rules, can be construed to mean :
- 14.3.1 That the member of service who remains absent from duty without proper leave cannot be permitted to join duty if he gives a joining report, or
- 14.3.2 That such member of service ceases to be in service by such absence so as to discharge him from service in terms of FR. 18.
- 14.4 What therefore follows from this is that if a member of service who remains absent without any leave gives a joining report it should be ensured by the competent authority that he is permitted to join immediately pending initiation of the disciplinary action for unauthorised absence, in case such action has already not been initiated against him and in all such cases the period of unauthorised absence has to be treated as dies-non in accordance with the Note-I under FR 18 and Rule 5-A aforesaid. This treatment of unauthorised absence as dies-non is distinct from disciplinary action taken or to be taken against the employee concerned.
- 14.5 What F.R 18 and rule 5-A of the A.P. Leave Rules mandates is that no member of service shall be granted leave of any kind for continuous period exceeding five years without the specific approval of Government. No inference can be drawn from these rules that disciplinary action against a member of service cannot be taken unless he is continuously absent for more than five years without any leave. It is not at all necessary for the authority competent to wait for a period of five years

to initiate disciplinary action against the member of service for his absence from duty wilfully or unauthorisedly. In all such cases the disciplinary proceedings can be initiated against such member of service who remained absent without any leave straight way by following the procedure laid down in Rule 20 of the APCS (CCA) Rules, 1991 for unauthorised absence without leave which constitutes good and sufficient reasons for initiating disciplinary action under the said rules and such other misconduct as having secured gainful employment elsewhere during his absence from duty without leave. In all such cases the inquiry officer has to be directed to complete the inquiry within a fixed time say within a period of 2 months. The charges framed against the employee concerned should be communicated by Registered Post with acknowledgment due. If however the employee is not available at the last address given by him the charge memo should be got published in the A.P. Gazette and inquiry should be conducted exparte for taking necessary action against him. Even in such cases where an employee reports back to duty, he should be permitted to join duty without prejudice to the action contemplated or pending against him. If employee applies for leave on medical grounds along with the joining report and extends leave on the same grounds beyond three months he should be referred to Medical board for examination and necessary action may be taken against him on the basis of the medical report.

- 14.6 According to the note under Rule 6-A of A.P. Leave Rules read with proviso to FR 73, a temporary Government servant working under emergency provisions, who remains absent from duty after applying for leave or extension of leave to which he is not entitled to under the Rules shall be deemed to have been discharged from duty with effect from the date from which he is not entitled to any leave unless the leave applied for is granted in relaxation of relevant rules. Where such a temporary employee absents himself unauthorisedly or without sufficient justification, action should be taken immediately for discharging him from service invoking this rule, by issuing an innocuous order indicating the provisions under which the employee stands discharged.

## REQUEST FOR "RESIGNATION" WHILE ABSENT

- 14.7.1 Resignation by a member of a service, who is placed under suspension



from service pending investigation or inquiry into grave charges or who is deemed to have been suspended under rule 8 of the A.P.C.S. (Classification, Control and Appeal) Rules 1991 shall not be accepted during the period of suspension.

**14.7.2** The consequence of the resignation as laid down in General rule 30 is that not only the service rendered by the member of service in a particular post held by him at the time of resignation but also all his previous service under the Government will stand forfeited. In view of this consequence the regulation of the period of unauthorised absence would be of no consequence and the acceptance of such resignation tendered by the member of service who remained absent from duty without leave need not wait the determination of unauthorised absence.

**14.8** Where Government servants, while being unauthorisedly absent or where their leave was refused, have sought for voluntary retirement on completion of 20/33 years of qualifying service in accordance with Rules 43 and 44 of Revised Pension Rules, 1980, respectively, the competent authorities concerned have failed to take action to accept them promptly, resulting in unintended benefit to the employees concerned. In case of retirement on completion of 20 years of qualifying service as provided under Rule 43 of Revised Pension Rules 1980, a Government servant who gives a notice in writing of his intention to retire voluntarily shall not retire unless the notice given by him is accepted by the competent authority, provided that the competent authority shall issue an order before the expiry of the notice period accepting or rejecting the notice. In case of voluntary retirement on completion of 33 years of qualifying service as provided under Rule 44 of Revised Pension Rules, 1980, the appointing authority has to issue orders permitting the government servant to retire from service. In normal course, in either case, the voluntary retirement can be accepted/permitted as the case may be, pending determination of the period of unauthorised absence. In cases where it is contemplated to take disciplinary action against the employee concerned, it would be appropriate to frame charges against him before he retires from service so that further action may be pursued in accordance with Rule 9 of Revised Pension Rules unless the charges are grave and acceptance of such notice would not be in public interest. As such, acceptance of notice of voluntary retirement need not await

the determination of the period of absence, provided the Government servant concerned has rendered 20/33 years of qualifying service. Even in cases where an employee is permitted to retire voluntarily, departmental proceedings can be instituted with the sanction of Government in respect of a cause of action which arose or an event which took place not more than four years before such institution, in terms of Rule 9 of Revised Pension Rules.

- 14.9 Whenever official continues to remain absent from duty or overtays leave without permission and his whereabouts are not known, or fails to reply to official communications, the disciplinary authority may initiate action under Rule 20 of CCA, Rules. In all such cases, the competent authority should, by a registered acknowledgment due letter addressed to the official at his last known address, issue a charge-sheet in the form prescribed for the purpose and all upon the official to submit a written statement of defence within a reasonable period to be specified by that authority. If the letter is received undelivered or if the letter having been delivered, the official does not submit a written statement of defence on or before the specified date or at a subsequent stage does not appear in person before the inquiry officer, or otherwise fails or refuses to comply with the provisions of APCS (CCA) Rules, the inquiring authority may hold an exparte inquiry. The notices of all hearing should be served on the accused or communicated to him unless the first notices says that the inquiry will continue from day to day.

## **PART-VI: APPEALS (Rule 32-39)**

- 15.1 No appeal lies against any order passed by the Governor under clause (iii) of rule 25, any order of an inter locutory nature in and of the final disposal of a disciplinary proceedings and any order passed by an inquiring authority in the course of an inquiry under rule 20, vide rule 32.

- 15.2 A Government servant may prefer an appeal against the order of suspension made under rule 8, an order imposing any of the penalties specified in rule 9 or rule 10 by the disciplinary authority, or appellate or revising authority, an order enhancing the penalty imposed under rule

9 or rule 10, an order of discharge for a contract appointment exceeding a period of five years and an order reducing or with holding pension, vide rule 33.

- 15.3 An appeal from an order of High Court shall lie to the Governor and from any other authority including Heads of departments shall lie to the Government and an appeal from an order passed by a lower authority shall lie to the Head of the department.
- 15.4 No appeal shall be entertained unless it is preferred within 3 months of receipt of the order by the appellant. The appellate authority, if satisfied, may entertain an appeal after expiry of the above period (Rule 35 & 43). Every appeal shall be complete in itself and presented to the appellate authority. A copy thereof shall be sent to the authority, which made the order appealed against, who shall offer his comments on the appeal and furnish relevant records to the appellate authority (Rule 36).
- 15.5 A member of a subordinate service shall be entitled to appeal from an order passed by an authority, imposing on him any of the penalties, to next higher authority vide Rule 34 (1) (iii).
- 15.6 The appellate authority is under obligation to consider (i) Whether the procedure has been complied with and if not whether such non compliance has resulted in violation of any Constitutional provision or in the failure of Justice; (ii) whether the findings are warranted by the evidence on record; and (iii) whether the penalty is adequate, inadequate or severe, he can confirm, enhance or reduce or set aside the penalty or remit the case with any direction he deems fit.
- 15.7 The appellate authority, thus, has power to enhance the penalty in an appeal submitted by the affected employee for relief. While enhancing the penalty, the appellant should be given opportunity to make a representation against such enhancement and in case of enhancement to a major penalty, an inquiry should be conducted if not already held, vide rule 37.

- 15.8 The power of Revision/Review vesting in certain specified authorities under rules 40 & 41 can be exercised broadly, in the same manner as in an appeal. Here the power can be exercised suo moto also. A time limit of six months is laid down for this purpose in clause (iii) of rule 45 (1) unless this time limit is relaxed under rule 43.

## TIME LIMITS FOR INQUIRIES

In Govt. U.O. Note No. 19952/Ser. C/2000 GAD dt. 27.4.2000 addressed by Chief Secretary to Govt. to all Secretaries/Prl. Secretaries to Government the following time limits were prescribed :

- |    |  |  |
|----|--|--|
| a. | Fixing date of hearing, inspection of listed documents Submission of list of defence documents and nomination of defence assistant (if not already nominated)  | Within 2 weeks from the date of appointment of the inquiry officer |
| b. | Inspection of documents and submission of list of Defence witnesses/defence documents or examination of relevancy of documents or witnesses, procuring 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 regular hearing   | -do-   |
| d. | Regular hearing on day to day basis  | -do-   |
| e. | Submission of written briefs by presenting officer and by Accused officer/defence assistant to enquiry officer   |  |
| f. | Submission of enquiry report by the enquiry officer  | -do-   |

Note :-

(i) Check lists prescribed for suspension, Inquiry Report and Disciplinary Proceeding are in Chapter 11

(ii) Instructions regarding conduct of inquiries are in Chapter 12, and

(iii) Formats to be used in Disciplinary Proceedings are in Chapter 13.

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The power of revision/review vesting in certain specified authorities under rules 40 & 41 can be exercised broadly in the same manner as in an appeal. Here the power can be exercised suo motu also. A time limit of six months is laid down for this purpose in clause (ii) of rule 43 (1) unless this time limit is relaxed under rule 43

### TIME LIMITS FOR INQUIRIES

In Govt. U.O. No. 1932/2001, dated 27.4.2000 addressed by Chief Secretary to Govt. to all Secretaries/Pr. Secretaries to Government the following time limits were prescribed:

- a. Fixing date of hearing, inspection of listed documents, Submission of list of defence documents and nomination of defence assistant (if not already nominated) Within 2 weeks from the date of appointment of the inquiry officer
- b. Inspection of documents and submission of list of Defence witnesses/defence documents or examination of relevancy of documents or witnesses, 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 regular hearing -do-
- d. Regular hearing on day to day basis Submission of written briefs by presenting officer and by Accused officer/defence assistant to enquiry officer -do-
- e. Submission of enquiry report by the enquiry officer -do-

Note:

- (i) Check lists provided for suspension, Inquiry Report and Disciplinary Proceedings are in Chapter 11
- (ii) Instructions regarding conduct of inquiries are in Chapter 15 and
- (iii) Formats to be used in Disciplinary Proceedings are in Chapter 13

## CHECKLISTS

### I) SUSPENSION II) DISCIPLINARY PROCEEDINGS III) INQUIRY REPORTS

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. A check list of the action at each stage to be verified on different parts namely (1) Institution of disciplinary proceedings, (2) Processing the enquiry report and (3) Awarding Penalties has been evolved for guidance of the disciplinary authorities and prescribed in circular Memo No. 20922/Ser. C/ 99 dt. 28.09.99

#### I. 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 Govt Memo No. 290/Ser.C/94-2 GAD dt. 1-6-94. | Yes/No |
| (b) Whether the charges are framed in the   | Yes/No |

format prescribed in G.O. Ms. No. 82,  
GA (Ser. C) Dept., dt. 01-03-96.

- (c) Whether explanation is received from the delinquent officer within the time stipulated Yes/No
- (d) Whether the delinquent officer asked for any further informatio/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.
- (ii) Whether the appointment of the Inquiry Authority is in accordance with format IV prescribed in G.O. Ms. No. 82, GA (Ser. C) Department, dated 01-03-96. 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, GA (Ser. C) Dept., dt. 01-05-93 and in the format of G.O. Ms. No. 82, GA (Ser. C) dept., dt. 01-03-96 Yes/No
- (iv) In any disciplinary 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 (CCA) Rules and in Form VII of G.O. Ms. No. 82, Genl. Admn. (Ser. C) Dept., dt. 01-03-1996. 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, GA (Ser. C) Dept., dated 15-03-1990. Yes/No
- (vii) Whether the time schedule prescribed in Circular Memo No. 35676/Ser.C/98, GA (Ser. C) Dept., dt. 01-07-98 and in Memo No. Ser.C/99-5, dt. 28-07-99 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/Dist. 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 fo 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 alongwith 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.

## II. 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 denovo enquiry or to conduct fresh enquiry.

- (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 Commissioner's recommendations are not agreed to. **Yes/No**
- (vi) Whether APPSC needs to be consulted and if so, whether it was consulted **Yes/No**
- (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, GA (Ser. C) Department dated 07-05-97, are kept in view while issuing orders. **Yes/No**
- ii) Whether the instructions issued in U.O. Note No. 1713/Ser. C/66-1. GA (Ser.C) Dept., dt. 01-07-1966 have been followed or not regarding punishment awarded.

- iii) Whether the instructions vide Memo No. 1436/Ser.C/80-2, GA (Ser.C) Dept., dated 07-02-1981 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

### INQUIRY REPORT ON THE DEPARTMENTAL INQUIRY 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 (CCA) Rules, 1991, I was appointed by the (designation of the disciplinary authority who appointed the inquiry Officer), as the Inquiring Authority to inquiry 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 accused before me prepared by Inquiry Report as under :
2. Sri.....(Name & 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 imputations 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. These should be discussed chargewise highlighting the arguments on the basis or which he has refuted the charges levelled against him.)

7. Analysis and Assessment 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 view of the reasons given above. I hold that the following 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

## SUSPENSION

- |       |   |        |
|-------|---|--------|
| (i)   | Whether the order of suspension is in the format prescribed in G.O. Ms. No. 411, Genl. Admn. (Ser. C) Dept., dated 28-07-93 read with G.O. Ms. No. 59 Fin. & Plg. (F.W. FR. I) Dept. dt. 07-03-95.  | Yes/No |
| (ii)  | Whether the orders for payment of subsistence allowance issued in accordance with FR 53.  | 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, GA (Ser. C) Department, dated 07-09-93 and also in G.O. Ms. No. 86, GA (Ser. C) Dept., dated 08-03-94. as the order of suspension shall be in force till conclusion of Disciplinary Proceedings. | Yes/No |
| (iv)  | While reviewing the order of suspension,  | Yes/No |

whether the quantum of payment of subsistence allowance is reviewed in terms of G.O. Ms. No. 296, Finance & Planning (FW FR II) Department dt. 14-10-96.

- (v) Whether the employee under suspension furnished the certificate as prescribed in G.O. Ms. No. 82, GA (Ser. C) Department dated 01.03-96. Yes/No
- (vi) Whether the order to revoke suspension is in the format III of G.O. Ms. No. 82, GA (Ser.C) Department dated 01-03-93 is followed Yes/No
- (vii) Whether the instructions issued in Memo No. 554/Ser. C/93-6, GA (Ser.C) Department, 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

well as the number of particles  
is given by  $N = \int n(\mathbf{r}) d^3r$   
where  $n(\mathbf{r})$  is the number density  
of particles at position  $\mathbf{r}$ .

(vi) The total energy of the system  
is given by  $E = \int \epsilon(\mathbf{r}) n(\mathbf{r}) d^3r$   
where  $\epsilon(\mathbf{r})$  is the energy per particle  
at position  $\mathbf{r}$ .

(vii) The total entropy of the system  
is given by  $S = -k_B \int n(\mathbf{r}) \ln n(\mathbf{r}) d^3r$   
where  $k_B$  is Boltzmann's constant.

(viii) The total momentum of the system  
is given by  $\mathbf{P} = \int \mathbf{p} n(\mathbf{r}) d^3r$   
where  $\mathbf{p}$  is the momentum per particle  
at position  $\mathbf{r}$ .

(ix) The total angular momentum of the system  
is given by  $\mathbf{L} = \int \mathbf{r} \times \mathbf{p} n(\mathbf{r}) d^3r$   
where  $\mathbf{r}$  is the position vector of the particle  
at position  $\mathbf{r}$ .

## Chapter 12

# INQUIRIES BY INQUIRY OFFICERS

"Inquiries by Inquiry Officers" is dealt under rule 20 of Andhra Pradesh Civil Service (Classification, Control and Appeal) Rules 1991 issued in G.O. Ms. No. 487 Genl. Admn. (Ser-C) Department dated 14-9-1992.

### PRELIMINARY INQUIRY :

- 1.1 Whenever a Disciplinary Authority receives information or complaint about misconduct committed by an employee, he may initiate disciplinary action against the employee, if the allegations warrant the taking of such action. It is open to the Disciplinary Authority to straightaway initiate disciplinary action, if the information or the complaint discloses prima facie material to issue charge sheet. Otherwise, he may make discreet, confidential enquiries, himself or direct another officer to conduct a preliminary enquiry and submit a report to him for the purpose of taking further action in the matter. This action of the competent authority collecting material is called "Preliminary Enquiry".
- 1.2 The Preliminary Inquiry is meant only for enabling the Disciplinary Authority to consider whether there is any Prima Facie case. It is for the purpose of collection of facts in regard to the conduct and work of a Government Servant in which there may or may not be associated so that the authority concerned may decide whether or not to subject the Government servant concerned to inquiry necessary under rule 20. At this stage the suspected Government servant has no right to be heard



as the preliminary inquiry is merely for the satisfaction of the Government. A preliminary inquiry is not compulsory but it is desirable in the sense that employees would not be charged with misconduct recklessly and without reason. The preliminary inquiry, not being a formal inquiry, if follows that any defects or irregularities in such inquiry will not vitiate the subsequent inquiry. The irregularities, if any, crept are immaterial. It may be conducted without the knowledge/notice of the delinquent. It need not always precede a regular Departmental Inquiry. Neither Article 311 of the constitution of India nor principles of natural justice apply to a preliminary enquiry. During the preliminary enquiry, necessary evidence, oral and documentary, should be collected. The material secured during the preliminary enquiry cannot form the basis for imposition of a penalty.

## INITIATION OF DISCIPLINARY PROCEEDINGS

- 1.3 On receipt of the Preliminary Enquiry report, the Disciplinary Authority has to decide whether to initiate disciplinary action against the employee or drop further action if it is found that there is no prima facie material to initiate disciplinary proceedings. If he finds that the material is good enough to initiate disciplinary action, he should decide whether such action has to be taken for imposition of a minor penalty or a major penalty. A decision in this regard is necessary as the procedure required to be followed is different. If the facts disclose a criminal offence, he has to decide (a) whether he would take disciplinary action in the first instance or (b) whether he would take action for the prosecution of the employee in the first instance or (c) whether he would initiate simultaneous disciplinary proceedings along with criminal proceedings. The discretion in this regard vests entirely with the Disciplinary Authority.
- 1.4 There is no legal bar for the disciplinary Authority to initiate disciplinary action pending investigation by the police or pending criminal proceedings before a Court of Law. The purpose of the two proceedings is quite different. The object of departmental proceedings is to ascertain whether the officer concerned is a person to be retained in service or to be otherwise dealt with by imposing suitable penalty. On the other hand, the object of criminal prosecution is to find out whether the ingredients of the offence as defined in the penal statute have been made out. The

holding of a departmental inquiry during the pendency of a criminal prosecution in respect of the same matter would not amount to contempt of court. However, if the employee goes to the court and obtains a stay order, a wilful violation of that order would, of course, amount to contempt of court. But, if the case is of a grave nature or involves questions of fact and law which are not simple, it is advisable to await the decision of the decision of the court.

- 1.5 Article 311, clause (1) lays down that no person who is a member of a civil service of the Union or a State or an All India Service or holds a civil post under the Union of a State shall be dismissed or removed by an authority subordinate to that by which he was appointed. Clause (2) provides that no such person shall be dismissed or removed or reduced in rank, except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. As per the 42nd amendment of the Constitution which came into force on 3-1-1997, it shall not be necessary under Art. 311 (2) to give the charged employee an opportunity of making representation on the penalty proposed and such penalty may be imposed on the basis of the evidence adduced during the inquiry.
- 1.6 The holding of an inquiry obligatory clause (11) of rule 22 for imposing the penalties of, withholding the increments of pay with cumulate effect for any period, and without cumulative effect for any period, and without cumulative effect for a period exceeding 3 years where such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant.
- 1.7 In the case of minor penalty, the employee should be informed in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which action is proposed to be taken and given reasonable opportunity of making such representation as he may wish to make against the proposal. It is not necessary to conduct an inquiry. However, if the Disciplinary Authority considers it necessary, depending on the nature of the charge, to hold an inquiry as in major penalty proceedings, he may hold such inquiry. The charged officer however has no right to demand that an inquiry should be held. After considering the representation of the employee and the record of inquiry,

if any, conducted, the Disciplinary Authority may take appropriate decision regarding the penalty to be imposed on the employee, and impose minor penalty.

## ISSUE OF CHARGE SHEET

- 2.1 Where it is proposed to hold an Inquiry against a Government servant under Rules 20 & 21, the Disciplinary Authority shall draw up or cause to be drawn up:-
  - 2.1.1 The substance of the imputations of misconduct or misbehaviour into definity and distinct articles of charge.
  - 2.1.2 A Statement of the imputations of misconduct or misbehaviour in support of each article of charge which shall contain:
    - 2.1.3 A statement of all relevant facts including any admission or confession made by the Government servant.
    - 2.1.4 A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained.
- 2.2 Under clause 4 of rule 20, it is, now, the responsibility of the disciplinary authority to get the charges framed against the Government servant concerned and serving on him (Please see the note in item 9 with regard to CCA rules). While framing charges, he should note the following points.
  - 2.2.1 Charge is prime facie proven essence of the allegation setting out the nature of the accusation.
  - 2.2.2 Language of the charge must be clear, precise, unambiguous and free from vagueness.
  - 2.2.3 Charge should contain particulars of the misconduct and given the date, time, place, persons or things involved.
  - 2.2.4 Separate charges should be framed in respect of each separate misconduct, Multiplication of splitting up of charges in respect of the

same allegation should be avoided. If in the course of same transaction more than one misconduct are committed, each misconduct should be separately mentioned.

- 2.2.5 Charge should not contain expression of opinion as to guilt of the employee which means that the disciplinary authority has a prejudiced mind.
  - 2.2.6 Charge should not refer to report of preliminary inquiry/investigation or advice of vigilance Department.
  - 2.2.7 Charge should mention not relate to a matter which is already the subject matter of an inquiry.
  - 2.2.8 Charge should mention the nature of misconduct/misbehaviour.
  - 2.2.9 Charge should mention the conduct rule violated.
  - 2.2.10 Charge should not indicate the penalty proposed to be imposed.
  - 2.2.11 Charge may be withdrawn, if there are any flaws and a fresh charge may be framed.
  - 2.2.12 Charge may be amended during the course of the inquiry, in which case, sufficient opportunity should be given to the delinquent employee to meet the amended charge.
  - 2.2.13 The best way of serving a charge on the employee is personal service by delivering it under acknowledgment. In the alternative, the charge may be sent by Regd. Post with ack/due to the last known address. In case the charge memo could not be served, it may be published in the official Gazettee as prescribed in rule 42 of the APCS (CCA) Rules, 1991, Endorsement on the postal letters to the effect, "Not found", "Not traceable", "Not known", "Left", do not amount to service.
- 2.3 No time limit has been laid down in rule 20 (4) for the charged officer to submit his written statement of defence. Reasonable opportunity would always include a reasonable time to make an explanation against the

charges levelled against a delinquent and therefore it is usual to afford reasonable time for making a reply to the charge sheet. There is no standard of what is reasonable in given case and each case has to be examined in the light of facts.

- 2.4 On receipt of the written statement of Defence, the Disciplinary Authority may itself inquire into such of the articles of charges as are not admitted or appoint an Inquiry Officer under Clause (s) of rule 20.
- 2.5 The Disciplinary authority, shall, then forward the following to the Inquiry Authority:-
  - 2.5.1 A copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;
  - 2.5.2 A copy of the written statement of defence, if any submitted by the Government servant;
  - 2.5.3 A copy of the written statement of witnesses, if any, referred to in sub-rule (3) of rule 20.
  - 2.5.4 Evidence providing the delivery of the documents (referred to in sub-rule (3) to the government servant; and
  - 2.5.5 A copy of the order appointing the "Presenting Officer".
- 3.1 Admission of the charge by the charged employee in his statement of defence obviates the holding of an inquiry. The admission must be unconditional, unqualified and unambiguous. It must be born in mind that it is one thing to politely deny the charge and beg pardon and quite another to unreservedly own one's fault and throw himself at the mercy of the concerned authority. There cannot be an admission on point of law.
- 4.1 Where the charged employee after receiving the charge sheet does not submit his written statement of defence or refuses to attend the inquiry or remains absent or otherwise fails or refuses to comply with the provisions in this regard, it is open to the inquiry officer to conduct the inquiry exparte. In such a case where proof of the charge depends

only on undisputed and undeniable documents, the findings may be given based on the materials on record. But where the proof of the charge depends on oral evidence only or on oral and documentary evidence, it is necessary to examine witnesses.

4.2 In ex-parte proceedings, the entire gamut of the inquiry has to be gone through. The notices to witnesses should be sent, the documentary evidence should be produced and marked, the presenting officer if appointed, should examine the prosecution witnesses and the inquiring authority should record the reasons why he is proceeding ex-parte and what steps he had taken to ask the charged official to take part in the enquiry and avail of all the opportunities available under the provisions of Rule 20 of the Andhra Pradesh Civil Services (Classification, control and Appeal) Rules. During the course of enquiry, the charged officer is free to put in appearance and participate in the inquiry. In such a case, the details of what has transpired in his absence, including depositions, should be furnished to the charged officer. If the accused appears in the inquiry when some business has been already transacted, it is not necessary to transact the same business again unless the charged official is able to give justification to the satisfaction of the inquiry officer for not participating in the inquiry earlier.

5.1 When two or more employees are concerned in any case, the authority competent to impose the penalty of dismissal from service on all of them, may pass an order for a common proceeding against all of them. If the authorities to impose such penalty are different, in such a case, the order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the others.

5.2 Employees governed by different control/discipline rules cannot be proceeded against in common proceeding. Common proceeding cannot be held against accused and an accuser.

6.1 On receipt of the statement of defence of the charged officer and examination thereof by the disciplinary Authority can take the following course of action :

6.2 He may review and modify the articles of charge.

- 6.3 He may drop some of the charges or all the charges, if he is satisfied that there is no further cause to proceed with.
- 6.4 Where all the articles of charge have been admitted by the chartered official, he shall record his finding after taking such evidence as he may think fit.
- 6.5 He may, where he is of the opinion that imposition of a major penalty is not necessary, impose a minor penalty, on the basis of the record. But he shall not do so where the charged official has not offered detailed explanation to the charge in the expectation that he could let in his defence in the course of the inquiry.
- 6.6. He may conduct the inquiry himself but should refrain from doing so, unless unavoidable.
- 6.7 He may appoint an Inquiring Authority to inquire into the charges. He should do so only at this stage and not earlier, before the Disciplinary Authority has considered the statement of defence.
- 7.1 The disciplinary authority under rule 20 (5) (c) may also nominate a presenting Officer who would present on its behalf, the case, in support of the articles of charge. Ordinarily a Government servant belonging to the departmental set up who is conversant with the cases involving complicated points of law, where it may be considered desirable, a legal practitioner may be appointed to present the case on behalf of the disciplinary action is the result of investigation made by the Anti Corruption Bureau, there is no objection to an official of that Establishment being nominated as the Presenting Officer.
- 8.1 Under Rule 20 (8) the accused officer has also the right to take the assistance of another Government servant or one under suspension or a retired Government servant to present the case on his behalf.
- 8.2 The assisting Government servant should be from the headquarter station of the Government servant or at the place where the inquiry is held. If the Inquiry Officer so permits having regard to the circumstances of the case, the assisting Government servant may be from any other station.

- 8.3 The assisting Government servant should not have more than two cases on hand in which he has to give assistance.
- 8.4 For this purpose, the charged officer is not required to take prior permission of the disciplinary authority. He need send only an intimation to this effect to the disciplinary authority. It is, however, necessary for the Government servant nominated to assist the charged officer to obtain the permission of the former's controlling authority to absent himself from office in order to assist the charged Government servant during the enquiry.
- 8.5 The Government servant should be permitted to have the assistance of a legal practitioner if the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner or a Public Prosecutor or Prosecuting Officer of the Anti corruption Bureau or a Government Law Officer (such as Legal Adviser, Junior Legal Adviser). The above condition would apply if the retired Government servant is also a legal practitioner.

## INQUIRY OFFICER HOW TO CONDUCT HIMSELF

- 9.1 It need to be emphasized that natural justice does not supplant any law or rule. It is only supplementary. Rules of natural justice are generally referred to by or on behalf of the defence. They should in fairness apply to all the concerned. The rules of natural justice cannot be elevated to the position on Fundamental Rights. Their aim is to secure justice or to put it negatively, to prevent miscarriage of justice. In other words, they can operate only in areas not covered by any law validly made.
- 9.2 Natural justice is not defined in any rules, but the concept is fairly crystallized through judicial pronouncements and covers the following three important principles :
- i) Right of the other party to be heard;
  - ii) no person can be a judge in his own case; and
  - iii) Justice is not only done but should be seen to be done.



In other words, where there are no specific provisions in CCA Rules and executive instructions, either party has a right to "Fair hearing" "unbiased judgement" and "clear speaking order". What either party deserves is fair and reasonable opportunity to be heard and not an unfair and unreasonable opportunity to obstruct and hinder.

- 9.3 For unbiased hearing, an Inquiry Officer should not, obviously, have any interest in the case, During hearings, he is expected to be serene and even-handed, even through his patience at times may be tried. At the same time, he cannot permit engage in every trick to delay proceedings and put a spoke in the wheel of justice.
- 9.4 The Inquiry Office should also bear in mind that the technical rules of the evidence Act are not applicable to domestic enquiries. Hear say evidence is not barred. The Supreme Court and a few High Courts have held that even "hearsay evidence is logically probative though its probative value may be strong or weak according to the facts and circumstances of the case and if it is logically probative, a tribunal is entitled to act upon it". It has also been held that though "in admitting hearsay evidence the tribunal must observe the rules of natural justice, it does not mean that it must be tested by cross-examination".
- 9.5 To the question whether the Inquiry Officer should interrupt during the hearing or even argue while proceedings are on an whether this constitutes violation of natural justice, it has been held that is not correct to conclude that every intervention or argument or even hostile remark of any enquiry officer is indicative of bias. As supreme court has observe "If every remark of a judge made from the bench is to be construed as indicating prejudice, I am afraid most judges will fail to pass the exacting text. In the course of argument, a judge some times expresses his opinion, that does not always mean that the case has been prejudiced. An argument in a court can never be effective if the judges do not sometimes point what appears to be underlying fallacy in the apparent plausibility thereof; and every lawyer or litigant who forms an apprehension on the score cannot be said to reasonably doing so. (Viswanathan Vs Adul Vazib-AIR 1963-SCI)".
- 9.6 The Inquiry Officer should clearly understand the relation between the imputations, evidence and conclusion. The conclusion should be logical.

It should not appear as though, the Inquiry Officer has made up his mind and is then making one sided presentation of facts to support it. While studying a case or rationalising a point or commenting on a witness, the language should be sober, becoming and dignified. It should be judicious and exhibit poise and balance. It should not be satirical or vicious. "the pen of an enquiry officer should be used like the knife of a surgeon, just enough to probe into the relevant issue and not more. On the other hand merely summarizing the versions of the two sides and selecting one is not right".

- 9.7 The Inquiry Officer is expected to be unbiased, fair, just and judicious. He should be un-mindful whether the charged officer is proved guilty or exonerated. His only interest is fair play and justice. The Inquiry Officer should remind himself of the court observation in Bole Nath Vs. DTC: "Natural justice prescribes only a minimum standard of fair procedure and this minimum, cannot be bloated into a rigmarole of technicalities to vitiate the Enquiry some how or other. To do so would be unnatural justice."
- 9.8 He should allways keep in mind the instructions issued in Govt. Circular Memo No. 24637/Ser-C./2000-2 GAD dt. 5-9-2000.

## STANDARD OF PROOF IN A DEPARTMENTAL INQUIRY

- 10.1 Departmental inquiry is a quasi-judicial proceeding, and is different from criminal proceeding. The scope of a criminal trial is a to determine whether an offence against the law of the land has been committed and if so, to punish the person if he is found guilty of the offence. The scope of departmental inquiry is to determine whether a public servant has committed a misconduct or delinquency and if so, whether he deserves to be retained in service or reverted or reduced in rank or other wise suitably dealt with for his delinquency or misconduct.
- 10.2 In a criminal case, the prosecution has to prove case beyond all reasonable doubt. In a disciplinary proceeding, the decision has to be taken based on preponderance of probability.
- 10.3 Evidence Act does not apply to a disciplinary proceeding. Material which is not strictly admissible in evidence in a court of law can nevertheless be admitted into evidence in a departmental inquiry and relied upon,

provided the Inquiry Officer is satisfied about the credibility of the evidence so admitted.

- 10.4 Where there is "some" evidence, which the authority entrusted with the duty to hold the inquiry had accounted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, the decision of the Disciplinary Authority based on such evidence cannot be questioned before a court of law.
- 10.5 Here-say evidence which is not admissible in a criminal proceeding may be accepted in a departmental inquiry provided it has reasonable nexus and credibility. To what extent such evidence may be received and relied upon must depend on the facts and circumstances of each case, and the Inquiry Officer must be careful in evaluating such material.
- 10.6 The evidence of accomplice may be accepted without corroboration, but the Inquiry Officer should caution himself as to the danger of acting solely on that evidence and do so only after due deliberation.
- 10.7 Circumstantial evidence may be accepted provided the circumstances lead to a reasonable inference about the guilt of the delinquent officer. Findings of the Inquiry Officer should not however be based on suspicions, conjectures and surmises.
- 10.8 The rule that unless the maker of a document is available for cross-examination, the document should not be admitted into evidence, is a rule from the evidence Act and it has no application to a domestic inquiry. If the Inquiry Officer is satisfied about the credibility of the evidence contained in a document, he may accept the same, even though the maker of the document has not appeared at the inquiry.
- 10.9 Tape-recorded evidence may be accepted, provided conversation is relevant to the matter in issue, the identification of the voice is established and possibility of tampering with the tape is eliminated and the Inquiry Officer is convinced of the accuracy of the conversation.
- 11.1 The Government servant shall appear in person before the inquiring authority on such day and at such time within fifteen working days, which may be extended by another fifteen days, from the date of receipt by him of the articles of charge etc., as the enquiring authority, may be a notice in writing, specify in this behalf vide clause (7) of rule 20.

- 11.2 If the Government servant fails to appear within the specified time or omits to plead, the inquiry Officer shall adjourn the case to a later date not exceeding thirty days, after recording and order that the Government servant may, for the purpose of preparing his defences :-
- 11.2.1 Inspect within five days of the order or within such further time not exceeding five days, the documents relied upon by the presenting Officer.
- 11.2.2 Submit a list of Defence witnesses to be examined on his behalf vide clause (11) rule 20.
- 11.3 The Inquiry authority may allow for the discovery of production of new documents within ten days, which can be extended by another ten days.
- 11.4 In the event of the Presenting Officer being allowed to produce evidence not included in the list given to the Government servant or recall and re-examine any witness, the Government servant shall be entitled to have an adjournment of the enquiry for three clear days exclusive of the day of adjournment and the day to which the enquiry is adjourned.
- 12.1 During the enquiry, the Presenting Officer will produce all documentary evidence and also have his witnesses examined.
- 12.2 Examination of witness will be in three parts-examination-in-chief, cross-examination and re-examination.
- 12.3 The scope of cross-examination is unlimited and need not be confined to the testimony of the witness in the chief examination. They may cover the entire field of defence. They must, however, be relevant to the facts of the case or relate to the credibility of the witness or the evidence given by him.
- 12.4 On the contrary, the re-examination which comes after cross-examination should be confined only matter arising out of the cross-examination. The witness cannot be examined on any end fact, except with the permission of the Inquiry Officer and when such a permission

is granted, the delinquent will automatically have a right of further cross-examination on the points newly brought out. At the end of examination of each witness, the Inquiry Officer may also put such questions as he thinks fit.

## FUNCTIONS AND POWERS OF INQUIRY OFFICER

- 13.1 The following are the functions which an Inquiry Officer will have to discharge and powers he can exercise in the conduct of inquiry:-
- 13.2 Venue of inquiry should normally be the place where witnesses and documents are readily available, but any other place can be fixed according to the requirements of the case and convenience of the parties.
- 13.3 A daily order sheet should be maintained where the day today transaction of business including date and time, venue of inquiry and brief particulars of progresses of inquiry should be recorded
- 13.4 Representations received from both sides should be kept in separate files. A list of representations and requests and orders passed thereon should be recorded in the Daily order sheet.
- 13.5 At the preliminary hearing, he should apprise the charged employee, pleader, the defence assistant, if any, and the Presenting Officer, of the procedure of the inquiry and draw up a programme in consultation with them.
- 13.6 The charged employee may be asked whether he would admit the genuineness and authenticity of the listed documents, and admitted documents may be marked as exhibits straightaway. This would obviate the necessity of examining witnesses to prove them.
- 13.7 Inquiry officer should ensure that the charged employee is given facilities to inspect the documents listed in the charge and furnish copies of statements of listed witnesses.
- 13.8 He should arrange for production of documents required by the charged employee for his defence. He can reject the request to summon

documents considered not relevant to the inquiry and in such a case he should record reasons for rejecting the request. Where the competent authority claims privilege, he is bound by such decision and he cannot demand their production.

- 13.9 Depositions of witnesses may be recorded in a narrative form. Wherever considered necessary, the question and answer may be recorded verbatim. The statement should be read over to the deponent and corrections if any made; in the presence of the both sides. The signature of witness should be obtained on each page and the Inquiry Officer should also sign on each page. At the end, the Inquiry Officer should record the following certificate.

"Read over to the witness in the presence of the charged officer and admitted by him as correct/objection of the witness recorded".

If the witness deposes in a language other than English and the deposition is recorded in English the deposition should be translated in the language in which it is made and read over to the witness and a certificate recorded as follows:

"Translated and read over to the witness in--(mention the language) and admitted by him to be correct."

- 13.10 No other witness or outsider shall be allowed during the examination of each witness.
- 13.11 Combined statements of two or more witnesses should not be recorded. Separate statement should be recorded of each witness.
- 13.12 During the examination of a witness, the Inquiry Officer should see that the witness understands the question before answering. If he gives evidence in a language other than English, it shall be correctly translated into English and recorded, unless recorded in the language spoken.
- 13.13 Previous statements recorded during preliminary enquiry, investigation, court trial cannot be relief upon, unless those witnesses are produced for cross-examination.

- 13.14 Charged employee can examine himself as a witness in his own behalf in which case he can be subjected to cross examination on behalf of; the disciplinary authority.
- 13.15 Inquiry Officer can reject the request, to call any witnesses cited by the delinquent if their examination is considered irrelevant or vexacious.
- 13.16 Inquiry Officer has no power to compel the attendance of witnesses and production of documents. If they are official witnesses, the head of the department of office may be requested. Action can be taken against official witnesses for failure to appear.
- 13.17 Arguments may be heard on both sides. Where written briefs are submitted, it is necessary that a copy of the brief of the presenting Officer is furnished to the charged employee before the latter is asked to submit his own.
- 13.18 If the past bad record of the charged employee is to be considered for the purpose of determining the quantum of the penalty, he should be informed of the same and given a chance to explain. This should be done at least at the stage of show cause notice and in the case of persons to whom art. 311 (2) applies, the past record should be made subject matter of specific charge in the charge sheet itself.
- 13.19 Where, during the course of the inquiry, the Inquiry Officer is succeeded by another Inquiry Officer, the successor shall proceed with the inquiry from the stage at which it was left by the predecessor, unless considers it necessary to recall and re-examine any of the witnesses already examined.
- 13.20 Finding on the charges should be based entirely on the evidence adduced during the inquiry.
- 13.21 For any decision taken or orders passed on any matters in the course of the inquiry, cogent reasons should be given in justification in writing and placed on record.
- 13.22 Inquiry Officer should discuss and assess the evidence, oral and

documentary, on record and give reasons for the findings arrived at by him.

## ASSESSMENT OF EVIDENCE AND REPORT OF INQUIRY OFFICER

- 14.1 The Inquiry Officer should study and understand the case thoroughly. He must probe into what has happened, where and when. He should also know who has done what and what he ought to have done. He should try to ascertain, what was the role assigned to the Government servant specifically, in relation to the charge; what was expected of him and what he did or omitted to do. He should conclude whether and which of the imputations/charges are proved.
- 14.2 The Inquiry Officer should then judge whether the delinquent within his knowledge and experience, behaved with due care and attention, reasonably and honestly; whether he violated the law, rules and procedures he was expected to follow; whether he knew or ought to have known the propriety and results of his acts. In other words, it should be known whether he behaved as a prudent man would have expect to do. The accused officer cannot say that he violated the procedure in the interest of Government. Rules and procedures are laid down in the interest of the public by the persons whose responsibility it is to do so. If he has any ideas about better rules and procedures, he should propose amendments but not break them until the amendments are effective.
- 14.3 The word "mala fides" should be used with great caution. Mala fides is irrelevant in providing a misconduct as it is not a necessary element of it. Every act of a civil servant is expected to be honest, bonafide and reasonable. If there is any doubt, it is for him to dispel it. An act is not honest when it is not just and fair or when it causes wrongful gain or wrongful loss. It is not bonafide when it is committed without due care and attention. It is not reasonable when a fair and prudent person would not do it.
- 14.4. If a person is found travelling by train without a ticket, malafides must be presumed unless he proves otherwise. If a Government servant is



unable to explain satisfactorily, his disproportionate assets, it is natural to presume that such assets were amassed in a corrupt way. Mala fides, therefore, will have to be judged from the circumstances of each transaction prevent, powers and responsibilities vested in each officer and ultimately what a prudent and rational person would do in those circumstances and with those powers and responsibilities.

- 14.5 The Inquiry Officer after considering the oral and documentary evidence, noting who said it, when and in what circumstances, whether what was said or done was consistent with the normal probability of human behaviour, and noting the demeanour of the witness, should then record his conclusion on each charge whether it is proved or not. He should particularly ensure that replies on facts which have come into evidence and which the accused Government servant had opportunity to refute.
- 15.1 After the conclusion of the inquiry, a report shall be prepared and it shall contain:-
  - 15.1.1 The articles of charge and the statement of the imputations of misconduct or misbehaviour.
  - 15.1.2 The defence of the Government servant in respect of each article or charge;
  - 15.1.3 An assessment of the evidence in respect of each article of charge;
  - 15.1.4 The findings on each article of charge and the reasons there for.
  - 15.1.5 The written statement of defence, if any, submitted by the Government servant;
  - 15.1.6 The oral and documentary evidence produced in the course of the Inquiry.
  - 15.1.7 Written briefs, if any filed by the Presenting Officer of the Government servant or both during the course of the inquiry ; and

- 15.1.8 The orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.
- 15.2 It shall be forwarded to the disciplinary Authority which appointed him as Inquiry Officer. The report of the inquiry officer should not contain any recommendations relating to the penalty to be imposed.
- 15.3 It is not the function of the inquiry officer to supply a copy of his report to the delinquent direct. It is for the disciplinary authority to supply a copy of the report of the enquiry officer to the delinquent officer. However, the enquiry Officer may supply/permit copies of dispositions made by the witnesses to be taken by the charged officer. The disciplinary authority may allow a reasonable time not exceeding thirty days to the Government servant for the purpose of making a representation on the report of the Inquiry Officer, vide clause (4) of rule 21.
- 15.4 In all cases where Government officials are tried before Lokayuktha under the provisions of A.P. Lokayuktha and Upa lokayuktha Act, 1993 it is not necessary either to appoint an Inquiry Officer or to conduct an inquiry and it is open to the disciplinary authority to impose any of the recommendations contained in the report of the Lokayuktha, vide rule 27.

**Errors, like straws, upon the surface flow;  
He who would search for pearls must dive below  
John Drydon**



As part of the efficiency drive he was prematurely retired, his predecessor was suspended and the new appointee is going to be sacked, sir.

## **Chapter 13**

# **FORMATS TO BE USED IN DISCIPLINARY PROCEDURES**

Under Rule 8 (1) of the APCS (CCA) Rules, 1991, a member of the Service may be placed under suspension from Service. The competent authority should issue orders in the formats prescribed in G.O. Ms. No. 411 GA (Ser. C) dept. dt. 28.7.93.

Proforma for extension of period of suspension beyond six months is prescribed in G.O. Ms. No. 517 GA (Ser.C) Dept dt. 27.7.1977 which is given as annexure-IV.

Proforma for continuance under suspension after review, in intervals of six months is prescribed in Govt. Memo No. 904/Ser C/67-1 GAD dt. 29.5.97. which is given as annexure v.

- 1) Annexure I to be used where charge sheet has been issued.
- 2) Annexure II to be used where disciplinary proceedings are contemplated.
- 3) Annexure III to be used where a case has been registered and is under investigation.
- 4) Annexure IV to be used to send a report to Govt. for review on the question of extension of suspension.
- 5) Annexure V for Order of continuance of suspension.

**ANNEXURE - I**

Sub:- Public Services - Sri/Smt.....suspension from  
service - Orders - Issued.

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And whereas the Government of Andhra Pradesh/Under-signed being the competent authority (Appointing authority/any other competent authority) consider it necessary to place Sri/Smt.....under suspension pending inquiry into grave charge or charges afore mentioned.

Now, therefore, in exercise of the powers conferred by sub-rule (1) of rule 8 of Andhra Pradesh Civil Services (CCA) Rules, 1991, the Government of Andhra Pradesh/ Under-signed (appointing authority/any other competent authority) here by place(s) the said Sri/Smt.....Under suspension from the date of communication of this order and he/she shall continue to be under suspension in public interest until the conclusion of the disciplinary proceedings/ termination of all proceedings relating to the Criminal charge(s).

It is further ordered that during the period this order remain in force the headquarters of Sri/Smt.....(name and designation of Government Servant) shall be (name of the place) and the said Sri/Smt..... shall not leave the head quarters without obtaining the previous permission of the undersigned.

Signature :.....

Name and Designation of the  
Suspending authority.

**ANNEXURE - II**

Sub:- Public Services - Sri/Smt.....  
 Suspension from service - Orders - Issued.

\* \* \*

Whereas it has come to the notice of the Government of Andhra Pradesh/under signed who is the competent authority (Appointing authority/any other competent authority) alleging that.....

And whereas disciplinary proceedings against Sri/Smt..... are contemplated.

And whereas the Government of Andhra Pradesh/under signed (appointing authority/any of other competent authority) after careful consideration of the available material and having due regard to the circumstances of the case, are satisfied that it is necessary to place Sri/Smt..... under suspension.

Now, therefore, in exercise of the powers conferred by sub-rule (1) of rule 8 of Andhra Pradesh Civil Services (CCA) Rules, 1991, the Government of Andhra Pradesh/under-signed (appointing authority/any other competent authority) hereby place(s) the said Sri/Smt..... under suspension from the date of communication of this order and he/she shall continue to be under suspension until the conclusion of the disciplinary proceedings/termination of all proceedings relating to the Criminal charge(s).

It is further ordered that during the period this order remains in force, the headquarters of Sri/Smt.....(name and designation of Government Servant) shall be (name of the place) and the said Sri/Smt..... shall not leave the head quarters without obtaining the previous permission of the undersigned.

Signature.....  
 Name and Designation of the  
 Suspending authority

**ANNEXURE - III**

Sub :- Public Services - Sri/Smt.....suspension  
from service - Orders - Issued.

\*\*\*

Whereas it has come to the notice of the Government of Andhra Pradesh/  
under - signed who is the competent authority (appointing authority or any other  
competent authority), alleging that.....

And whereas a case has been registered by the Anti-Corruption Bureau/Officer  
incharge of the Police Station.....in Crime  
No.....under section of.....

And whereas it is considered that his continuance in office will prejudice the  
investigation.

And whereas the Government of Andhra Pradesh/under-signed (appointing  
authority or any other competent authority) after careful consideration of the available  
material and having due regard to the circumstances of the case are satisfied that the  
criminal charge under investigation is connected with his official position as a Government  
servant and involved moral turpitude and therefore consider it necessary to place Sri/  
Smt.....under suspension.

Now, therefore, in exercise of the powers conferred by sub-rule (1) of rule 8 of  
Andhra Pradesh Civil Services (CCA) Rules, 1991, the Government of Andhra Pradesh/  
under-signed (appointing authority/another competent authority) hereby place(s) the  
said Sri/Smt.....under suspension from  
the date of communication of his order and he/she shall continue to be under suspension  
until the conclusion of the disciplinary proceedings/termination of all proceedings relating  
to the Criminal charge(s).

It is further ordered that during the period this order remains in force, the  
headquarters of Sri/Smt.....(name and designation of Government  
Servant) shall be (name of the place) and the said Sri/Smt.....shall  
not leave the headquarters without obtaining the previous permission of the undersigned.

Signature.....  
Name and Designation of the  
Suspending authority

**ANNEXURE - IV**

(Proforma to be sent to Govt. for extension of period of suspension beyond six months.)

1. Sl. No.
2. Name and Designation of the Officer under suspension
3. Date of suspension
4. Date of appointment of Enquiry Officer
  - (a) Have charges been framed, if so, date
  - (b) Has it been served on the other officer, if so, when date
  - (c) Has it been served on the other officer, if so, when date
  - (d) Has the case in support of the charge been presented before Enquiry Officer, date
  - (e) Has the Officer under suspension entered upon his defence. If so, the date
5. Reasons for asking for extension
6. Expected date of completion
7. Whether the official has been paid subsistence allowance
8. Remarks

**ANNEXURE - V**

Order of extension of suspension by and 6 months

Sub:- Public Services - Sri/Smt.....suspension  
Orders - Issued.

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"The Government have reviewed the case of Sri.....who is under suspension pending enquiry and they have decided that he shall continue under suspension. The next review will be taken up at the end of six months from the date of this order."

Signature:.....

Name and Designation of the  
Suspending authority

Under the provisions of Andhra Pradesh Civil Services (Classification, control and Appeal) Rules, 1991, the competent authority should issue orders in disciplinary cases after due consideration, in the relevant proforma issued wide G.O. Ms. No. 82 dt. 1.3.98 of GA (Ser.C) Dept.

1. Under F.R. 53 (2) 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.
2. The competent authority shall frame the Articles of charges in a disciplinary case in the format as show in Form-II.
3. The competent authority shall issue an order of revocation of a suspension order in the format as shown in Form-III.
4. The competent authority shall issue orders for appointing Inquiry Authority in a disciplinary case in the format as shown in form-IV.
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.
6. The competent authority shall frame the Memorandum of charges for imposing Minor Penalty in the format as shown in Form-VI.
7. The competent authority shall initiate Minor penalty proceedings in the format as shown in Form-VII.
8. The competent authority shall initiate disciplinary action in common proceedings in the format as shown in Form-VIII.

**FORM - I****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****STANDARD FORM FOR INITIATION OF MAJOR PENALTY PROCEEDINGS**

PUBLIC SERVICES - Sri.....

(Name and designation).....

Department - Departmental proceedings under Rule-20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, Articles of charges - Issued.

G.O. Rt. No.

Date :

Memo

**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 Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.

- 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 Andhra Pradesh 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 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 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 Andhra Pradesh Civil Service (Conduct) Rules, 1964.

The receipt of the Memorandum may be acknowledged.

**(IN THE NAME OF THE DISCIPLINARY AUTHORITY)**

To

Sri.....

**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:**.....

### 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.

### FORM-III

#### STANDARD FORM OF ORDER FOR REVOCATION OF SUSPENSION

Memo No.....

Dated :.....

Sub :-

Ref:-

Whereas, an order placing Sri.....(Name and Designation of the Government Servant) under suspension was made/was deemed to have been made by.....on.....

2. Now, therefore, (the authority which made or is deemed to have made the order of suspension or any authority to which that authority is subordinate) in exercise of the powers conferred by clause (c) of subrule (5) of rule-8 of the Andhra Pradesh Civil Services (Classification, control and 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**

**STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF INQUIRING AUTHORITY**

Memo No.....

Dated:.....

Sub :-

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 Servant)

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-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.

**FORM - V****STANDARD FORM OF THE ORDER RELATING TO THE APPOINTMENT OF PRESENTING OFFICER**

Memo No.....

Dated:.....

Sub:-

Whereas, an inquiry under Rule-20 of the Andhra Pradesh Civil Service (Classification, Control and Appeal) 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 nature of Disciplinary Authority)

Copy to

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

**FORM-VI****STANDARD FORM OF MEMORANDUM OF CHARGE FOR MINOR PENALTIES**

Memo No.....

Date:.....

Sub:-

Sri.....(Designation).....(Office in which working.....is hereby informed that it is proposed to take action against him/her under Rule-22 of the Andhra Pradesh Civil Services (Classification, Control and appeal) Rules, 1991. A Statement of the imputation of mis-conduct or misbehaviour on which action is proposed to be taken is enclosed.

- 2. Shri/Smt.....is hereby given an opportunity to make such representation as he/she may wish to make against the proposed.
- 3. If Shri/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 take and order will be liable to be passed against Sri/ Smt.....ex-parte.
- 4. The receipt of this Memorandum should be acknowledge by Shri/ Smt.....

(In the name of the Disciplinary Authority)

To

Shri/Smt.....

**FORM-VII**

**STANDARD FORM FOR INITIATION OF MINOR PENALTY PROCEEDINGS**

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

Memo No.....

Dated:.....

Sub:-

In continuation of Memorandum No.....Dt. issued under Rule-22 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, it is considered necessary to hold an enquiry against Shri..... under Rule-22 of the A.P. Civil Service (Classification, control and Appeal) 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 (Annexure-I). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure-II and III).

2. Shri.....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. Shri.....is further informed that if he does not submit his written statement 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 Andhra Pradesh Civil Services (Classification, Control and Appeal) 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 Shri.....is invited to Rules-24 of the Andhra Pradesh 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 delat with in these proceedings, 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 Andhra Pradesh Civil Service (Conduct) Rules, 1964.
6. The receipt of this Memorandum may be acknowledged.

(In the Name of Disciplinary Authority)

To

Shri.....

Enclosures : Annexures I, II and III



**FORM - VIII**

**STANDARD FORM OF ORDER FOR TAKING DISCIPLINARY ACTION IN COMMON PROCEEDINGS**

Memo No..... Dated.....

Sub:-

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

Shri.....

Shri.....

Shri.....

Shri.....

Now, therefore, in exercise of the powers conferred by Rules (1) and (2) of Rule 24 of Andhra Pradesh Civil Services (Classification, Control and appeal) 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 the disciplinary Authority)

Copy to

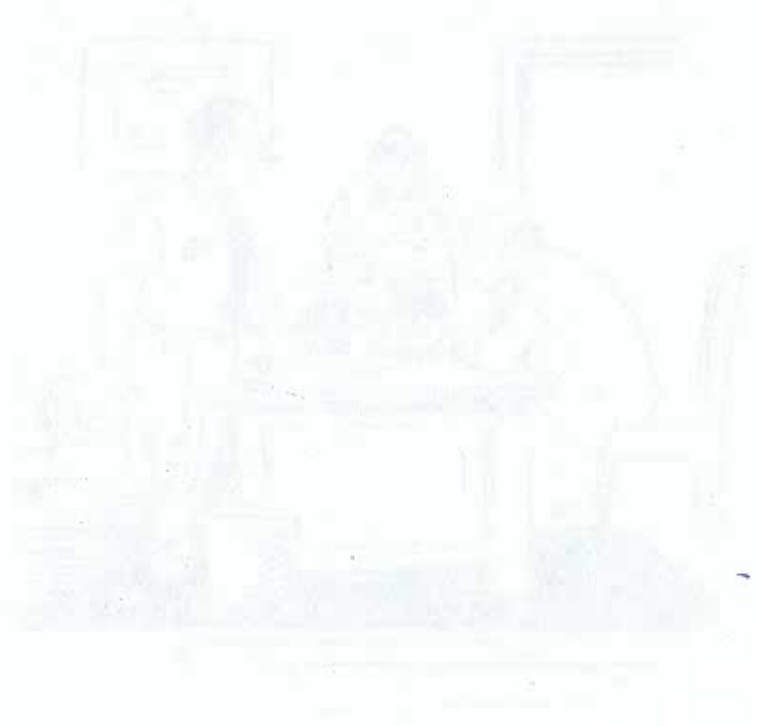
Sri..... (Name & Designation)

Sri..... (Name & Designation)

Sri..... (Name & Designation)



High-level inquiry? Please, sir, appoint a low-level inquiry to look into my irregularities in-view of my seniority!



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THE HISTORY OF THE UNITED STATES

## Chapter 14

# MOCK INQUIRY - ROLE PLAY

### INTRODUCTORY NOTE

1. This exercise is aimed at familiarising the participants with the procedures of Disciplinary Proceedings from start to finish-from the stage of issuing of a charge sheet to the stage of imposing of a penalty.
2. We assume that the facts have been gathered in a preliminary inquiry and the competent authority has found that the material available warrants institutions of proceedings for the imposition of a major penalty.
3. Various stages of action that should follow are :
  1. Issuing of a charge sheet by the Disciplinary Authority.
  2. Submission of defence statement by Charged Officer.
  3. Appointment of the inquiry Officer.
  4. Appointment of the Presenting Officer.
  5. Charged Officer choosing his Defence Assistant.
  6. Furnishing of copies of prior statements of witnesses to the Charged Officer and giving him facility to inspect documents.
  7. Preliminary hearing.
  8. Recording of evidence.
  9. Examination of Charged Officer.
  10. Arguments.
  11. Preparation of Inquiry Report.
  12. Furnishing copy of inquiry Report to the Charged Officer.
  13. Passing of Orders by the Disciplinary Authority.

## SCENARIO

### BRIEF FACTS OF THE CASE

4. Shri "ABC" functioned as Supervisor.....and held charge of the Stores at.....from.....to.....

On receipt of an anonymous petition that certain items of stores specified therein were misappropriated by the said Supervisor, Shri....., Asst. Engineer.....conducted a surprise check of the Stores, on.....as per the orders of the Superintending Engineer.

On a verification of the Stores during the check, it was found that two items of stores, viz, (1).....worth Rs. 50,000/- (2).....worth Rs. 25,000/- were missing from the said Stores.

The two items of Stores were received by the said "ABC" along with other items of Stores, from his predecessor, Shri.....on.....when he took charge of the Stores, as per the endorsement in the stock register, under the signatures of both of them to that effect.

Shri....., Asst. Engineer, who conducted the check of the Stores made an endorsement of the fact of the shortage of the said two items of stores and the said "ABC" attested it, under his signature.

Shri....., Asst. Engineer, who conducted the check of the Stores submitted his report on the check conducted by him to the Superintending Engineer.

As per the orders of the Superintending Engineers, Shri..... the Asst. Engineer who conducted the surprise check, conducted a preliminary enquiry and collected oral and documentary evidence and submitted a report on the preliminary enquiry conducted by him.

The Superintending Engineer gave a written complaint on the shortage of the two items of stores to the Police to register a case and investigate.

The Superintending Engineer placed the said "ABC" under suspension simultaneously on.....

On the basis of the complaint of the Superintending Engineer, the Police Registered a case and took up investigation.

Two weeks after lodging the complaint with the Police, the Superintending Engineer, the competent authority instituted disciplinary proceedings against the said "ABC", and issued him a charge sheet, and "ABC" submitted his statement of defence denying the charge.

The Superintending Engineer ordered an inquiry for major penalty proceedings and appointed Shri.....as Inquiry Officer to conduct an inquiry against "ABC".

## 5. ROLE PLAY - PARTICIPANTS

For the role of following "Characters", Participants should be identified ahead, so that they can prepare and play their part at the Mock Inquiry.

1. Disciplinary Authority.
  2. Charged Officer
  3. Inquiry Officer
  4. Presenting Officer
  5. Defence Assistant
  6. Management Witness 1
  7. Management Witness 2
  8. Defence Witness 1
6. A list of exhibits is given below for reference:
- M.1 - Anonymous petition
  - M.2 - Stores (Stock) Register
  - M.2A - Endorsement of shortage, made by Assistant Engineer conducting surprise check, MW 1

M.2B - Endorsement of Charged Officer, taking charge of Stores.

M.2C } Entry in M.2, of receipt of the two items of Stores  
M.2D }

M.2E - Endorsement in M.2 by successor of Charged Officer, of taking charge of Stores.

M.3 - Voucher for Rs. 50,000/-

M.4 - Voucher for Rs. 25,000/-

M.5 - Inspection Report of M.W.1

M.6 - Prior written statement of M.W.2

There are 5 M.Ws. and 1 D.W. but only 2 M.Ws. are being examined in actuality at the mock inquiry.

The depositions of witnesses can be recorded separately instead of the proceedings, the mere fact of their examination being mentioned in the proceedings proper.

7. Besides those actually participating in the Mock Inquiry, other participants should also take an active part. The proceedings are only a model for guidance and the course of action adopted is perhaps not the only one or necessarily the right one. Various situations should be envisaged by the participants and possible issues raised, discussed and decided.

## MOCK INQUIRY

(Role Play)

Proceedings of the Inquiring Officers

Departmental Inquiry against Shri ABC, Supervisor.....

(1)

Place :

Date :

By Memo No.....dated.....issued by Superintending Engineer, I have been appointed as Inquiry Officer under rule.....of the..... (name the Rules) to conduct inquiry against Shri ABC.....(designation etc.). I have received the relevant case record from the Disciplinary Authority (Dis A)

On receipt of the said Memo, I directed the charged Officer (C.O.) the said Shri ABC to appear before me on.....at 11.00 a.m. in my office room.....(Mention the place), for attending the preliminary hearing.

The C.O. has been asked to furnish particulars of Defence Representative (D.A.), if any, he proposed to engage, so as to reach me by.....

Shri.....was appointed as Presenting Officer (P.O.) by the Disciplinary Authority by him Memo No.....dated..... I have informed the P.O. of the preliminary hearing requiring him to attend the preliminary hearing on the date.

Sd.

Inquiry Officer

-0-

(2)

Place :

Date :

Particulars of D.A. are received.....on and I have addressed the D.A. informing him of the date and place of the preliminary hearing under information to the C.O. and informed the controlling officer of the D.A. of the fact.

Sd.

Inquiry Officer

-0-



(3)

Place :

Date :

Proceedings are taken up by me in my office.....on at 11 a.m when the following persons were present :

Present (Give names)

C.O

D.A.

P.O.

IO to CO : Have you received charge sheet No.....dated.....  
(Shown to CO) and have you understood the Charge?

Co : I have received the charge sheet under acknowledgement. I have understood the charge. I have submitted my statement of defence denying the charge.

IO to CO : Do you admit the charge? (The charge is read over to CO).

CO : I plead not guilty to the charge.

IO to CO : You may inspect the documents listed in the charge sheet within 10 days. PO. is directed to make the listed documents available to the CO. CO and PO are directed to report compliance to me.

PO is directed to furnish copies of statements of witness listed in the charge sheet, if any, to the CO under acknowledgement within 10 days and to report compliance.

CO is directed to furnish within 3 days of completion of inspection of the listed documents and receipt of copies of listed witnesses, a list of documents (which are in the possession of the Management) which he requires to produce and a list of witnesses he proposes to examine on his own behalf, indicating their relevance. CO. is directed to furnish a copy of the lists of the (defence) documents and (defence) witnesses to the PO.

PO. is directed to secure the documents from the Management, subject to claim

of privilege by the competent authority and to make them available to CO for inspection not later than 3 days before the date of next hearing at a place and on a date and time fixed by the PO.

The case will be taken up for regular hearing in my office at 11.00 a.m. daily. On the first 2 days, evidence on behalf of the Dis. Autho. shall be adduced and on the third day evidence on behalf of the CO shall be adduced.

Notices for the witnesses listed in the charge sheet are handed over to the PO. for service and securing their presence at the inquiry.

CO has represented that he would secure and produce witnesses required for his defence.

Sd.	Sd.	Sd.
PO.	CO.	IO.
	Sd.	
	DA.	

-O-

(4)

Place :

Date :

List of documents and list of witnesses required by CO for his defence are received.

Witness S.No. 2 is not relevant, as the CO. wants to examine him to speak to his good conduct. Hence, I am rejecting his request to examine his witness in his defence. I have intimated the fact to CO.

Sd.

Inquiry Officer

-O-

(5)

Place :

Date :

Present :

CO.

DA.

PO.

Proceedings are taken up in the presence of the persons mentioned above.

IO to CO : Have you received copies of statements of witnesses listed in the charge sheet?

CO : Yes. I have received them.

I require copies of statements of defence witnesses recorded during the preliminary inquiry.

PO : CO is not entitled to supply of copies of statements recorded during the preliminary inquiry, of the defence witnesses. Hence, they need not be supplied.

IO : I agree with the PO. CO. is not entitled to copies of such statements. The request of CO is rejected.

IO to CO : Have you inspected the documents listed in the charge sheet?

CO : Yes, I have inspected them.

IO : The recording of evidence will now be taken up. First, witnesses cited on behalf of Dis. Autho. will be examined.

PO : I may be permitted to produce witnesses on behalf of the Disciplinary Authority.

M.W.1

## Deposition of Shri.....(designation).....

PO to

Witness : PI. State your name, designation, place of working.  
(M.W.1)

Witness : I am.... I am working as Assistant Engineer..... I have been working as such since.....

PO : Did you conduct a surprise check of the stores located at.....?

DA : I object to the PO putting a leading question.

PO : The question is introductory in nature and what is mentioned is an undisputed fact. There is therefore no objection to putting this question.

IO : There is noting objectionable in putting such a question. I overrule the objection.

Wit. : On..... I was entrusted with an anonymous petition by the Superintending Engineer.....alleging that some items of stores specified therein were misappropriated by the CO and I was asked to conduct a surprise check of the Stores. I accordingly conducted a surprise check of the stores located at..... on.....at.....with the assistance of my staff. I produce the anonymous petition received by me from the SE.

DA : I object to the production of the anonymous petition. Anonymous petition cannot be taken into consideration and no action can be taken thereon.

PO : An anonymous petition can be looked into where it contains verifiable Information, as in this case. The anonymous petition is being produced not as substantive evidence in proof of the allegation, but to bring on record the basis for conducting the surprise check. This has been listed as a document in the charge sheet and the CO has inspected it.

IO : I agree with the contention of the PO and overrule the objection raised by the DA.

Wit. : The anonymous petition is Ex.M.1. At the time of the surprise check of the Stores, CO was present. I conducted the check of the Stores in his presence. I verified the ground stock with the stock register and other stores record. During my check, I found the following two items of stores (i).....(ii).....short. I made an endorsement in the Stock register to this effect and obtained the signature of the CO. about the shortages but he did not offer any explanation.

The CO. took charge of the Stores on.....He made an endorsement in the Stores Register, Ex. M.2, that he received the Stores as per the register. His endorsement is Ex. M.2B.

I produce the vouchers relating to the purchase of the two items. They are Ex. M.3 and M.4. the voucher show that they were purchased at a cost of Rs. 50,000 and Rs. 25,000 respectively. The receipt of the two items was made in the Stores Register (Ex. M.2), under entries, Ex.M2.C and M.2.D.

I submitted a report on the inspection of the Stores to the SE. My reports is Ex. M.5.

I later conducted a preliminary enquiry as directed by the SE and submitted my report.

PO : Chief examination of the witness is over. I offer him for cross-examination by the C.O.

## CROSS-EXAMINATION

DA : I require the preliminary enquiry report and it may be ordered to be furnished to the CO.

PO : Prosecution does not rely on the preliminary enquiry report. It is a confidential document. Hence, the CO has no right to demand its production.

IO : I have carefully considered the contentions on both sides. I hold that in as much as the prosecution is not relying on the preliminary enquiry report, the CO has no right to demand its production. I shall not consider the report in any manner. I therefore hold that the preliminary enquiry report need not be made available. CO

may now proceed with the cross-examination of the witness.

- DA : The two items were not received in the Stores, during the period the CO held charge of the Stores.
- Wit : No They were received during the period of the CO's predecessor.
- DA : There is nothing in the Stores Register or else where to show that the CO received them from his predecessor when he took charge of the Stores.
- Wit : CO made an endorsement of having taken charge of the Stores as per the Stores Register, which means that the CO acknowledged receipt of the two items of stores also.
- DA : CO made the endorsement without making a physical verification of the stores, item by item.
- Wit : CO must have made a physical verification.
- DA : There is nothing on record to show that the CO did make physical verification of the Stores.
- Wit : Such an endorsement is not generally made. It is implied.
- DA : I object to the reply. He is not answering my question. The question is not whether an endorsement is generally made or not. What I wanted to know is whether the CO made any endorsement anywhere that he had made a physical verification, while taking charge of the stores. The witness should give a straight reply, "yes", or "no".
- IO : Witness may give a specific reply to the question.
- Wit : I do not find any endorsement by the CO that he made physical verification of the stores while taking charge of the stores.
- DA : Were the 2 items recovered from the C.O.
- Wit : No.
- DA : Were they recovered from anyone else?
- Wit : No.
- DA : There is not material to say that the C.O disposed of the 2 items or

that he misappropriated them.

Wit : I do not know. I did not look into this aspect.

DA : Following the surplus check, you conducted the preliminary enquiry.

Wit : Yes.

DA : Why did you not look into this aspect?

Wit : I was not competent to go into this aspect.

I did not have the power or the authority to conduct an investigation outside the Undertaking.

DA : I put it to you that there is no material to say that I misappropriated the two items of stores.

Wit : As I said I did not go into this aspect.

DA : I want to know whether there is any material, whether you looked into it or not.

Wit : There is not such material to my knowledge.

DA : I put it to you that physical verification is not done item by item and the handing over and taking over is based on trust.

Wit : No, Physical verification is invariably done.

DA : You have stated in the chief-examination that the C.O. did not offer any explanation to you when you questioned him.

Did you record this fact in the Stores Register, Ex. M.2. or in your inspection report or elsewhere.

Wit : No.

DA : Was a complaint lodged with the police?

Wit : SE gave a complaint to the police to investigate and take necessary action.

DA : Police did not take any action as they did not find any material in support of the allegation.

Wit : The matter is still under investigation. I do not know the position as

to what material is available with the Police.

- DA : In such a case, when the case is under police investigation, how can the disciplinary authority take departmental action against the C.O?
- PO : The question whether departmental action can be taken in a case which is under investigation with the police is a legal issue. It is not for the witness to answer. CO. can make a separate representation for consideration. In any case I may submit that there is no legal bar against taking of departmental action when the matter is under investigation by the Police.
- IO : I agree with the PO. This question can be argued. CO may make his representation separately.
- DA : I put it to you that you obtained the signature of the CO on the endorsement about shortages in Ex. M.2-A under duress.
- Wit : No. CO affixed his signature freely having satisfied himself about its correctness.
- DA : CO was placed under suspension the very next day after the check and he was not given time or opportunity to make a thorough verification of the stores or to handover charge of the stores to his successor.
- Wit : It is true, C.O. was placed under suspension on the next day. But, C.O. was not prevented from making verification of the stores or to hand over charge of the stores to his successor.
- DA : Do you find any endorsement of the CO of his handing over the stores to his successor?
- Wit : No. CO refused to handover the stores. Hence his successor himself made the verification and took over the stores. His endorsement to that effect is Ex. M.2.E.
- DA : I put it to you that you played into the hands of some disgruntled elements who wanted to deprive CO. of promotion and foisted a false case against him.
- PO : It is an uncalled for insinuation and the question should be withdrawn.



- IO : It is only a suggestion. Witness may reply.  
 Wit : I deny the suggestion.  
 DA : I have closed my cross-examination of the witness.

### Re-examination

- PO : I want to re-examine the witness  
 DA : PO cannot re-examine the witness on any new fact.  
 PO : I shall only put a question to elicit clarification of an aspect that has come in during the cross-examination. I am entitled to do so.  
 IO : PO may put his question.  
 PO : While handing over charge and taking over charge of the stores, it is necessary that a specific mention should be made that the stores have been physically verified?  
 DA : I object to this question. This aspect is already covered under cross-examination  
 PO : This question is necessary by way of elucidation.  
 In fact, the witness clarified this aspect in cross-examination, but it was disallowed. Hence it is necessary for me to elicit it by way of clarification in re-examination.  
 IO : The contention of the PO is sustained.  
 Wit : It is not necessary to make any specific mention while taking charge that a physical verification was made of the stores. It is implied.

Read over to the deponent and admitted by him to be correct.

Sd.

Witness

Sd.

Sd.

Sd.

PO

CO

Inquiry Officer

Sd.

DA

PO : I may be permitted to produce the next witness on behalf of the D.A.

### Deposition of Shri.....designation....

PO to : Pl. give your name, designation and place of posting.

witness

M. W.2)

Wit : I am..... and working as Supervisor.....at..... i have been working as such since.....

PO : Where were you earlier, prior to.....?

Wit : I was supervisor at.....from.....to.....

PO : Who succeeded you as supervisor of the stores at.....?

Wit : Shri....., the CO succeeded me.

PO : Did you hand over stores to the CO?

Wit : I handed over charge of the stores to the CO

PO : When did you handover charge of the Stores?

Wit : I handed over charge of the stores on.....

PO : Was any entry made in the Stores Register of the fact of having handed over charge of the stores to the CO?

Wit : Yes. The endorsement is Ex. M. 2-B in the stores Register Ex. M.2.

PO : Does Ex.M.2-B bear the signature of the CO acknowledging the receipt of the stores?

Wit : Yes.

PO : While handing over charge of the stores you and the CO both made verification item by item.....

DA : (interrupts). I object to this leading question.

IO : I sustain the objection. PO may reframe the question.

PO : How did you actually handover the stores?

- Wit : We did not make any physical verification of the stores, item by item. The handing over and taking over was a matter of trust. We made the endorsement Ex. M.2-B in the stores Register Ex. M.2 without verifying the ground stock.
- PO : The witness is not speaking the truth. He is deviating from the record. The witness may be treated as hostile and I may be permitted to cross-examine him.
- DA : The witness cannot be dubbed hostile merely because what he has stated does not support the case of the Dis. Autho.
- PO : It is not correct to say that the witness is speaking the truth. During the preliminary inquiry, his statement was recorded. Where he stated that the CO took over charge after making a physical verification of the stores. He is now deviating from his own prior statement. Obviously he has been won over by the CO.
- JO : I have considered the contentions of both sides and the material on record and I find that the witness is not speaking the truth. I allow the request of the PO to treat the witness as hostile and treat him as hostile witness accordingly and permit the PO to cross-examine the witness.

### CROSS-EXAMINATION BY PO.

- PO : When were the two items of stores received in the stores?
- Wit : They were received on.....an seen from the entry of receipt in the stores register, Ex. M.2-C and Ex. M.2-D.
- PO : Who was in charge of the stores on that date?
- Wit : I was the Supervisor in charge of the stores on that date.
- PO : Did you acknowledge the receipt of these two items?
- Wit : Yes.
- PO : You did not issue the two items during your period.
- Wit : No. I did not issue them to any one.
- PO : The two items were therefore lying in the stores during your entire period.

- Wit : Yes.
- PO : The two items were on stock as on the day you handed over charge of the stores to the CO.
- Wit : Yes.
- PO : Did you hand them over to the CO along with other items of stores or retained them with you?
- Wit : I did not retain them with me. I handed over to the CO.
- PO : I request the IO to record the demeanour of the witness in answering the above question.
- IO : I found that the witness fumbled for words and is halting. He look quite some time before answering.
- PO : You did not mention anywhere that you did not make a physical verification of the stores, while handing over.
- Wit : No.
- PO : The CO too did not make any such mention anywhere.
- Wit : No.
- PO : I put it to you that you are coming up with this version that no physical verification was made falsely with a view to help the CO.
- Wit : It is not true to say so.
- PO : Pl. see your written statement recorded during preliminary enquiry. Ex. M. 6. Wherein you have stated that the CO conducted a physical verification while taking over charge of the stores. It bears your signature.
- Wit : Yes.
- PO : I have completed examination of the witness.
- IO : CO may now cross-examine the witness.

### CROSS-EXAMINATION BY CO.

- DA : Pl. see E.2.M.6 statement recorded from you during preliminary enquiry. Is the handwriting yours?

- Wit : No.
- DA : Whose handwriting is it?
- Wit : The statement is in the handwriting of P.W.1, who conducted the preliminary inquiry.
- DA : Did you state the facts contained therein?
- Wit : No. M.W.1 wrote it himself and obtained my signature.
- DA : Was the statement read over to you or did you go through it yourself before signing?
- Wit : No. I affixed my signature, without knowing what the statement contained.
- DA : Is it a common practice to take over stores without conducting a physical verification?
- Wit : Yes.
- DA : I have concluded cross-examination of the witness.  
Read over to the deponent and admitted by him to be correct.

Sd.

Witness

Sd.

Sd.

Sd.

PO

CO

Inquiry Officer

Sd

DA

Copies of depositions of P.Ws 1 and 2 are furnished to the CO and

PO

Sd.

IO

DA : I want to make a representation.

I take strong exception to the observation made by the IO that M.W.2. was not speaking the truth and treating him as a hostile

witness. It shows that the I.O. is biased against the CO and as such justice cannot be expected. I am submitting a separate representation to the Dis. Autho. seeking order changing the IO and entrusting the inquiry to another I.O.

PO : It is unfortunate that the C.O. has taken such a stand. It is common practice to treat a witness as hostile and such an act does not constitute bias. Question of bias does not arise on observations made during the course of the inquiry and discharge of functions vesting in an authority. There is no personal bias.

IO : The CO has alleged bias against me and it is not in the fitness of things that I should decide the issue concerning myself. I shall therefore await orders of the Dis. Autho.

I adjourn the inquiry sine die.

Sd.

Sd.

Sd.

PO

CO

Inquiry Officer

Sd

DA

-O-

(6)

Place :

Date :

Memo No.....dated.....has been received from the Dis. Autho. rejecting the contention of the C.O. alleging bias against him and asking me to continue the inquiry.

I am posting the Inquiry to.....at 11.00 hrs in my office at.....

I am intimating the CO/DA and the PO to attend and to produce the witnesses.

Sd

Inquiry Officer

-O-

(7)

Place :

Date :

Present:

CO.

DA.

PO.

Proceedings are resumed in the presence of the persons mentioned above.

Examination of witnesses for the DA is continued M.Ws. 3 to 5 are examined

No new exhibits are marked.

Copies of depositions of P.Ws 3 to 5 are furnished to the CO and PO.

Case for the Dis. Autho. is closed.

Sd.

PO

Sd

CO

Sd

DA

-O-

(8)

Sd

Inquiry Officer

Place :

Date :

Present :

CO

DA

PO

CO has furnished his written statement of defence.

CO is informed that he may examine himself as a witness on his own behalf, if he so chooses. CO has stated that he does not want to examine himself as a witness.

Examination of witnesses for the defence is now taken up. D.W. is examined Document Ex. D 1. exhibited.

C.O. closed his defence.

I examined the CO on the circumstances appearing against him in the evidence and recorded his replies.

PO and CO stated that they would submit written arguments. PO. is required to furnish his written brief within 10 days and furnish a copy thereof simultaneously direct to the CO. CO is directed to furnish his written brief thereafter within 3 days of the receipt of the written brief of the PO by him.

-0-

(9)

Place :

Date :

Written briefs of the PO and the CO are both received.

Sd

Inquiry Officer

-0-

(10)

I have prepared my inquiry report.

The Inquiry Report is sent to the Dis. Authority with the case record.

Sd

Inquiry Officer.

-0-





Courtesy : The Management Jungle, By C. Northcote Parkinson  
M.K. Rustomji S.A. Sapre

## Chapter 15

# PECUNIARY ASPECTS RESULTANT TO THE PENALTIES IMPOSED

1. The code of conduct for the Government employees laid down in the A.P.C.S (Conduct) Rules stipulates clear as to what the Government expects of a Government servant to do and not to do in his official as also in his private life in regard to aspects likely to imping on his official life. Misconduct on the part of the employee results in the imposition of a penalty on the Governemnt servant concerned if the competent authority feels that there are good and sufficient reasons for imposing them. The penalties are imposed after following the procedures under the APCS (CCA) Rules. Any punishment imposed is bound to affect the financial benefits either directly or indirectly over a period of time. An attempt is made in this note regarding the impact of the penalties on the emoluments and other financial benefits of the Government employees.

### 2.1 REMOVAL AND DISMISSAL FROM SERVICE

The pay and allowances of a Government Servant who is dismissed or removed from service cease from the date of such dismissal or removal (F.R. 52).

- 2.1.2 As per Rule 40 of A.P. Revised Pension Rules a Govt. Servant dismissed or removed from service is not entitled to pension and gratuity. However under the same rule the authority competent to remove or dismiss the Government Servant from service may sanction in deserving cases or on special consideration an allowance called Compassionate Allowance not exceeding two thirds of the pension / gratuity or both which would have been admissible if the employee had retired on invalid pension as on the date of Dismissal/Removal as the case may be.

## 2.2 REVISION TO A LOWER POST

The employee inflicted with this penalty has an immediate drop in emoluments in that, his pay is fixed in the lower post at a stage which would have been admissible had he not been promoted to the higher post.

## 2.3 REDUCTION TO A LOWER RANK

This will not have an immediate impact on the monetary benefits. But the fact that in consequence the employee take his turn of promotion after his juniors, entails in most cases, delay in promotion to a higher category and this resultantly has an impact on the emoluments

## 2.4 REDUCTION OF PAY TO A LOWER STAGE IN THE TIME SCALE

Here the pay is reduced to a lower stage and in consequence there is immediate reduction in the pay of the employee.

## 2.5 STOPPAGE OF INCREMENT : FR 24.

The order withholding an ordinary increment in a time scale must specify the period for which it is to be withheld if the order is to be operative. If the order does not state that the withholding of the increment shall have the effect of postponing future increments, it should be assumed, that the officers pay is restored to what it would have been, had his increment not been withheld from the next natural date from which he would have drawn an increment (F.R. 24).

- 2.5.1 Where it is proposed to withhold an increment in an officer's pay as a punishment, the authority inflicting the punishment should before the order is actually passed, consider whether it will affect the officer's pension, and if so, to what extent. If it is decided finally to withhold the increment, it should be made clear in the order that the effect of the punishment on the pension of the employee has been considered and that the order is intended to have this effect.

As clarified in Government Memo No. 1436/Ser.C/80-2, G.A. (Ser. C) Department, dt. 7.2.1981 in a case where the order withholding the increment of an employee does not made it clear whether the effect of the punishment on the pension has

been considered or not and where the stoppage order does not stipulate cumulative effect the omission in the order will be to the benefit of the individual for purposes of pension calculations (executive instructions under FR 24)

## 2.5.2 EXAMPLE OF STOPPAGE OF INCREMENT

A is drawing a basic pay of Rs. 6150 with effect from 1-8-93 (Date of increment) in the Time scale of pay of Rs. 4,400-160-5200-190-6150-230-7300-280-8140. Orders are issued on 15-9-1993 for the stoppage of his increment for a period of two years. The effect of this stoppage will be as follows:

The orders of punishment issued on 15-9-93 will have impact on the increment falling due after this date.

Date	With cumulative effect	without cumulative effect
	Rs.	Rs.
1-8-93	6150	6150
1-8-94	6150	6150
1-8-95	6150	6150
1-8-96	6150 + 230	6150 +
	increment due on 1-8-94	230
	Increment due on 1-8-95	230
	Increment due on 1-8-96	230
	1-8-96 = 6380	<u>6840</u>

(Increments due on 1-8-94, 1-8-95 are added as the stoppage is without cumulative effect)

## 2.6 EFFECT OF THE PENALTIES ON PROMOTION TO HIGHER POSTS

G.O. Ms. No. 167, G.A. (Services) Dt. 35-4-85 stipulates the criteria which should be followed in regard to cases of promotion to Higher posts of Government

Servants who have been imposed the penalties under the APCS (CCA) Rules. The denial of promotions for the periods specified in such cases have an impact on the emoluments of the employees as there will be no expected growth in their career.

The G.O. Ms. No. 342, G.A. (Services C) Department, dt. 4-8-97 stipulates that any minor penalty bars promotion/appointment by transfer for a minimum period of one year and withholding of increment with cumulative effect bars promotion/appointment by transfer for twice the period. Here also there is an indirect impact on the emoluments of the employee owing to withholding of the promotion for a specified period.

## **2.7 RECOVERY FROM PAY OF THE WHOLE OR ANY PART OF THE PECUNIARY LOSS CAUSED TO THE STATE GOVERNMENT**

This penalty has direct impact on the emoluments of the Government Servant. Under Article 58 A.P.F.C. Volume I the recoveries may not ordinarily exceed one third of the pay of the Government Servant excepting under specific instances stated in the above quoted article.

## **2.8 SUBSISTENCE ALLOWANCE - FR 53**

A Government servant under suspension should be paid a subsistence allowance at an amount equal to the leave salary which the Government servant would have drawn if he had been on leave on average pay and in addition dearness allowance on the basis of such leave salary. He will also be entitled to any other compensatory allowances admissible from time to time on the basis of which the Government Servant was in receipt on the date of suspension. The employee should furnish a certificate that he is not engaged in any other employment or business, profession or vocation during the period.

As a result of periodical reviews, subsistence allowance may be increased by an amount not exceeding 50% of such allowance if the suspension has been prolonged for the reason not directly attributable to the employee. It may be reduced by 50% for the reasons directly attributable to the employee.

As per instructions contained in Government Memo No. 29730-A/45B/AZ/FR. III/94, dt. 15-9-94 there is no bar or restriction limiting payment of subsistence

allowance upto a period of six months. The Government Servant under suspension is entitled to subsistence allowance for the entire period of suspension and the payment of subsistence allowance therefore be ensured.

### 3. **REGULARISATION OF PERIOD OF ABSENCE FROM DUTY AS A RESULT OF DISCIPLINARY MEASURE-F.R. 54**

F.R. 54 (i), F.R. 54-A (1) and F.R. 54 (b) deal with the issues regarding regularisation of the periods of absence from duty as a result of disciplinary measures. Each provision is discussed hereunder:

#### 3.1 Cases where the employee dismissed, removed or compulsorily retired is exonerated on merits - FR 54 (i)

Where a Government servant who has been dismissed removed or compulsorily retired is reinstated as a result of review or would have been so reinstated but for his superannuation (while under suspension or not) is fully exonerated, he will be paid full pay and allowances admissible under the rules for the period minus the subsistence allowance paid for the period. The period of absence till the date of his superannuation will be treated as duty for all purposes. However, if the competent authority comes to the conclusion that the termination of the Disciplinary proceedings had been delayed due to reasons directly attributable to the Government Servant, it may after giving him an opportunity to make his representation allow only such amount (not being the whole) of pay and allowances as it may determine. The entire period of absence in the above cases also will be treated as duty FR 54 (i).

#### 3.2 Where the court of Law sets aside the above penalties on the merits of the case and the Government Servant is re-instated without holding further enquiry, the entire period of absence will be treated as duty and the Government servant will be entitled to full pay and allowances admissible for the period (FR 54 A (1)).

#### 3.3 **WHERE THE CASES ARE DROPPED OWING TO NON COMPLIANCE OF ARTICLE 311 OF CONSTITUTION**

Where the above penalties vide 3.1 above are set aside by the appellate authority/ law court on the ground of non-compliance with the requirements under Art. 311 of Constitution of India and no further enquiry is proposed to be held, the

Government servant will be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled as the competent authority may determine after giving notice to the Government Servant and considering his representation which should be submitted by him within 60 days from the date on which the notice has been served.

The period of absence in the cases under 3.3 above will not be treated as duty. However the competent authority may treat the period as duty for specified purposes. If the Government servant so desires the period of absence may be converted as leave of any kind due and admissible to the Government Servant, the amount of subsistence allowance is recoverable from the emoluments/leave salary payable for the above period. If the subsistence allowance exceeds the leave salary owing to grant of E.O.L at request, it has to be recovered (Instructions 2 under FR 54).

### **3.4 CASE OF A GOVERNMENT SERVANT UNDER SUSPENSION WHEN REINSTATED**

When a Government Servant who has been suspended is reinstated or would have been so reinstated but for his retirement while under suspension, the competent authority may order that the period of suspension will be treated as duty, if he is of the opinion that the suspension was wholly unjustified and the Government servant will be entitled to full pay and allowances to which he would have been entitled, had he not been suspended minus the amount of subsistence allowance paid. However in such cases if the competent authority is of the opinion that the termination of the proceedings has been delayed due to reasons directly attributable to the Government Servant, it may after giving him an opportunity to make a representation and after consideration direct that the Government Servant be paid for the period of such delay such amount (not being the whole) of such pay and allowances as it may determine. The subsistence allowance is recoverable in this case also.

#### **3.4.1 WHEN MINOR PENALTY IS IMPOSED**

As per orders contained in the G.O. Ms. No. 214, Finance (FR II) Department, dt. 22.12.1997 where the disciplinary action results even in a minor penalty, the period of suspension cannot be treated as duty and the employee is not entitled to full pay and allowances. Only when he is absolved of all the charges, the

period of suspension can be treated as duty entitling the employee to full pay & allowances minus the subsistence allowance paid.

### 3.4.2 CASES OF DEATH OF EMPLOYEE WHILE UNDER SUSPENSION

When the Government Servant under suspension dies before the disciplinary or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death should be treated as Duty for all purposes and his family paid the full pay and allowances for that period minus the subsistence allowance already paid.

### 3.4.3 HOW TO REGULARISE PERIOD OF SUSPENSION WHERE A MAJOR PENALTY IS IMPOSED

In cases not covered by the penalties stated above the period as Duty unless the competent authority directs that it should be so treated for any specific purpose. In cases of this nature the Government Servant will be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he not been suspended as the competent authority determine after giving notice to the Government servant and after considering his representation.

In the above case, if the Government servant so desires, the period will be treated as leave of any kind due to the Government Servant. The subsistence allowance paid is recoverable from the leave salary.

## 4. WILFUL ABSENCE FROM DUTY

Under FR 18 wilful absence from duty is treated as 'Dies Non' for all purposes Viz., pay and allowances, leave, increment and pension. The employee will not be entitled to salary for the period treated as 'Dies Non' and it is not countable for calculation of service benefits stated above.

## 5. ABSENCE AFTER THE END OF LEAVE

A Government Servant who remains absent after the end of his leave is entitled to no leave salary for the period of such absence and the period will be treated against his leave account as though it were leave on half average pay. The



competent authority may treat it as misbehaviour. Then the employees will not be entitled to any leave salary for the period.

## 6. L.T.C. MISUSE - DISCIPLINARY MEASURES

In case of misuse of L.T.C., apart from the disciplinary measures the competent authority shall order (a) Recovery of the L.T.C. amount paid with 18% interest thereon (b) forfeiting the right of the availment of L.T.C. by the employee for the rest of his career, (Rule 16 L.T.C. Rules).

## 7. DISCIPLINARY PROCEEDINGS AGAINST A RETIRED GOVT. SERVANT

Disciplinary proceedings against a retired Govt. servant for acts of grave misconduct during the period of his/her service can be instituted as per rule 9 of A.P. Revised pension rules with the sanction of Government. However such proceedings shall not be in respect of any event which took place more than four years before such institution. The procedure relating to the institution of proceedings are laid down in rule 9. If the proceedings were already instituted while the Govt. servant was in service, no pension should be sanctioned till the proceedings are completed. In such cases, provisional pension may be sanctioned.

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