REPORT OF THE INQUIRY OFFICER

1.0. INTRODUCTION

1.1. An oral enquiry is held to ascertain the truth or otherwise of the allegations levelled against the delinquent Government servant. The report of the Inquiry Officer is intended to serve the basis on which the disciplinary authority has to take a decision as to whether or not the imposition of any penalty on the Government servant is called for. It is, therefore, obligatory on the part of the Inquiry Officer to consider the entire evidence adduced during the enquiry before submitting his report to the Disciplinary Authority. The Inquiry Officer should take into consideration all the circumstances and facts of the case, as a rational and prudent man, and draw his conclusions as to whether the charges are proved or not. Each conclusion should be based on cast iron logic. The Supreme Court in the case of Girdhari Lal Vs. Assistant Collector, 1970(2) S.C.C. 530 has emphasized the need for correct assessment of evidence on an objective analysis based on cast iron logic. The Inquiry Officer should submit his report in writing, duly signed by him. In case the Inquiry Authority is a Board consisting of more than one Member, each member of the Board of Inquiry should sign the report.

REPORT TO BE BASED ON EVIDENCE ADDUCED DURING THE INQUIRY

1.2. It is now an established principle that the Inquiry Officer while writing his report, should rely only on the evidence adduced during the inquiry and that he should not make use of any material which is not brought to his notice during the course of the enquiry. The Supreme Court of India, in the case of State of Assam Vs M.K Das, 1970 (SC) SLR 444 has observed as under:

"It is highly improper for an Inquiry Officer during the conduct of inquiry to attempt to collect any materials from outside source and not make that information so collected, available to the delinquent officer and, further make use of the same in the inquiry proceedings. There may also be cases where a very clever and astute Inquiry Officer, may collect outside information behind the back of the delinquent officer and, without any apparent reference to the information so collected, may have been influenced in the conclusion recorded by him against the delinquent officer concerned. If it is established that the material behind the back of the delinquent officer has been collected during the enquiry and such material has been relied on by Inquiry Officer, without its having been disclosed to the delinquent officer it can be stated that the inquiry proceedings are vitiated".

PERSONAL KNOWLEDGE OF INQUIRY OFFICER NOT TO BE USED

1.3. The next question that arises is whether the Inquiry Officer can make use of his personal knowledge and whether his report should be influenced by it. Now since the accepted principle in disciplinary proceedings is that the Inquiry Officer...
should consider only that evidence which has been produced during the enquiry, it follows that no material from personal knowledge of the Inquiring Authority bearing on the facts of the case which has not appeared either in the articles of charge or the statement of imputations or in the evidence adduced at the enquiry and against which the delinquent Govt. servant has had no opportunity to defend himself should be imported into the case.

1.4. It is incumbent on the Inquiry Officer to consider all the material brought on record. He cannot afford to omit any materials, which have been produced during the course of the enquiry, from his consideration. The report of the Inquiry Officer has to be based on the evidence adduced during the enquiry and anything happening before or after the enquiry has no relevance. It is the duty of the Inquiry Officer to ensure that no part of evidence which the accused Govt. Servant was not given an opportunity to refute, examine, explain or rebut has been relied on against him.

**REPORT NOT TO CONTAIN RECOMMENDATIONS ON QUANTUM OF PUNISHMENT**

1.5. The CCS (CCA) Rules, 1965 lay down that the Inquiring Authority is required to give a finding on the articles of charge whether or not the same are proved, not proved or partially proved. The power to decide the quantum of punishment is vested in the disciplinary authority under Rule 15 of the above said rules. The Inquiry Officer is, therefore, not empowered to give recommendations as to the quantum of punishment in his report. The Inquiry Officers should avoid this. However, if the Inquiry Officer recommends the quantum of punishment in his report, it will not vitiate the enquiry since it amounts only to a recommendation which the disciplinary authority is not bound to accept. The above position has been admirably brought out by the Supreme Court in the case of Union of India Vs. H.C. Goel AIR 1964 S.C. 364 wherein it has observed as under:

“Unless the statutory rule or the specific order under which an officer is appointed to hold an enquiry so requires, enquiry officer need not make any recommendation as to the punishment which may be imposed on the delinquent officer, in case the charges framed against him, are held proved at the enquiry, if however, the enquiry officer makes any recommendations, the said recommendations like his findings on the merits, are intended merely to supply appropriate material for the consideration of the Government. Neither the findings nor the recommendations are binding on the Government vide A.N.D. Silva Vs. Union of India, AIR 1962 SC 1130.”

**REPORT OF INQUIRY OFFICER TO CONTAIN REASONS FOR FINDINGS**

1.6. The disciplinary proceedings have been declared as quasi-judicial proceedings (H.C. Goel’s case) by the Supreme Court. It is a characteristic of such proceedings that conclusions should not only be based on reasons, but the reasons should be made known. Disclosure of reasons guarantees consideration. The condition to give reasons minimizes arbitrariness, it gives satisfaction to the party.
against whom the report is made and it also helps the appellate authority to remove any imbalances in the enquiry report while deciding the appeal. (Madhya Pradesh Industries Vs. Union of India. AIR 1966 SC 671) it also enables the disciplinary authority to come to an independent decision of his own regarding the guilt of the charged official. In the case of Bhagat Raja Vs. Union of India (1967) Z SCR 302 it has been held that if an order does not give any reasons, it does not fulfill the elementary requirements of a quasi-judicial process. Both the above cases highlight the need for a reasoned report by the Inquiry Officer.

**WHETHER INQUIRY OFFICER CAN RECORD FINDING ON ADDITIONAL CHARGE?**

1.7. An Inquiry Officer can record a finding on a charge not included in the charge sheet served on the Govt. servant in view of the explanation under Rule 23(i) of the CCS (CCA) Rules, 1965. The rules provide that if the inquiry officer is of the opinion that the proceedings of the enquiry establish any article of charge different from the original articles of charge, he may record, his findings on such article of charge provided that the Government servant has either admitted the facts on which such article of charge is based or he has had a reasonable opportunity of defending himself against such article of charge. Normally the Inquiry Officer restricts his findings to the articles of charge communicated to the accused officer. However, if he is of the opinion that a charge other than those included in the charge sheet is established, he can record his findings on such additional charge only if any of the following two conditions are fulfilled:

(i). that the charged officer has admitted the facts on which such article of charge is based, or

that the charged officer was given reasonable opportunity to defend himself against such charge during the course of the enquiry.

**2.0. GUIDE-LINES FOR DRAFTING THE REPORT**

Whether Evidence Act and Criminal Procedure Code are applicable to Departmental Enquiries?

2.1. The emphasis in Departmental inquiries is heavily on facts. The rules also enjoin that whatever the Inquiry Officer does should be lawful and in accordance with the rules on the subject. A legalistic approach is not called for as the legal principles with which the Inquiry Officers are primarily concerned are only the principles of natural justice. The Indian Evidence Act and the Criminal Procedure Code are not applicable in departmental enquiries except in so far as these relate to the principles of natural justice. (State of Orissa Vs Murlidhar Janna, AIR 1963 SC 404)
STANDARD OF PROOF IN DEPARTMENTAL ENQUIRIES

2.2. The standard of proof required in departmental enquiries differs materially from the standard of proof required in a criminal trial. The Supreme Court has, in the case of Union of India Vs Sardar Bahadur, 1972 Lab I C (S C )627 given a clear ruling that a disciplinary proceeding is not a criminal trial and the standard of proof required in a disciplinary enquiry is that of preponderance of probability and not proof beyond reasonable doubt. (Also see the case of State of AP Vs Sree Rama Rao, 1964 3 SCR 233).

FORM AND CONTENT OF THE REPORT

2.3. Rule 14(23 of the CCS (CCA) Rules, 1965 makes it obligatory on the part of the Inquiry Officer to prepare a report since it provides that after the conclusion of the enquiry, a report shall be prepared. The report shall be in the narrative form and shall contain

(i). an introductory paragraph indicating the terms of reference under which the enquiry was held, i.e. a reference to the order appointing the Inquiry Officer, and the dates and places at which the enquiry was held;

(ii). broad statement of the case under enquiry including the articles of charge and statement of imputations of misconduct or misbehaviour or a gist thereof;

(iii). charges which were admitted or dropped or not pressed, if any, during the preliminary hearing;

(iv). the charges that were not admitted and actually enquired into;

(v). any points arising out of the inspection of listed documents asked for by the Charged Officer including brief statement of facts and documents which were admitted;

(vi). brief statement of the case of the disciplinary authority in respect of the articles of charge actually enquired into and the gist of the evidence produced on behalf of the disciplinary authority, material evidence getting a place of pride;

(vii). statement of defence of the charged official, and the defence evidence adduced during the enquiry, mention being made whether the Charged Official examined himself as his own witness;

(viii). points for determination arising out of the statement or prosecution case and defence case;
(ix). an objective analysis of evidence adduced during the enquiry from both sides and assessment of the same in respect of each point set out for determination and the finding thereon;

(x). finding on each article of charge with reasons therefor;

(xi). signature of the Inquiring Authority.

2.4. The Inquiry Officer after he has signed and submitted the enquiry report becomes functus officio and has no power to change, modify or amend his report.

**DISPUTE AS TO HAPPENINGS DURING THE ENQUIRY**

2.5. In case of a dispute arising at a later stage as to what happened before the Inquiry Officer during the course of the enquiry, the statement of the Inquiry Officer in this regard will be generally accepted as correct. (Union of India Vs. T.R. Verma, AIR 1957 Sc. 882). It is for this reason also that the Inquiry Officer should maintain a daily order sheet giving in brief the happenings of each day of the enquiry. The daily order sheet is the property of the Inquiry Officer and normally no one else, i.e. the Charged Officer or the Presenting Officer has a right to write anything on it except to append their signature at the end of the proceedings on each day. In the event of difference of opinion, a written representation should be made to the Inquiry Officer. However, if the Charged Officer or the Presenting Officer writes some remarks on the daily order sheet, the Inquiry Officer should note his further remarks, sign the daily order sheet and keep the same as part of the record of the enquiry.

**MISBEHAVIOUR BEFORE INQUIRY OFFICER BY THE CHARGED OFFICER**

2.6. At times the Charged Officer may misbehave with the Inquiry Officer. The question arises whether the Inquiry Officer can proceed against such an official for misbehaviour. The answer is that an Inquiring Authority appointed under the CCS (CCA) Rules, 1965 by the disciplinary authority is not a ‘Court’ as defined in the ‘Contempt of Court Act’. Further, the Inquiry Officer, not being the disciplinary authority, for the Charged official cannot proceed against him for misbehaviour in the proceedings before him. The Inquiry Officer, in such a case should make a report of the misbehaviour of the Charged official during the inquiry to the disciplinary authority, who, after considering the facts of the case, may initiate a separate disciplinary proceeding against the official as misbehaviour with the Inquiry Officer constitutes misconduct.
3. RECORD OF THE INQUIRY TO BE FORWARDED TO DISCIPLINARY AUTHORITY

3.1. The Inquiring Authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of the inquiry after he has written and signed his report. The record of the inquiry shall include—

(i). The report of the inquiry prepared by the Inquiry Officer with spare copies as required;

(ii). A folder containing the list of exhibits and the documents produced during the inquiry on behalf of the disciplinary authority and the Charged officer;

(iii). A folder containing the list of witnesses produced on behalf of the prosecution and the defence separately along with their depositions arranged in the order in which they were examined during the inquiry;

(iv). A folder containing written statement of defence, if any, written briefs filed by both sides, if any.

(v). A folder containing daily order sheets and applications, if any, submitted during the inquiry and orders passed thereon along with orders of the disciplinary authority and the Inquiry Officer relating to the inquiry.

3.2. The Inquiring Officer is required to forward to the disciplinary authority his report together with the record of the inquiry including the exhibits and spare copies of the report as follows:

(i). As many copies as the number of accused;

(ii). One copy for the Special Police Establishment in cases investigated by them.

3.3. Cases in which the inquiry is held by a Commissioner for Departmental Enquiries, the report and the record of inquiry is sent to the Central Vigilance Commission, who in turn will forward it to the disciplinary authority with their advice as to further course of action. However, where an officer other than the Commissioner for Departmental Enquiries has been allowed by the Central Vigilance Commission to act as an Inquiry Officer, the report of such Inquiry Officer together with the record of the enquiry will be sent to the Disciplinary authority who will forward the case to Central Vigilance Commission, for their second stage advise about the further course of action.

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