

# Measures to Overcome delays in Departmental Inquiries

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# Stages of Delay

- In finalising enquiries/Investigation
  - With the Vigilance
  - With Police/CBI Investigation
- In initiating RDA Proceedings
  - Decision of the Disciplinary Authority regarding nature of proceeding.
  - Appointment of Enquiry Officer/Presenting Officer
- In the proceedings itself
  - Appointment of Defence Assistant
  - Inspection of Documents, non supply
  - Adjournments.
  - Dilatory tactics, transfer of P.O., C.O. E.O. etc.
  - Non-availability of witnesses.
  - Complaint against Enquiry Officer etc.
- In taking final decision regarding penalty etc.
  - Appeal, Review etc.

## Practical difficulties and how to overcome them - delays

- *G) Difficulties arising out of delay : -*
  - f Justice delayed is justice denied.*
  - f Difficulties in processing for pensions, promotions etc.*
  - f Unproductive extra work.*
  - f Monitoring by the CBI and CVC.*

▪ *E. Reasons for delay and how to overcome with:*

*f Contradiction between CVO, CMD/Chairman and CBI.*

*f Short coming on the part of disciplinary authority.*

*–Lack of knowledge,*

*–Appointment of raw -hands as EO/PO*

*f Simultaneous prosecution case.*

*–Difficulty in getting documents.*

*f Lapse s on the part of Enquiry Officer.*

*–Mala -fide intention.*

*–Does not know the procedure.*

*–Indecision.*

*–Engagements.*

- **Hostile witnesses.**

- f* Trap Case.

- f* Leading Questions/Cross Examination/Gain-over

- f* Private persons.

- **Delay in inspection of documents/copy supply.**

- f* Bulky documents.

- f* Not kept ready.

- f* Irrelevant documents.

- f* Late submission of lists.

- **Lapses on the part of Presenting Officer.**

- f* Lack of knowledge.

- f* Attitude

- f* Not serving summons to witnesses.

## ■ **Adjournment**

*f* By E.O.

*f* By P.O.

*f* By charged officer.

## ■ **Dilatory tactics by the Charged Officer.**

*f* Avoiding received of notice/summons

*f* Long list of documents.

*f* Delay in inspection.

*f* Medical Certificates.

*f* Written Representations.

*f* Request for change of E.O./P.O.

*f* Advocate as defence assistant

- **Delay in getting appointment of Defence Assistant.**
  - f* Parent department not releasing him.
  - f* Engagements.
- **Difficulty in getting attendance of witnesses.**
  - f* Far away.
  - f* Transferred.
  - f* Retired.
  - f* Present address not known.
- **CAT cases, stay order of courts.**
- **Simultaneous Police cases/CBI cases.**
- **Adequacy report**

# Role of Enquiry Officer

- To hold in depth enquiry.
- To bring out correct facts of the case.
- After holding an enquiry in accordance with the prescribed process to ensure an impartial and fair hearing to the charged official.
- To bring out on record all documents in support of the charges and those permitted for the defence.



## **Role of Enquiry Officer (*continued*)**

- To record oral testimony of the prosecution and the defence witnesses after subjecting them to cross-examination by the opposite party.
- To examine the charged officer after evidence has been recorded.
- To get clarification from the CO on evidence against him.
- To write a reasoned report of enquiry giving his pointed findings whether the charges are proved or not proved.

## **Role of Enquiry Officer (*continued*)**

- To ensure that reasonable opportunity given to charged official to defend himself.
- To complete the enquiry within limited time of six months by judicious use of his discretion to avoid delays not at the cost of natural justice.

# Role of Presenting Officer

- After appointment ensure that copies of article of charge, statement of imputation, list of documents/witnesses etc. are available.
- Ensure that cited documents along with copies of statements of PWs are sufficiently available.
- Attend all the hearing.
- Keep in touch with the Enquiry Officer.
- Keep the whereabouts of all PWs upto date.
- Ensure the timely service of summons.
- Ensure PWs and brief them properly.

# Role of Presenting Officer (*continued*)

- He should acquaint well with the facts and circumstances of the case.
- He should pursue all the documentary evidence pertaining to the case.
- He should be acquainted with various rules and regulations of department.
- He should have discussed the case with the original IO and I and officers of the concerned department.
- He should see the relevancy of documents and the witnesses.

## Role of Presenting Officer (*contd*)

- He should assist the Enquiry Officer.
- He should ensure that besides presenting the case on behalf of the disciplinary authority, sufficient opportunity given to the delinquent official.
- He should lead/present his evidence in a systematic and logical manner.
- He should never use his personal knowledge to cover up the matter causing prejudice.
- He should not ask unnecessary adjournments.

## **Role of Presenting Officer (*continued*)**

- He should not insist to conduct the enquiry *exparte*.
- He should not ask irrelevant questions.
- He should not delay in submission of written brief to the Enquiry Officer.

# Role of Defence Assistant

- This forms part of the reasonable opportunity enshrined in the constitution (Art. 311).
- He should be a person with an open mind, thorough with the departmental rules, regulations and with previous experience.
- Once appointed, should equip with all the relevant records, take extracts/copies of relevant documents while inspecting the documents.
- Go through and check the charges, various letters of appointments, documents.

# Role of Defence Assistant (*continued*)

- Cross-examine the prosecution witnesses skilfully to bring out the truth and expose the hollowness in their testimony.
- Discredit the prosecution witnesses by impeaching their trustworthiness.
- Ensure that no recall of witness, introduction of new evidence to fill up gaps or after defence witnesses taken up.
- Try to introduce new evidence.
- Remember that the mandatory question by the Enquiry Officer is a golden opportunity.



## Role of Defence Assistant (*continued*)

- Argue that even if the preponderance of evidence is against your client, he acted bonafide without any deliberate intent.
- Avoid unnecessary dilectary tactics or any other such act which the Enquiry Officer may take otherwise.

Any question ?

Thank you.