

*PROCEDURES FOR
CONDUCTING
DEPARTMENTAL
ENQUIRIES*

HOW TO OVERCOME DELAYS

A presentation by :

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■ INTRODUCTION

■ A. The Genesis of departmental enquiries (RDA for Major and Minor Penalties)

*f*I. Matters of Vigilance Angle

*f*II. Cases originated from CBI.

–SIR / COMPLAINT/ STATE REFERENCE/ SUPREME COURT/HIGH COURTS

Preparation of Article of Charge

▪ Article of Charge

- i) In third person,
- ii) designation & the period of time involved,
- iii) not under provisions of PC Act/IPC,
- iv) only violation of service and departmental rules/conduct rules, irregularities
- v) misconduct, negligence,
- vi) failure to maintain absolute integrity and devotion to duty,
- vii) acts of commission & omission,,
- viii) disobedience of orders and instructions,
- **sl iv to viii to be brought under one or more of above heads,**

Check List

- i) in case of specific breach of specific rule of the Conduct Rules/Service Rules, the specific rule violated to be mentioned,
- ii) to be precise, distinct, clear and unambiguous language,
- iii) should communicate the delinquent officer the grounds on which he is being charged and particular irregularities which he has committed,
- iv) should not contain discussion of evidence or give opinions or conclusions.

▪ Statement of Imputation

- Contains the grounds on which the charges are based and the circumstances under which it is proposed to take action against the charged officer.
- Should be sent alongwith the draft Articles of Charge.
- Should be prepared in the third person so as to be in line with the draft Articles of Charge.

▪ **Check List**

- Should indicate clearly and in sufficient detail all the acts of omission or commission on which each charge is based.
- All instances of irregularities etc. which are relied upon in support of the charges and which are to be proved in the course of the proceedings should be specifically mentioned.
- Superfluous matters or comments and opinions of the Investigating or Prosecuting Officers or a discussion of the material available should be avoided.
- Should be confined to the narration of facts which constitute and support the charge.

- Procedure for RDA Major Penalty
 - f Receipt of enquiry report from CBI / Department.
 - Competent Authority
 - SP's Report with enclosures.
- b) Chargesheet (Memorandum)
 - f Proper format
 - f show cause notice
 - f Acceptance/not acceptance/Oral Hearing
 - f Enquiry to start when pleaded not guilty
- c) Appointment of Enquiry Officer & Presenting Officer.
 - f Disp. Authority as Enquiry Officer
 - f Enquiry officer sufficiently senior.

▪d) Preliminary hearing

f PO, CO to be present

f No Witness Summon

f In exceptional Cases, only occasion when PO may be represented by nominee of controlling office.

▪e) Daily Order Sheet.

▪i) Appointment of Defence Assistant.

▪ii) Inspection of documents.

▪iii) Supply of documents.

▪iv) Additional documents.

f Giving relevancy by CO

f Privileged documents.

f IOs may allow inspection of additional documents

f Additional documents by PO/DA allowed by IO for which copy to be supplied / extract given to CO

▪v) Issue of summons for witnesses.

(continued)

■ C. Regular hearing :-

f Listing of Documents and PWs /DWs

–Prosecution Case

f Examination-in-chief,

f Cross Examination,

f Re-examination of prosecution witnesses.

f Daily order sheets and deposition statements

f Next date to be fixed.

- Defence witnesses for the Charged Officer.
- Self examination of Charged Officer.
 - f* CO as DW
- Mandatory question by the Enquiry Officer.
 - f* Closing of hearing / Arguments
 - f* Oral Arguments to be reduced in writing
- Submission of written brief by the Presenting Officer with copy to CO.
- Submission of defence brief by the Charge officer.
- Submission of Enquiry Report
 - f* Within Six Months of Appointments

Administrative Action

- D. Action on the enquiry report by the Disciplinary Authority.
 - ƒ Remission / Further Enquiry
 - ƒ De-novo Enquiry
 - ƒ Disp. Authority not bound to agree.
- Advice of CVC (*2nd Stage in case of Senior GOs/Board Level Appointees*) .
- E. Appellate Authority
- Administrative Action
- Review
- Implement Order

- ***F. Procedure for RDA Minor Penalty***
 - f Explanation/Memorandum*
- ***Steps to reduce delay in completion of departmental enquiry.***
- ***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.

■ Adjournalment

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

- **F. How to overcome delay / Remedies.**

- f* On the part of the Dicipinary Authority

- f* On the part of the Enquiry Officer

- f* On the part of the Presenting Officer.

- Any Question
- Thank you.