

NATURE OF EVIDENCE REQUIRED IN R.D.A. CASES

- DEPARTMENTAL MISCONDUCT VIS-A-VIS
CRIMINAL MISCONDUCT
- ACTION TO BE TAKEN AGAINST
DELINQUENT OFFICIAL
DEPARTMENTALLY.



R.D.A. CASES (*continued*)

- DEPARTMENTAL PROCEEDINGS INITIATED EITHER FOR MAJOR PENALTY OR MINOR PENALTY
 - In case of Major Penalty, Charge-sheet along with Annexures, Article of Charges, Statement of Imputation of Misconduct, List of Witnesses/List of Documents to be served.
 - In case of Minor Penalty, only Statement of Imputation served and reply of the delinquent official obtained.



Contd...

- In case of Major Penalty, Regular Departmental Proceedings are held and based on the type of evidence and based on the evidence recorded during the course of inquiry, finding of guilty or not guilty, is recorded.
- **WHILE HOLDING DEPARTMENTAL INQUIRY, THE PRINCIPLES OF NATURAL JUSTICE WILL BE FOLLOWED.**



■ THE PRINCIPLES OF NATURAL JUSTICE TO BE FOLLOWED IN DEPARTMENTAL INQUIRY AS LAID DOWN IN CASE U.O.I. V/S T.R. VERMA (AIR 1957 SC 882) ARE :-

- ƒ That a party should have the opportunity of adducing all relevant evidence on which he relies.
- ƒ That the evidence of the opponent should be taken in his presence.
- ƒ That he should be given the opportunity of cross-examining the witnesses examined by the party.
- ƒ That no materials should be relied on against him without his being given an opportunity of explaining them.



■ PRINCIPLES OF NATURAL JUSTICE ARE :-

- No one can be punished without being given reasonable opportunity of being heard.
- No one can be the judge of his own cause &
- Justice is not only done but also seem to have been done.



CONTD.

- THE RULES OF EVIDENCE AS FOLLOWED IN JUDICIAL PROCEEDINGS ARE NOT STRICTLY APPLICABLE TO DEPARTMENTAL INQUIRY BEFORE AN INQUIRY OFFICER.
- THE NATURE OF THESE INQUIRIES IS QUASI-JUDICIAL AND THESE ARE NOT GUIDED BY THE LAW OF EVIDENCE AS CONTAINED UNDER THE EVIDENCE ACT.



- IN STATE OF MADRAS V/S A.R. SRINIVASAN, AIR, 1966, SC. 1827, IT WAS HELD THAT "IN DISCIPLINARY PROCEEDINGS, THE TECHNICALITIES OF CRIMINAL LAW CANNOT BE INVOKED AND THE STRICT MODE OF PROOF PRESCRIBED BY THE EVIDENCE ACT MAY NOT BE APPLIED WITH EQUAL VIGOUR.



(continued)

- IN UNION OF INDIA V/S SARDAR BAHADUR (1972 SLR 355) HELD "THE STANDARD OF PROOF REQUIRED IN DEPARTMENTAL INQUIRIES IS THAT OF PREPONDERANCE OF PROBABILITY AND NOT PROOF BEYOND REASONABLE DOUBT.



(continued)

- THE EVIDENCE LED NEED NOT BE STRICTLY IN ACCORDANCE WITH THE RULES OF EVIDENCE AS FOLLOWED IN JUDICIAL PROCEEDINGS. THE FOLLOWING DEPARTURES CAN BE MADE :-
 - While examining a witness - the Statement of witness recorded during the course of inquiry or investigation can be taken in evidence as it is provided the defence has no objection and is given opportunity for the cross-examination.



- Signed statements of witnesses can go in evidence.
- Secondary or even hearsay evidence may be admissible, provided it has reasonable nexus and credibility, as decided by the Supreme Court in Case State of Haryana V/s Ram Chander, AIR 1976 P&H, 381.
- An evidence of accomplice is sufficient to record conviction even in the absence of proper corroboration.
- Confession/Admission of delinquency before a person in authority is admissible.

- Circumstantial evidence is enough to record conviction. . Sreerama Murty V/s C.W.C. (1991(1) SLR.
 - Maker of the documents need not be produced for cross-examination. Any one produce the documents and other witnesses on his behalf can do the needful.
 - The nature of Evidence required in Departmental Enquiry is "Preponderance of Probability" and not beyond all reasonable doubt - Preponderance of probability means : evidence in favour of the party in whose there is preponderance of proof although evidence may not be entirely free from doubt .



EVIDENCE COMMON TO BOTH OPINION OF AN EXPERT

- Presumption of Law of Fact.
- Hostile witness.
- Burden of Proof.
- Presumption of innocence but character - - General reputation can be impeached.
- Suspicion howsoever strong cannot take place of proof even in Domestic Inquiries (U.O.I. V/s H.C. Goel, AIR 1964 SC, 1964).

