



INDUCTION PROGRAMME FOR DIRECT RECRUIT
JWM(OP)

READING MATERIAL

Administration
Volume One

ORDNANCE FACTORIES INSTITUTES OF LEARNING
MEDAK, DEHRADUN, AMBERNATH

Restricted to participants only.

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1. CONSTITUTION OF INDIA

WHAT IS CONSTITUTION?

- Basic document of the country
- Basic objectives and philosophy of the country
- Basic structure of government
- Various organs of it-their relationship, their powers etc,
- Mode of electing govt.

VARIOUS FEATURES OF CONSTITUTIONS

- Written - Unwritten
- Federal - Unitary
- Rigid[Amendments]-- Flexible
- Monarchy -- Democratic
- Dictatorship- -- Democratic

SOCIAL, ECONOMIC, POLITICAL SCENARIO OF THE COUNTRY

- Plural society
- Multi racial/ethnic
- Multi lingual, multi religious
- Social inequalities--caste based divisions
- Political inequality

SOURCES OF INDIAN CONSTITUTION

- Government of India Act 1909
- Government of India Act 1919

- Government of India Act 1935

HISTORICAL BACKGROUND

- The constitution derives the spirit from the ideals of National movement for independence
- Various concessions granted by British Government and the Government of India act of British government.
- The various other sources are as follows

1. UK - Parliamentary System
2. USA - Federalism/Fundamental Rights
3. IRISH - Directive Principles Of State Policy
4. GERMAN - Emergency Powers
5. AUSTRALIAN - Central State Relations

VARIOUS FEATURES OF INDIAN CONSTITUTION

- Largest [407 articles, 10 schedules]
- Democratic form of Govt.
- Parliamentary system,
- Sovereignty of people,
- FR and DPSP
- Mixture of rigid and flexible
- Independent judiciary,
- Single citizenship

DRAFTING OF INDIAN CONSTITUTION

- Constituent Assembly--1946
- President-Dr. Rajendra Prasad
- **DR. B.R. AMBEDKAR** --Chairman of Drafting Committee.

IMPORTANT PARTS OF INDIAN CONSTITUTION

- Preamble
- Fundamental Rights
- Directive Principles of State Policy
- Various Provisions Relevant to Govt. Servants

PREAMBLE

We the people of India, having solemnly resolved to constitute India into a sovereign, socialist, secular democratic republic and to secure to all its citizens

Justice, social, economic and political

Liberty of thought, expression, belief, faith and worship

Equality of status and opportunity and to promote among them all

Fraternity assuring the dignity of the individual and the unity and integrity of the nation

In our constituent assembly do hereby adopt enact and give to ourselves this constitution.

FUNDAMENTAL RIGHTS

- Part III of constitution Justifiable

- Not sacrosanct. Reasonable restrictions can be imposed by state.
- 6 fundamental rights
 1. Right to equality
 2. Right to freedom
 3. Right against exploitation
 4. Right to freedom of religion
 5. Cultural and educational rights
 6. Right to constitutional remedies

Right to equality-(Art.14 to 18)

- 14-Equality before law.
- 15-Prohibition of discrimination on the grounds of race, religion, sex, or place of birth
- 16- Equality of opportunity in matters of public employment.
- 17- Abolition of untouchability.
- 18- Abolition of titles.

Right to freedom (Art.19-22)

- 19- 6 freedoms under this article
 - a. Freedom of speech and expression
 - b. Freedom to assemble peacefully without arms.
 - c. Freedom to form associations /unions
 - d. Freedom to freely move throughout territory of India
 - e. Freedom to reside and settle in any part of the territory of India

f. Freedom to practice any profession or to carry on any occupation, trade and business.

- Art.20- protection in respect of conviction for offences
- Art-21-protection of life and personal liberty
- Art-22-protection against arrest and detention in certain cases.

Right against exploitation-23-24

- 23- Prohibition of traffic in human beings and forced labour
- 24- Prohibition of employment of children in factories etc—

Right to freedom of religion-25-28

- 25-Subject to public order, morality and health, all persons are equally entitled to freedom of conscience and right to freely profess, practice and propagate religion of their choice.
- 26- Subject to public order, morality and health, all persons are equally entitled to freedom to manage religious affairs, to establish and maintain institutions for religious and charitable purposes. to run and acquire movable and immovable property.
- 27-28. Freedom to payment of taxes for promotion of particular religion, freedom as to attendance at religious instructions or religious worship in certain educational institutions. No person shall be compelled or forced to do the above.

Cultural and educational rights- 29 to 30.

- 29. Protection of interests of minorities,
- 30. Rights of minorities to establish and administer educational institutions.

Right to constitutional remedies-32 to 35

- 32. This right is termed as heart and soul of the constitution
- 33. The remedies for enforcement of fundamental rights conferred by this part.
- 34. The right to move supreme court or high court by appropriate proceedings for the enforcement of fundamental rights.

- 35. Courts may issue orders/instructions or writs for enforcing these rights

WRITS

- Habeas corpus--produce the body

- Mandamus-- court order to do something as a public duty.

- Prohibition-- court jurisdiction

- Quo-warranto--authority to hold office

- Certiorari- order to a lower court to transmit a record or a case

DIRECTIVE PRINCIPLES OF STATE POLICY [PART-IV]

From art. 36-52.[16 articles-non-justifiable]-Gandhian, socialist principles.

1. Uniform civil code
2. Primary education to all
3. Prohibition
4. Promotion of cottage and small scale industries
5. Special care for educational and economic needs of weaker sections
6. Free legal aid
7. Workers participation in management

8. Protection of wild life and environment
9. Organisation of village panchayats
10. Public health to all
11. Organisation of agriculture and animal husbandry on scientific lines
12. Protection of national monuments
13. Promotion of international peace and security
14. Separation of judiciary

PROVISIONS RELEVANT TO GOVT. SERVANTS

- Art.309- recruitment and conditions of service persons serving the union and states.-subject to provisions of this constitution, acts of the appropriate legislature may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with union or any states
- Art-310-tenure of office of persons serving the union or states. Every person who is a member of Defence services or civil services of the union holds office during the pleasure of the president and persons in service of state holds office during the pleasure of governor of state.
- Art -311- Dismissal, removal or reduction in rank of persons employed in civil capacities under the union or states.
- Art-311 (I) Dismissal, Removal, reduction in rank by appointing authority only,
(II) to provide reasonable opportunity and enquiry

Exceptions:

- Conviction in a criminal charge
- Competent authority decided and recorded in writing that it is not possible to hold such an enquiry

- President or Governor as the case may be satisfied that in the interests of security of the state it is not expedient to hold such an enquiry.
- (III) The decision of the competent authority is final regarding the reasonableness practicability of holding such an enquiry under clause ii is final.

VARIOUS RULES APPLICABLE TO CENTRAL GOVERNMENT EMPLOYEES

- CSR-Civil Service Rules[Source Govt. regulations-1915,1919. of India act]
- FR/SR--1922
- CCS[CCA] rules 1920 revised till 1965
- CCS [conduct] rules.
- SROs,TA/DA, Medical rules, Pension rules etc...

ART 312

- Rajyasabha- supported by 2/3rds majority of numbers present, that it is necessary in nation's interest, parliament may by law provide for the creation of one or more all india service including all India judicial services

ART 315

Public service commissions.

- Union public service commissions: for union needs

- State public service commission; for state needs

PART-(XIV- A) OF CONSTITUTION OF INDIA

- Tribunals : Parliament may by law provide for the adjudication or trial by administrative tribunals of disputes and complaints of service of person appointed to public services and posts in connection the affairs of the union or of any state or territory of India or under the control government of India or of any corporation owned or controlled by the government.

CENTRAL ADMINISTRATIVE TRIBUNALS

- CATs have been established for providing speedy and inexpensive relief for persons in services and posts under the union by adjudicating in service matters

NUMBER OF CATS

1) Principal bench at -- New Delhi

2) Benches - 16 cities

- Ahmedabad
- Allahabad
- Bangalore
- Kolkata
- Chandigarh
- Chennai
- Cuttack
- Ernakulam

- Guwahati
- Hyderabad
- Jabalpur
- Jaipur
- Jodhpur
- Lucknow
- Mumbai
- Patna

SERVICE MATTERS DEFINED

- 1) Recruitment, selection and appointment including compassionate appointment.
- 2) Pay, fixation of pay, granting of increments, stepping up of pay, etc
- 3) Confirmation, seniority, promotion.
- 4) Pension including family pension
- 5) Disciplinary matters, adverse entries in confidential records.
- 6) Transfer, posting
- 7) Allotment of quarters, recovery of rent, eviction from government accommodation.
- 8) Claims for medical reimbursement, LTC, leave and joining time.
- 9) Grant refusal to grant of advances/loans.
- 10) Any other matters.

2. C.C.S CONDUCT RULES

The topic is covered in the following heads

The DO's & Don't's

1. Do's & Don'ts
2. Acts, conduct and commission which amount to misconduct.
3. Activities requiring permission/sanction.
4. Activities not requiring permission/sanction.
5. Government servants and politics.
6. Property transactions.
7. Acceptances of gifts. Restrictions regarding marriage.
8. Dowry.
9. Assistance to government servants to legal proceedings.

CCS(CONDUCT) RULES -DOs

1. Maintain absolute integrity at all time:-

Integrity--Latin word **INTEGER** means, whole, entire, sound, pure, upright Wholeness, soundness of moral principles, the character of uncorrupted virtue, moral uprightness, honesty, sincerity. Lack of integrity takes myriad forms such as Bribes, kickbacks, considerations of caste, creed, region etc. Nepotism, and favoritism, evading work/responsibility.

2. Maintain absolute devotion to duty to all times.
3. Maintain political neutrality.

4. Manage private affairs in such a way as to avoid habitual indebtedness or insolvency.
5. Those holding responsible posts-maintain independence and impartiality in the discharge of your duties.
6. Maintain a responsible and decent standard of conduct in private life.
7. Render prompt and courteous service to the public.
8. Observe proper decorum during lunch break.
9. Report to superiors the fact of your arrest or conviction in a criminal court and the circumstances connected therewith, as soon as it is possible to do so.
10. Keep away from demonstrations organised by political parties in the vicinity/neighborhood of government offices.
11. In any legal proceedings are instituted for the recovery of any debt due to from you or adjudging you as an insolvent, report the full facts of such proceedings to the competent authority.

DON'TS

- Do not make joint representations in matters of common interest.
- Do not indulge in acts unbecoming of a government servant.
- Do not be discourteous, dishonest and partial.
- Do not adapt dilatory tactics in your dealing with the public.
- Do not convey oral instructions to subordinates. (if done for unavoidable reasons, confirm them in writing as soon as possible.)
- Do not practice ***un touch ability***.
- Do not associate yourself with any banned organisations.
- Do not join any association or demonstration whose objects or activities and prejudicial to the interest of the sovereignty and integrity of India.

- Do not give expression to views on Indian or foreign affairs, while visiting foreign countries.
- Do not get involved in unauthorised communication of any official dealings with you.
- Do not join or support illegal strike.
- Do not enter into any private correspondence with foreign embassies or missions/high commissions.
- Do not accept lavish or frequent hospitality from any individual industrial or commercial firms, organisations, etc., heaving official dealings with you.
- Do not accept invitations to you and members of your family for free inaugural flights offered by air India, Indian airlines.
- Do not accept any offer of the cost of passage to foreign countries or hospitality by way of free board and lodging there, if such offers are from foreign firms contracting with government.
- Do not give or take of abet giving or taking of dowry or demand any dowry directly or indirectly form the parent or guardian of a bride or bridegroom.
- Do not accept any gift from any foreign firm which is having official dealings.
- Do not engage yourself in canvassing business of life insurance agency, commission agency or advertising agency owned of managed by the members of your family.
- Do not lend money to or borrow money from or deposit money as member or agent, with any person, firm or private company with whom, you are likely to have official dealings. Do not otherwise place yourself under pecuniary obligation with such person, firm or private company.
- Do not approach your subordinates for standing surety for loans taken from, private sources either by you/your relations/friends.
- Do not undertake private consultancy work.
- Do not speculate in any stock, share or other investment.
- Do not purchase shares out of the quota reserved for friends and associates of directors of companies.
- Do not bring any political influence in matters pertaining to your service.
- Do not consume any intoxicating drinks of drugs while on duty.

- Do not appear in public place in a state of intoxication.
- Do not bid at any auction of property where such auction is arranged by your own officers.
- Do not stay as guest with foreign diplomats or foreign nationals in India.
- Do not stay as guest with foreign diplomats or foreign nationals in India.
- Do not invite any foreign diplomat to stay with you as your guest in India.
- Do not accept or permit your wife or dependants to accept passage money of free air transport from a foreign mission/government or organization.

ACTS, CONDUCT AND COMMISSIONS WHICH AMOUNT TO MISCONDUCT

- If the act or conduct is prejudicial or likely to be prejudicial to the interests of the master or to the reputation of the master.
- If the act or conduct is inconsistent or incompatible with the due or peaceful discharge of his duty of his master.
- If the act or product of a servant makes it unsafe for the employer to retain him in services.
- If the act or conduct of the servant is so grossly immoral that all reasonable men will say that the employee can not be trusted.
- If the act or conduct of the employee is such that the master can not rely on the faithfulness of his employee.
- If the act or conduct of the employee is such as to open before him temptations for not discharging his duties properly.
- If the servant is abusive or if he disturbs peace at the place of his employment.
- If he is insulting and insubordinate to such a degree as to be incompatible with the continuance of the relation of master and servant.
- Willful in-subordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior.
- If the neglect of the servant, though isolated, tends to cause serious consequences.
- Infidelity, unfaithfulness, dishonesty, untrustworthiness, theft and fraud, or dishonesty

in connection with the employer's business or property.

- Strike, picketing, gherao, striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.
- Gross moral misconduct, acts subversive of discipline, riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline.
- Riotous and disorderly behaviour during and after the office hours or in office premises.
- Habitual late attendance.
- Negligence or neglect of work or duty amounting to misconduct habitual negligence or neglect of work.
- Habitual absence without permission and overstaying leave.
- Conviction by a criminal court.

Note:- the terms "servant" and "master" have been used in court judgments to indicate the relation ship between subordinate government servant and his superiors in the hierarchy of all central government offices.

ACTIVITIES REQUIRING PERMISSION/SANCTION

Prior permission/sanction of the prescribed authority is necessary :-

1. To join educational institution or course of studies for university degree.
2. To join civil defence service.
3. To enroll as a member of st. John ambulance brigade.
4. To join Territorial Army.
5. To join home guards organisation.
6. To join foreign language classes conducted by Indo-foreign cultural organisation.
7. To own wholly or in part or conduct or participate in the editing or management of any news papers or other periodical publication or electronic media.

8. To give evidence in connection with any enquiry conducted by any person, committee or authority.

- Exception:

- Giving evidence at an enquiry before an authority appointed by government, parliament or a state legislature; or
- Giving evidence in any judicial enquiry; or
- Giving evidence at any departmental enquiry ordered by authorities, subordinate to the government.

9. To ask for or accept contributions to or otherwise associate himself in the raising of any funds or other collections in cash or in kind in pursuance of any object whatsoever.

10. To accept gifts from dear relatives and personal friends, when the value exceeds prescribed limits.

11. To accept membership of book clubs run by foreign agencies.

12. To receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour or in the honour of any other government servant.

- To take part in informal farewell entertainment held on occasions like retirement or transfer.

13. To attend and speak at functions and ceremonies, performed by others in respect of purely non-political or cultural institutions.

14. To engage directly or indirectly in any trade or business, or hold an elective office, or canvass for a candidate for an elective office, in any body, or canvass in support of any business of insurance agency, commission agency, etc. Owned or managed by any member of his family.

15. **To accept fee** for work done for any private or public body or person.

16. Acceptance of a part-time lectureship in an educational institution, which is in the nature of a regular remunerative occupation.

17. To enroll himself as an advocate with the bar association (subject to the condition that the government servant does not engage himself in the legal profession so long as he continues in government service)

18. To accept remuneration for services rendered regularly to co-operative societies.

19. To under take medical practice during spare time on purely charitable basis, if registered as practitioner in any system of medicine.

20. To enter into negotiations with private firms to secure commercial employment even while in service.

21. To acquire or dispose of any immovable property either directly or through power of attorney by lease, mortgage, purchase, sales, gift or otherwise in his own name or in the name of any member of his family, if the above transaction is with a person having official dealings with the government servant.

21. To enter into transaction in movable property, if its value exceeds prescribed limits and if the transaction is with a person having official dealings with the government servant.

22. (a) to acquire by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family any immovable property situated outside India.

(b) to dispose of, by sale, mortgage, gift or otherwise or grant any lease in respect of any immovable property situated outside India which was acquired or held by him either in his own name or in the name of any member of his family.

(c) to enter into any transaction with any foreigner, foreign government, foreign organisation or concern-

- For the acquisition, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family of any immovable property.
- For the disposal of, by sale, mortgage, gift or otherwise, or the grant of any lease in respect of immovable property which was acquired or held by him either in his own name or in the name of any member of his family.

23. To have recourse to any court or to the press for the vindication of any official act which has been the subject - matter of adverse criticism or an attack of a defamatory character.

24. To stay with foreign diplomats and foreign nationals abroad.

25. To be members of or actively participate in the activities of indo-foreign cultural organisations.

26. In the case of pensioners, who immediately before retirement, were group 'A' officers. To accept any commercial employment before the expiry of two years from the date of retirement.

- In the case of items 8, 9, 20, 21, 22, 23 and 26 above, if the permission sought for is not refused within time-limit specified below, a government servant is free to assume that the permission sought for has been granted.

ACTIVITIES NOT REQUIRING PERMISSION SANCTION

- In the following cases, permission of the prescribed authority is not necessary-
- To seek redress in court of law or in central administrative tribunals grievances arising out of employment or conditions service.
- To participate during spare time a '*shramdaan*' organised by government

departments or ***bharat sewak samaj***

- To become members of ***samyuktha sadhachar samithi***.
- To publish a book himself or through a publisher, in the bonafide discharge of his duties.
- To submit memoranda before pay commission by individual government servants in their individual capacities (individual grievances should not be put to the commission).
- To participate in Flag Day collections on a voluntary basis.
- To participate in the fund raising efforts of the “national foundation for communal harmony’
- To undertake honorary work of a social or charitable nature.
- To undertake occasional work of a literary, artistic or scientific character.
- To participate in sports activities as an amateur.
- To take part in the registration, promotion of management (not involving an elective office) of a literacy, scientific or charitable society or of a club or similar organisation or a co-operative society substantially for the benefit of government servants.

GOVERNMENT SERVANTS AND POLITICS.

Should not become a member of a political party.

PROPERTY TRANSACTIONS.

1. Immovable property--prior intimation to government.
 2. Movable property-should intimate within one month of such transaction, if the value exceeds. prior sanction if had official dealings with seller.
- Rs.15000/---in case of group -A &B.
 - Rs.10,000/---in case of group -C & D.

- Annual property returns — A & B -- 31st December regarding IMMOVABLE PROPERTIES.

ACCEPTANCES OF GIFTS.

- Restricted on ceremonial functions - can be accepted.(Should not have official dealings.)
- Group A---Rs.5000/-
- Group B---Rs.3000/-
- Group C---Rs.1000/-
- Group D---Rs. 500/- if exceeds report should made to government.
- Sanction necessary if the gift is from a firm. if exceeds value--Rs.1000/-for A & B and Rs.250/- for C & D free gift not only cash but in kind like transport, accommodation ETC,.

RESTRICTIONS REGARDING MARRIAGE. --DOWRY.

- Before entering into service declaration has to be made regarding marriage. Bigamous -- prohibited, unless permitted by personal laws.
- Dowry prohibition act-1961 prohibits dowry in any form.

RULE - 3

1. Every Govt. servant shall at all times-

- Maintain absolute integrity;
- Maintain devotion to duty; and
- Do nothing which is unbecoming of a Govt. servant.

2 (I) Every Govt. servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Govt. servants for the time being under his control and authority;

II No Govt. servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior.

III The direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Where the issue of the oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter.

IV A Govt. servant who has received oral direction from his official superior shall seek confirmation of the same in writing as early as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.

3A - No Govt. servant shall act in a discourteous manner.

3B - Every Govt. servant shall observe Govt. policies regarding age of marriage, Env. Cultural Heritage, Crime against women.

3C- No Govt. servant shall indulge in any act of sexual harassment-

- Physical contact and advances;
- Demand or request for sexual favours;
- Sexually colored remarks;
- Showing any pornography ; or
- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

Insolvency and Habitual Indebtedness

- A GS shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A GS against whom any legal proceedings is instituted for the recovery of any debt due from him or for adjudging him as an insolvent, shall forthwith report the full facts of the legal proceedings to the Government.

Movable, Immovable and valuable property

1. Every GS shall on his first appointment to any service or post submit a return of his assets and liabilities, in such form as may be prescribed by the Government, giving the full particulars regarding-

- The immovable property inherited by him, or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person.
- Shares, debentures and cash including bank deposits inherited by him or similarly owned, acquired, or held by him;
- Other movable property inherited by him or similarly owned, acquired or held by him; and
- Debts and other liabilities incurred by him directly or indirectly.

No GS shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member in his family.

Provided that the previous sanction of the prescribed authority shall be obtained by the GS if any such transaction is with a person having official dealings with him.

The Government may exempt any category of **GS** belonging to **Class III** or **Class IV** from any provision of this rule.

- The expression “Movable property” includes-
 - Jewelry, insurance policies, the annual premia of which exceeds Rs. 10,000/- or one-sixth of the total annual emoluments received from Government, whichever is less, shares, securities and debentures;
 - All loan, whether secured or not, advanced or taken by the GS.
 - Motor cars, motor cycles, horses or any other means of conveyance; and
 - Refrigerators, radios (Radiograms and Television Sets)

Vindication of acts and character of GS-

- 1. No GS shall, except with the previous sanction of the Government, have recourse to any Court or to the press for the vindication of any official act which has been the subject-matter of adverse criticism or an attack of a defamatory character;

Provided that if no such sanction is received by the GS within a period of three months from the date of receipt of his request by the Government, he shall be free to assume that the permission as sought for has been granted to him

- 2. Nothing in this rule shall be deemed to prohibit a GS from vindicating his private character or any act done by him in his private capacity and where any action for vindicating his private character or any act done by him in private capacity is taken, the GS shall submit a report to the prescribed authority regarding such action.

Canvassing of non-official or other outside influence -

- No GS shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under government.

Restriction regarding marriage

1. No GS shall enter into, or contract, a marriage with a person having a spouse living;
and

2. No GS having a spouse living, shall enter, or contract, a marriage with any person:

Provided that the Central Government may permit a GS to enter into, or contract, any such marriage as is referred to in Class (1) and Class (2), if it is satisfied that

- Such marriage is permissible under the personal law applicable to such GS and the other party to the marriage; and
- There are other grounds for so doing

3. A GS who has married or marries a person other than India Nationality shall forth intimate the fact to the Government.

Consumption of intoxicating drinks and drugs

A GS shall -

- Strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;
- Not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not effected in any way by the influence of such drink or drug;
- Refrain from consuming any intoxicating drink or drug in a public place:
- Not appear in a public place in a state of intoxication;
- Not use any intoxicating drink or drug to excess

Prohibition regarding employment of children below 14 years of age -

No GS shall employ to work any child below the age of 14 years.

Interpretation. If any question arises relating to the interpretation of these rules, it shall be referred to the Government whose decision thereon shall be final.

3. DISCIPLINARY PROCEDURE

Nature and scope of CCS(CCA) Rules :

Meaning and characteristics of disciplinary proceedings:

Disciplinary proceedings can be explained as the proceedings take with a view to imposing a departmental punishment on a employee on account of some alleged misconduct. These proceedings are a matter of discipline within the organization. Disciplinary proceedings are in the nature of quasi-judicial proceedings Quasi-judicial proceedings mean proceedings, which are not exactly judicial, but may be administrative proceedings having judicial trappings. In other words, though the authority competent to decide not a court of law, the authority is bound to act judicially by statutory. These proceedings are civil proceedings to which principles of natural justice are applicable. Disciplinary Proceedings In Central Government Departmental Organizations such as Ordnance Factories are Govt. by Central Civil Services (Classification. Control and Appeal Rules 1965.)

Who can institute disciplinary proceedings?

The President or any other authority empowered by him by general or special order may institute disciplinary proceedings against any Govt. servant, or may direct a disciplinary authority to institute disciplinary proceedings against any Govt. servant on whom that disciplinary authority is competent to impose under CCS (CCA) Rules any of the penalties specified in Rule 11.

Penalties specified under the Rules

Penalties specified under the Rules

There are ten penalties, which are specified under Rule 11 of CCS (CCA) Rules, of which penalties from (i) to (iv) are under 'minor category and (v) to (ix) are

under 'major' category. The penalties under 'minor' category are: (i) censure. (ii) withholding of promotion, (iii) recovery from pay of the whole or part of any pecuniary loss caused by the Govt. servant to the Government by negligence or breach of orders, (iii) (a) reduction to a lower stage in the time scale of pay for a period not exceeding 3 years. without cumulative effect and not adversely affecting his pension, and (iv) withholding of increments of pay. The 'major' penalties. are: (v) save as provided for in clause (iii) (a), reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of reduction and whether on expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay, (vi) reduction to a lower time scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Govt. servant to the time scale of pay, grade. post or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or Service from which the Govt. servant was reduced and his seniority and pay on such restoration to that grade, post or Service,² (vii) compulsory retirement, (viii) removal from service which shall not be a disqualification for future employment under the Government, and (ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

Disciplinary Authority-meaning

The term 'Disciplinary Authority' has been interpreted in the Rules to mean "the authority competent under these rules to impose on a Government servant any, of the penalties specified in Rule 11". The disciplinary authorities for various categories of employees (including those of Ordnance Factories) are specified in the schedule to the Rules. As per the Interpretation quoted above, there can be different disciplinary authorities for minor and major penalties or even for a particular penalty. However, none of the major penalties can be imposed on a Govt. servant by an authority subordinate to the appointing authority in respect of that Govt. servant.

Protection under Article 311

There is also the Constitutional protection guaranteed under Article 311 (1) which enjoins that "No person who is a member of a civil service of the Union or an All India Service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed". But imposition of penalties and institution of disciplinary proceedings are different matters. As per sub-rule (2) of Rule 13 of CCS (CCA) Rules, a disciplinary authority, which is competent to impose only any of the minor penalties, may institute disciplinary proceedings for the imposition of any of the major penalties.

Ad-hoc disciplinary Authority

A person who is witness to an incident on the basis of which disciplinary proceedings are proposed to be taken or if he himself is involved in incident or is the complainant cannot exercise the powers of disciplinary authority. The principle of "no man shall be a judge in his own case" is attracted in such cases. A person cannot be expected to take objective decision in which he has an interest. "Where the officer who is the prescribed disciplinary authority is/will be the complainant and / or the witness in a disciplinary proceeding, another officer should be specified as disciplinary authority by a special order of the President under Rule 12 (2) of 1965 Rules". "Some of the charges based on personal knowledge of the disciplinary authority-held, enquiry vitiated further held, it was incumbent on such authority to move Government to appoint another ad-hoc disciplinary authority". However, the ad-hoc disciplinary authority cannot be lower in rank than the original disciplinary authority.

Officers performing current duties of a post- whether can exercise statutory powers?

Power to institute disciplinary proceedings and to punish a Govt. servant is a statutory power, which has to be exercised by that authority to which power has been

given by the statute. An officer appointed to perform the current duties of an appointment cannot exercise statutory powers, whether these powers are derived direct from an act Parliament or from Rules like CCS (CCA) Rules. An Officer-in-Charge holding charge of an Ordnance Factory (when the General Manager is away) cannot initiate or finalize disciplinary action against an employee whose appointing/ disciplinary authority is the General Manager.

Preliminary Inquiry

When allegations of misconduct or misbehaviour against a Govt. servant are brought to the notice of the disciplinary authority for initiating disciplinary proceedings, it may order & a preliminary enquiry or fact finding enquiry. The CCS (CCA) Rules do not call for holding a preliminary enquiry. So, if at all a preliminary enquiry is held, it is not held under any statutory rules and there is no prescribed procedure for holding such an enquiry. The purpose of holding the preliminary enquiry is not to find out whether the Govt. servant concerned is guilty Or otherwise of the charges. The purpose is just to collect the facts and evidences relating to the allegation. If at all the officer who has conducted the preliminary enquiry has given an opinion that the concerned Govt. servant is not guilty of or there is not much truth in the allegation, yet It does not preclude the disciplinary authority from ordering a regular enquiry under the Rules. When sufficient evidences support the allegations of misconduct or misbehavior, there may not be any need at all for holding a preliminary enquiry.

Issue of Charge sheet-'Grave'-meaning of

Irrespective of the nature of allegations or charges or imputations of misconduct or misbehaviour, i.e. whether they are grave or otherwise, or whether he is liable to be punished with any of the minor or major penalties, informing the delinquent Govt. servant of the charges against him is inevitable except where the proceedings are proposed to be instituted under Rule 19 in certain cases. Grave-held, connotes enormity of misconduct in juxtaposition with technical, trifle or misconduct simpliciter. Grave

misconduct- the word grave intent to indicate super-eminent or a very high degree of misconduct. The Rules do not particularize the penalties specified in Rule 11, so to say that unlike in Indian Penal Code, it does not say that for misconduct A you impose penalty B and for misconduct C you impose penalty D and so on. It is left to the judgment and wisdom of the disciplinary authority to decide as to what should be the penalty in a particular case of misconduct. The general rule/principle is that the nature of disciplinary action and quantum of penalty must be proportionate/ commensurate to/with the gravity of the misconduct; it should not be shockingly disproportionate.

Disciplinary authorities cannot be under the dictates of third parties

“The punishment to be imposed whether minor or major depends upon the nature of every case and gravity of the misconduct proved and that the authorities have to exercise their judicial discretion having regard to the facts and circumstances of each case and they cannot be under the dictates of the Central Vigilance Commission or the Central Government and no third party like, Central Vigilance Commission or the Central Government could dictate the Disciplinary Authority or the Appellate Authority as to how they should exercise their powers and what punishment they should impose on delinquent officers” . "Moreover, disciplinary authority should not have allowed a junior functionary (Works Manager In this case) under him to process the case and suggest the penalty which was not authorized under the CCS (CCA) Rules, the proceedings being quasi-judicial in nature. It was the disciplinary authority's personal responsibility to record the findings himself and award punishment after application of his own mind to the charges proved, without being influenced by the submissions of another officer, who was an outsider to the proceedings". Initiating no disciplinary proceedings in a case that is worth punishing and initiating disciplinary proceedings in a case where a warning will meet the ends of justice is bad. Equally bad is initiating disciplinary action for imposing a minor penalty where the case deserves a major penalty and vice versa. The power to punish carries with it the duty to act justly.

Proceedings under Rule 14 and Rule 16-difference

Once the gravity of the misconduct has been weighed and it is decided to commence disciplinary action for imposing a penalty, the stage then comes for deciding at least the category of the penalty proposed to be imposed. i.e. whether '**minor**' or '**major**'. This is necessary because the proceedings taken for imposition of these categories of penalties are not identical; but different. If a major penalty is proposed to be imposed, then the proceedings are to be conducted under Rule 14, whereas, for imposing a minor penalty, proceedings may be conducted under Rule 16 or Rule 14. In other words, proceedings commenced under Rule 14 may conclude with the imposition of a major penalty or a minor penalty or with the exoneration of the delinquent Govt. servant. But in a proceedings instituted under Rule 16, no major penalty can be imposed. It is needless to say that decision on whether to commence the proceedings under Rule 14 or Rule 16 will depend upon the gravity of the misconduct alleged.

Drawing up of charges

If the decision is to initiate disciplinary proceedings under Rule 14, substance of imputations of misconduct will then have to be drawn up into definite and distinct articles of charge. These must be supported by statement of the Imputations in respect of each article of charge containing all relevant facts including admission/confession, if any made by the delinquent Govt. servant. It must also be supported by list of documents by which and a list of witnesses by whom, the article of charges are proposed to be sustained.

How to frame charges?

A charge must be specific, precise and intelligible. Vagueness in the wordings of a charge must be avoided. The charge must be sufficiently described and supported by facts. Mere mention of a particular clause of Conduct Rules is not enough to explain

and sustain a charge. If charge has been sufficiently described, a charge does not become invalid by reason of omission to mention a particular clause of the Conduct Rules in the charge sheet. The disciplinary authority itself may draw up the charges or may cause to be drawn up by any of the responsible officer. Such a detailed charge sheet is not necessary in case of proceedings under Rule 16. Rule 16 requires that the Govt. servant concerned must be informed of the proposal to take authority against him and of the imputation of misconduct or mis-behaviour on which such action is proposed to be taken.

Charge sheet

Written intimation to the employee of the proposal to proceed against him in respect of certain misconduct is called charge sheet. Generally a charge sheet under Rule 14 contains four Annexures. Annexure I contains the articles of charge. Annexures III and IV respectively contain list of documents by which and list of witnesses by whom the charges are proposed to be sustained, whereas Annexure II will contain the statement of imputations of misconduct in support of each article of charge. Time limit for reply is specified in the covering letter.

Charge sheet-basically a flutter of substance-In vernacular

"Though the above said format is mentioned in most of the statutory rules and is in common use, the charge sheet is basically a mailer of substance and if it contains all relevant facts with mention of supportive evidence, by which the charge can be understood and defended properly, the charge sheet is lawfully valid. There is no magic in the word charge sheet"

"It is nowhere contemplated in the rules that as soon as a departmental charge-sheet is served upon a delinquent the copies of documents sought to be relied upon should be served upon him. That question really arises when considering his representation the concerned authority deems it fit to initiate a departmental enquiry against him."

If the charged employee does not understand English, translation of the charge sheet in his vernacular, if not furnished, may amount to proceedings being declared

invalid.

Who can sign the charge sheet?

It is not essential that the Appointing Authority or the disciplinary authority should sign the charge sheet any responsible after can sign It.' With regard to initiation of disciplinary proceedings by the Regional Director, we find that the legal position is well settled that it is not necessary that the authority competent to impose the penalty must intimate the disciplinary proceedings and that the proceedings can be initiated by any superior authority, who can be held to be the Controlling Authority who may be an officer subordinate to the Appointing Authority.' "When there is an indication that the charge sheet is issued in the name of the disciplinary authority, it makes it an initiation by the disciplinary authority. What is essential is either an express or implied approval of that authority for the issue of the charge sheet. After issue of the charge sheet by a lower authority, if the enquiry officer is appointed by the disciplinary authority, that would establish implied approval of the charge sheet by the disciplinary authority" Initiation of Departmental Inquiry by an Officer subordinate to the appointing authority-held, unobjectionable. Only the dismissal/ removal shall not be by an authority subordinate to the appointing authority.' The Rule itself is clear in this regard when it says that the disciplinary authority itself may draw up and deliver the charge sheet or may cause to be drawn up and delivered by any other responsible officer. The provisions of Article 311 (1) of the Constitution have no application to the stage of issue of charge sheet

Service of orders etc.- service by post

Every order, notice or other communication connected with the disciplinary proceedings must be served on the official either in person or sent to him by Regd. A/D Post "Where any Central Act or Regulation made after the commencement of this Act authorises or requires any document to be served by post, whether the expression "service" at or either the expressions "give & or " send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

"It is well settled principle of law that letters duly addressed and sent per

registered post shall be deemed to have been served on the addressee if the acknowledgments return with endorsements like 'left' and 'refused'.

Amendment / Withdrawal of charge sheet

A defective charge sheet may be amended. Liberty should be given to the employer to proceed afresh after serving the amended charge sheet on the delinquent employee. The disciplinary authority has the inherent power to review and modify the articles of charge or to drop some of the charges or all the charges after the receipt and examination of the written statement of defence submitted by the delinquent Govt. servant under Rule 14 (4) of CCS (CCA) Rules, 1965. Once the disciplinary proceedings are initiated against an official the proceedings cannot be closed without sending intimation to that effect to the delinquent Govt. servant. Disciplinary proceedings against an employee who has been dismissed or removed from service in another disciplinary case will stand suspended. These proceedings can be revived, if and when the official is reinstated in service on appeal.

Time limit for submission of reply to charge sheet

When a person is charge-sheeted he will be given a reasonable time which to reply to the charges. The time limit will be varied in accordance with the nature of charges and the difficulty that the person may have framing his reply. An employee who is charge-sheeted should get least one week's time in which to submit his defence. This period will commence from the date of actual delivery of the charge sheet and from the date of charge sheet unless it is also delivered on the same date. As per paragraph 2 of the standard forms prescribed for charge sheet under Rule 14 and Rule 16, 10 days time is allowed to charged employee to submit his statement of defence. If the charged employee so desires, a personal hearing by the disciplinary authority also is afforded to him at this stage.

Possibilities regarding reply

As per Rule 14 (4) the disciplinary authority shall require Government servant to submit

within the specified time a written statement of his defence on the charges leveled against him. If Govt. servant submits no written statement of defence, an enquiry follows. But there is no presumption that he has admitted the charge and hence no enquiry need be held.

If the reply neither admits nor denies the charges, then also enquiry has to follow. It is not necessary that the delinquent Govt. servant should submit a detailed representation. If he gives a one-sentence reply denying all the charges, that is enough. If some charges are admitted and some are denied, enquiry will be conducted only in respect of such charges, which are not admitted and if all the charges are admitted, no enquiry need be held. But the admittance must be clear, unambiguous and unconditional.

Is enquiry mandatory in case of proceedings under Rule 16?

In the case of proceedings under Rule 14, if the charges are denied, or if no representation is submitted, enquiry is mandatory in respect of such charges, which are not admitted. But in case of a charge sheet under Rule 18, enquiry may be held/ordered if the disciplinary authority is of the opinion that an inquiry is necessary. If it is decided to hold an inquiry, it will be held in the same manner as laid down in Rule 14. Request for holding an inquiry in the case of a charge sheet under Rule 16 should not be rejected solely on the ground that under the rule inquiry is not mandatory. On the contrary, the request should be considered on merits and by application of mind to all the circumstances and reasons urged in the request and the request should be disposed of by a speaking reply.

Inquiry mandatory under Rule 10 (1-A)

However, in cases where a charge sheet under Rule 16 has been issued and after consideration of the representation submitted by the Govt. servant, it is proposed to impose any of the following three penalties, namely:

1. To withhold the increments of pay where such withholding of increments is likely to adversely affect the pension payable to the Govt. servant, or
2. To withhold increments of pay for a period exceeding three years, or
3. To withhold increments of pay with cumulative effect for any period,

Then an inquiry in the manner as laid down in Rule 14 shall be held before imposing any of these three penalties. These three items are variants or are derived of/from the penalty of withholding of increments of pay at item (iv) under minor penalty category. Generally for imposing a minor penalty under Rule 16, it is not mandatory to hold an enquiry. These three cases are exception to the general rule, and as per Rule 16 (1-A), if any of the above three penalties were to be imposed. It could be imposed only after holding an enquiry. However, the third item above has been held to be a major penalty by the Supreme Court and the Court has ruled that this penalty cannot be imposed without holding an inquiry. The condition of holding an enquiry before this penalty is imposed is taken care of by Rule 16 (1-A).

Manner of enquiry

From the above discussion it can be summed up that enquiry becomes necessary in the following circumstances:

1. Charge sheet under Rule 14 Issued-charges (all or some) denied
2. Charge sheet under Rule 16 issued-disciplinary authority on its own decided to hold an enquiry after considering the representation submitted by the charged employee.
3. Charge sheet under Rule 16 issued- employee requested for an enquiry-disciplinary authority conceded the request.
4. Charge sheet under Rule 16 issued-it is proposed to impose any of the

three items of penalty listed in Rule 16-IA after considering the reply submitted by the employee.

Procedure for holding enquiry

The procedure for holding enquiry In all these instances is the same and is described in sub-rules (5) to (23) of Rule 14. In other words, there is no separate procedure for holding the enquiry, even if the charge sheet is issued under Rule 16 for imposing a minor penalty.

In case of an enquiry under circumstances (2) to (4) mentioned above, and despite the manner for holding the enquiry is as prescribed under sub-rules of Rule 14, the charge sheet will continue to be under Rule 16. In other words, it would not be converted to the one under Rule 14. The implication is that, on conclusion of the proceedings, even if the charged employee is found guilty of the charges, nothing more than a 'minor' penalty can be imposed upon him.

Who can hold the enquiry?

The inquiry in the manner as laid down in sub-rules of Rule 14 may be held by the disciplinary authority itself or it may appoint an 'inquiring authority to hold the inquiry. There is no stipulation in the rule that the Inquiry Officer should be a Govt. servant in some departments, retired Govt. servants are appointed as Inquiry officers. However, person having any personal Interest in the case should not be appointed as Inquiry Officer. He should be and should appear to be unbiased. An official who may have to appear as a witness in a disciplinary case should not be appointed as Inquiry Officer in that case.

Common Proceedings

Where two or more Govt. servants am concerned in any case, the President or

any other authority competent to impose the penalty of dismissal from service on all such Govt. servants 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 Govt. servants are different. the order with regard to the institution of common proceeding may be ordered by the highest of such authorities with the consent of others. In case of cross complaints or cross accusations, common proceedings should be avoided.

Right to speedy trial

“Constitutional guarantee of speedy trial has universally been thought essential to protect at least three basic demands of criminal justice the Anglo-American legal system, namely (i) to prevent undue oppressive incarceration prior to trial, (ii) to minimize anxiety concern accompanying public accusation and (iii) to limit possibilities that long delay will impair the ability of an accused defend himself. The right to speedy trial in our country flows from An 21 of the Constitution. The speedy trial not only means a trial in a but it includes the stage of investigation also. This applies to disciplinary proceedings also.

4. DISCIPLINE RULES

Warning / Admonition / Reprimand

There may be occasions when a superior officer may find it necessary to criticize adversely his subordinate's work or call for an explanation bringing the defects to the notice and giving him an opportunity to explain. If the lapse is not serious enough, like negligence, carelessness, lack of thoroughness, etc., to justify the imposition of the formal punishment of censure, but calls for some formal action such as the communication of a written warning/admonition/reprimand, it may be administered and a copy of such a warning, etc., should be kept in the personal file of the subordinate.

Written warning, admonition or reprimands should not be administered or placed on record unless the authority is satisfied that there is good and sufficient reason to do so.

If in the reporting officer's opinion, despite the warning, etc., the official concerned has not improved, he may make appropriate mention against the relevant column in the Confidential Report. This will constitute an adverse entry and requires to be communicated.

Where a copy of the warning is also kept in the Confidential Report Dossier it will be taken to constitute an adverse entry and the officer concerned has the right to represent against the same.

Warning should not be issued as a result of regular disciplinary proceedings. If it is found that some blame attaches to the official, then the penalty of censure at least should be imposed.

Warning is not a punishment and cannot be equated to a formal **censure**.

Disciplinary Proceedings

The procedure to be followed in disciplinary cases against Government servants is laid down in detail in the (CCS (CCA) Rules.

1. Penalties—The following are the penalties that may be imposed on a Government servant:—

Minor Penalties:-

- (i) Censure;
- (ii) Withholding of promotions;
- (iii) Recovery from pay of the whole or part of any pecuniary loss to Government caused by the official's negligence or breach of orders;
- (iii-a) Reduction to a lower stage in the time-scale of pay by one stage for a period not exceeding three years without cumulative effect and not adversely affecting his pension;
- (iv) Withholding of future increments of pay.

Major Penalties:

- (v) Reduction to a lower stage in the time-scale of pay other than (iii-a);
- (vi) Reduction to a lower time-scale of pay, grade, post or service;
- (vii) Compulsory retirement;
- (viii) Removal from service
- (ix) Dismissal from service

Inquiry Mandatory.— Inquiry as laid down in the CCS (CCA) Rules should be held in the following cases:—

1. To impose any of the major penalties (in respect of those charges which are not accepted); or
2. In minor penalty proceedings, after representation, if it is proposed—
 - (a) To withhold increment for a period exceeding three years; or
 - (b) To withhold increment with cumulative effect for my period; or
 - (c) To withhold increment which is likely to affect adversely the pension admissible to the official; or
3. When the Disciplinary Authority decides that an inquiry should be held even though proceedings have been initiated for imposition of minor penalties only

Procedure - Major Penalties.—

1. The charged official should be served with a charge-sheet together with a statement of imputations of misconduct or misbehaviour and reasonable time and

opportunity given to him to reply to the charge or to be heard in person.

2. Inquiry is a must to consider charges refuted by him. It must be conducted by the Disciplinary Authority or an Inquiry Officer appointed by it. It should also appoint a Presenting Officer to present the charges.

3. The delinquent official has a right—

- (a) To inspect documents referred to in the annexure to the charge-sheet;
- (b) To engage say other serving or retired Govt. servant to assist him;
- (c) To engage a legal practitioner, if the Presenting Officer is a legal practitioner. In other cases, the Disciplinary Authority may permit such an engagement having regard to the circumstances of the case.

4. If at the inquiry the Government servant pleads guilty to any of the article of charge, the Inquiry Officer should record a finding of guilt in respect of those articles and hold inquiry only in respect of the remaining, if any.

5. Government side has the first priority to present the case and produce witnesses and evidence.

6. Delinquent official will be allowed to offer his defence witnesses and evidence.

7. Witnesses on both sides may be examined, cross-examined and re-examined.

8. The defendant may examine himself as a witness in his own behalf if he so desires. If he has not done so, the Inquiry officer may generally question him to enable him to properly explain the circumstances cited in the evidence against him.

9. Defence may be in writing or oral. Oral defence will be recorded, got signed and a copy supplied to the Presenting Officer.

10. Thereafter, Inquiry Officer will hear arguments on both side or take written brief from both. Presenting Officer's brief will be taken first, copy thereof supplied to the defendant and his reply brief obtained thereafter.

11. Entire proceedings should be recorded in writing, every page to be signed by the respective witness, the defendant and the Inquiry Officer, and copies furnished to the defendant and the Presenting Officer.

12. If the delinquent official does not attend, ex-parte enquiry may be conducted, observing the procedure in full.

13. On completion, the Inquiry Officer will submit his report and his findings on

each article of the charges to the Disciplinary Authority.

14. Disciplinary Authority may accept or disagree (recording reasons for disagreement), record its own findings and make a final order.

15. If the Disciplinary Authority who initiated the case is competent to award only minor penalties and is of tire opinion that major penalty is to be imposed, it should send the entire records and findings without recording any opinion with regard to the imposition of the penalty to the Competent Disciplinary Authority which will record its findings and pass orders as deemed fit.

16. The Disciplinary Authority should forward a copy of the report of the Inquiring Authority together with its tentative reasons for disagreement, if any, with the findings to the Government fifteen days' time to make any representation/submission.

17. The representation, if any, submitted by the Government servant should be considered before passing final orders.

18. Along with the final orders, the Government servant should be supplied with

- (i) A copy of the findings on each article of charge;
- (ii) A copy of the advice, if any, given by the UPSC.
- (iii) Where the Disciplinary Authority has not accepted the advice a brief statement of reasons for such non-acceptance.

19. Disciplinary Authority should take final decision on the enquiry report within 3 months.

Procedure —Minor Penalties—

1. The Government servant should be given a copy of the charge-sheet with a statement of imputations of misconduct.

2. He should be given reasonable time and opportunity to submit his defence.

3. On receipt of the defence, the Disciplinary Authority may pass appropriate orders, or may hold — inquiry if

- (i) It is of the opinion that such inquiry is necessary, or
- (ii) The inquiry is mandatory in view of the punishment proposed.

The procedure for the inquiry will be for major penalty.

When prescribed procedure need not be followed. — Following are the special circumstances where the prescribed procedure for inquiry need not be followed:—

- (1) Where a penalty is due to conviction on a criminal charge, or
- (2) Where the Disciplinary Authority is satisfied (reasons should be recorded in writing) that it is not reasonably practicable to hold an enquiry in the manner provided, or
- (3) Where the President satisfied *that* in the interest of the security of the State, it is not expedient to hold an enquiry in the manner provided.

In cases under Category (1), *the* Disciplinary Authority has to peruse the judgment of the Criminal Court and take into account the gravity of the misconduct committed, its impact on fire administration and other extenuating circumstances or redeeming features. Once it is concluded that the Government servant's conduct is blameworthy and punishable, it may impose such penalty as it is competent to do. The penalty should neither be grossly excessive, nor out of proportion to the offence committed or one not warranted by the facts and circumstances of the case.

Regarding Category (2), detailed guidelines have been laid down in this regard. Inquiry should not be dispensed with lightly or arbitrarily & out of ulterior motives or merely in order to avoid the holding of — inquiry or because the Department's case is weak and is, therefore, bound to fail. Further it is a constitutional obligation that the Disciplinary Authority should record in writing (preferably in the order itself the reasons for its satisfaction that it was not reasonably practicable to hold the inquiry. The reason, though brief, should not be vague or not just a repetition of the language of the relevant rule.

In both the cases, the Government servant should be given an opportunity of making representation against the penalty proposed.

6. If the delinquent Government servant dies during the pendency of the disciplinary proceedings, the proceedings should be dropped.

7. Streamlining of conduct of disciplinary proceedings to reduce delay.—The following measures have been prescribed to ensure that disciplinary cases moot unduly delayed:—

- (1) Cases should be carefully studied to decide whether major/minor

- proceedings — required to be initiated;
- (ii) Delay in fronting charges should be avoided; responsibility should be fixed for inordinate delay in framing charges without valid reasons;
 - (iii) To ensure that the charged officer submits written statement within the time-limit;
 - (iv) The departmental officers appointed as Inquiry Officers are relieved from their normal duties for a period up to 20 days in two spells for completion of inquiry on full-time basis and submit report.

8. Adherence to time-limits In processing of disciplinary cases— Delay in decision-making by authorities in processing vigilance Cases would be construed as a misconduct and would be liable to attract penal action.

9. Consultation with CVC in cases of action wider Rule 19 (i)— Consultation with **CVC** in the disciplinary cases under Rule 19 (i) is not necessary/required in such cases where Government servants are convicted by Courts of Law on criminal charge

Appeal, Revision and Review

Appeal

1. An appeal is one which is preferred to the appropriate Appellate Authority against an order of penalty. Right of appeal has been provided in certain other cases also, like, (i) suspension. (ii) payment of subsistence allowance during suspension. (iii) regulation of pay and allowances for period of suspension and/or unemployment, on reinstatement and (iv) withholding/ withdrawing pension or part thereof, by an order of the Appointing Authority, when a pensioner is found guilty of grave misconduct or is convicted of a serious crime by a Court of Law. Even supersession in promotion which denies/ varies to disadvantage pay, allowances, pension and conditions of service, is appealable.

2. Appeal has to be preferred within forty-five days of receipt of the order appealed against direct to the Appellate Authority, who may condone delay, if valid reason are given.

3. The appeal should contain all material statements and arguments on which the appellant relies and should be complete in itself It should not be in disrespectful or

improper language.

4. A copy of the appeal should be sent to the authority who passed the order, who has to forward the same along with the complete records and his comments to the Appellate Authority without any avoidable delay.

5. The Appellate Authority is to consider (i) whether procedure laid down in the rules has been complied with and if not, whether such non-compliance has resulted in violation of the provisions of the Constitution/in the failure of justice, (ii) whether findings of the Disciplinary Authority are warranted in the circumstances of the case and (iii) whether the penalty imposed is adequate, inadequate or severe. The word "consider" has been held to imply "due application of mind" and the Appellate Authority should pass a speaking order. It is necessary that all the points raised by the appellant are summarized in the order and also logically discussed to show how they are not tenable or acceptable.

6. In an appeal against a major penalty, if the appellant specifically requests for a personal hearing, taking the assistance of a defence assistant also, this may be granted by the Appellate Authority at its discretion.

7. If the Appellate Authority proposes to enhance fire penalty, it can do so only after holding an inquiry if one is required to be held but not held earlier and after issue of a show-cause notice. In cases where an inquiry has already been held, the appellant should be given a reasonable opportunity to represent against the proposed enhanced penalty.

8. In respect of an appeal against any other order, the Appellate Authority may pass such order — it deems just and equitable considering the facts and circumstances of the case.

Revision

1. Even after disposal of appeal, or having failed to avail of appeal facility, further departmental remedy is available to an aggrieved official by way of revision.

2. The power of revision is vested with the President the Comptroller and Auditor-General, the Member (Personnel) Postal Services Board, Adviser (Human Resources Development), Department of. Telecommunications, the Head of a Department, the relevant Appellate Authority or any oilier authority specified in this behalf.

3. In the case of the Appellate Authority, it should convey its intention to revise the orders and call for the records within six months of the date of the order to be revised. No time-limit has been prescribed in respect of others.

4. Revisional Authorities can start the proceedings either on their own motion or “on an application” from the official. Revision proceedings cannot be commenced until after the expiry of the period of limitation for an appeal or the disposal of appeal, if one has been preferred.

5. If the Revisional Authority comes to the provisional conclusion that the punishment awarded is not adequate, he can impose higher penalty only after—

- (a) Issuing show-cause notice to the Government servant and considering his reply thereto; and
- (b) Holding regular inquiry if an enquiry had not been held earlier, if a major penalty is proposed.

6. An application for revision has to be dealt with in the same manner as an appeal.

Review

The President can make a review of any order passed earlier, including an order passed in revision, when any new fact or material which has the effect of changing the nature of the case, comes to his notice. However, imposing or enhancing of any penalty can be done only after giving the Government servant concerned a reasonable opportunity of making representation and holding of an inquiry, in cases where one is required to be held under the rules but had not been held.

Suspension

Suspension is an executive action whereby a Government servant is kept out of duty temporarily pending final action against him for criminal offences or acts of indiscipline, delinquency, misdemeanor, etc.

1. When resorted to.— (a) When disciplinary proceedings are contemplated/pending, or when a case in respect of any criminal offence is under investigation,

inquiry or trial or when the Government servant is involved in a case of "dowry death".

(b) The following circumstances may be considered appropriate to place a Government servant under suspension.—

1. When preliminary enquiry supports a prima facie case for initiating criminal/departmental proceedings likely to lead to his conviction. and/or dismissal, removal or compulsory retirement from service.

2. When his continuance in office will prejudice investigation, trial or enquiry, or is likely to seriously subvert discipline or be against wider public intent.

3. When he is suspected to have engaged himself in activities prejudicial to the security of the State.

4. When he is charged with misdemeanor of the following types:—

(I) Offence or conduct involving moral turpitude;

(II) Corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gain;

(III) Serious negligence and dereliction of duty remitting in considerable loss to Government; and

(IV) Refusal or deliberate failure to carry out written orders of superior officers.

(c) A Govt. servant should be placed under suspension immediately if— (a) he is arrested in "Dowry Death" case, irrespective of the period of detention; or (b) the Police report to the Magistrate prima, facie indicates that the offence has been committed by the Government servant.

2. Suspension should not be resorted to.—

(I) for petty offences unrelated to morality or official duties; and

(II) when an official is absconding.

3. Deemed suspension.—A Government servant detained in custody on a criminal charge or otherwise, for a period exceeding forty-eight hours or sentenced to a term of imprisonment exceeding forty-eight hours, is deemed to have been placed under suspension. However, issue of formal order of suspension is necessary.

4. Review and Revocation.— To avoid great hardship, suspension should not be

unduly prolonged. When it has been decided to institute criminal proceedings against a Government servant in a Court of Law, efforts should be made to file the charge sheet in a Court within three months. Likewise, in departmental action, the total period of investigation and disciplinary proceedings should not ordinarily exceed six months. A review committee should be constituted and all cases of suspension should be reviewed by the committee within 90 days from the date of the order of suspension. The suspension may be revoked or extended on the recommendation of the committee. The extension shall not be more than 180 days at a time, if the suspension is not extended within 90 days. it will not be valid after a period of 90 days.

5. Authority competent to order/revoke suspension—The Appointing Authority, any authority to which it is subordinate, the Disciplinary Authority or any other authority empowered in that behalf by the President may place an official under suspension. The suspension can be revoked by the authority, which issued the order of suspension, or by any authority to which it is subordinate.

6. Headquarters during suspension.—The suspended officer's station of posting immediately before suspension. At his request; it can be changed, provided the change does not involve any expenditure or create other complications.

7. Appeal against suspension—Though suspension is not a statutory penalty, the Government servant can prefer an appeal against an order of suspension within forty-five days of service of the order if from the order itself he becomes aware of the reasons leading to his suspension. If the reasons could not be ascertained from the order itself, the appeal can be preferred within forty-five days from the date of receipt of charge-sheet or communication intimating the reasons for suspension, whichever is earlier. The Appellate Authority is to consider whether in the light of the provisions of the rule and the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order.

8. Treatment of suspension, if, in its duration, the Govt. servant—

(1) Dies.— Suspension order abates and the period is treated as duty. Pay and allowances and retirement leave encashment benefits are admitted under normal rules.

(2) Attains age of superannuation—He is provisionally pensioned off, but retirement

gratuity to be paid only after conclusion of the proceedings depending upon the effect of the final order.

(3) **Seeks Voluntary Retirement**— Permissible with prior approval of Appointing Authority.

(4) **Submit Resignation**— Competent Authority should examine merits of the case and decide if acceptance of resignation would be in public interest.

Subsistence Allowance

1. Quantum payable.— A suspended official is entitled for the first three months of suspension to Subsistence Allowance of an amount equal to leave salary on half pay, with Approximate Dearness and Compensatory Allowances.

2. First Review for increase/decrease.— The Suspending Authority has to review, and pass necessary orders in sufficient time before expiry of the first three months. The allowance may be increased by a suitable amount not exceeding 50% of the initial sum, if the suspension is prolonged due to reasons not directly attributable to the Government servant. It may be decreased in the same manner if the Government servant is held to be responsible for the prolongation. If it is not varied either way, the circumstances under which such a decision was taken should be recorded.

3. Subsequent reviews.— It is open to the Competent Authority to make further reviews at any time if the circumstances warrant and pass appropriate orders.

4. Certificate of non-Employment.— Subsistence Allowance can be paid only if the suspended official furnishes a certificate every month that he was not engaged in any other employment, business, profession or vocation and cannot be denied on any other ground.

5. Appeal against revision of allowance.— The suspended official may appeal if he is not satisfied with increase/decrease allowed and the Appellate Authority

after considering all the circumstances may pass just and equitable orders

Recovery from subsistence Allowance.—

Obligatory— Repayment of loan and advances taken, contributions to **CGHS** and Group Insurance, house rent and allied charges and income tax.

With the official's written consent—PLi Premium, Co-operative Stores! Societies dues, refund of OFF advances.

Not enforceable.— OFF subscriptions, Court attachment dues and recovery of loss to Government.

Reinstatement

1. Circumstances of reinstatement in service of an official after suspension / compulsory retirement /removal/dismissal.

(a) If detention in Police custody, erroneous or without basis, ends in release without prosecution, deemed suspension ceases.

(b) When under suspension pending departmental proceedings, on the withdrawal of proceedings for any reason, or on the award of penalty oilier than compulsory retirement/removal/dismissal.

(c) When under suspension pending criminal proceedings, if acquitted by Court of Law and if it is decided not to proceed further departmentally.

(d) On the setting aside of an award of compulsory retirement/removal/dismissal by a Court of Law or by the Appellate/Revising Authority.

Reinstating Authority's orders should include specific decision on treatment of period of suspension up to reinstatement compulsory retirement removal or dismissal as

spent on duty or not and *(it)* a specific decision on the quantum of pay and allowances for the said period.

These two decisions are independent. Neither flows from the other.

2. Full pay and allowances admissible.—(1) Reinstatement on full exoneration in departmental proceedings, when the charged official is not held responsible for delay in the termination of the proceedings against him.

(2) Reinstatement on an official's acquittal on merits of the case in Court proceedings and no further departmental enquiry is held.

(3) Reinstatement when suspension is held to be wholly unjustified and when the charged official is not held responsible for delay in the termination of the proceedings against him.

(4) When minor penalty is awarded.

(5) If detention under, law *providing* for preventive *detention* is held by the Competent Authority to be unjustified.

(6) In case of deemed suspension on grounds of detention found to be erroneous and no prosecution is launched.

(7) In case of arrest for debt, if the liability is proved to be due to circumstances beyond the official's control.

(8) Official's death while under suspension.

3. Proportionate (less than whole) pay and allowances— (1) Even in cases of full exoneration in departmental proceedings, when it is held that the termination of the

proceedings instituted against — official had been delayed for reasons directly attributable to him, for such period of suspension and/or dismissal, etc., as may be directed by the Reinstating Authority.

(2) In cases of departmental proceedings win, the official is not fully exonerated or the earlier order is set aside solely on the ground of noncompliance with the requirements of Article 311 of the Constitution.

(3) In Court cases where the order is set aside solely on the ground of non-compliance will, the requirement of Article 311 or when exoneration is not on merits.

(4) Even in cases where the suspension is held to be wholly unjustified when it is held tat the termination of the proceedings instituted against an official had been delayed for reasons directly attributable to hum for such period of suspension as may be directed by the Reinstating Authority.

(5) In cases of detention under a law providing for preventive detention, when it is held that the detention was not unjustified and in casts of arrest for debt, where the liability is proved to be due to circumstances within the official's control, for such period as may be directed by the Reinstating Authority.

(6) In cases where the suspension is not held to be wholly unjustified.

In all these cases, the proportionate pay and allowances payable should be determined only after giving opportunity/notice to the official to make his representation against the proposal and after considering his representation, if any. The amount so determined should not be less than what was paid as subsistence allowance.

In all cases of payment of pay and allowances— either in full or in part—for past period, certificate of non-employment, as in the case of payment of subsistence allowance, is essential.

The payment is also subject to adjustment of any amount earned by the Government servant through any employment during the period.

4. When period of suspension is treated as duty.—(1) On reinstatement due to full exoneration in departmental proceedings.

(2) On reinstatement due to the official's acquittal on merits of the case in Court proceedings and no further department inquiry is held.

(3) On reinstatement when suspension is held to be wholly unjustified

(4) When minor penalty is awarded.

(5) If detention in Police custody, erroneous or without basis ends in release without prosecution and if the Competent Authority concludes that suspension was wholly unjustified.

(6) If the detention under a law providing for preventive detention is held by the Competent Authority to be unjustified.

(7) In cases of arrest for debt, if the liability is proved to be due to circumstances beyond the official's control.

(8) Official's death while under suspension.

5. Period of suspension treated as non-duty (unless otherwise decided for any specific purpose). — (1) In cases of departmental proceedings where the Government servant is not fully exonerated or the earlier order is set aside solely on the ground of non-compliance with the requirements of Article 311.

(2) In Court cases under similar circumstances.

(3) In cases where suspension is not considered wholly unjustified.

In cases of these types, the official has the option to get the period converted into leave of any kind due and admissible under the Competent Authority's order which shall be absolute.

6. Proportionate pay and allowances cannot be denied for any period.— Even in cases where a dismissed official is reinstated by Competent Authority on compassionate grounds and the period from the date of dismissal to the date of reinstatement ordered to be treated as 'non-duty', payment of proportionate pay and allowances for that period is mandatory.

7. Review of the period of suspension revoked pending proceedings.— If an order has been passed before conclusion of the departmental/Court proceedings as to pay and allowances for and treatment of the period of suspension revoked before conclusion of the inquiry/Court case, it is only a provisional order. After conclusion of the inquiry/Court case, the said order should be reviewed on its own motion and a final order passed under

5. BOARD OF ENQUIRY vs COURT OF ENQUIRY

BOARD OF INQUIRY

A Board of Inquiry can be of many categories. viz.

- a) Discipline-related Board of Inquiry
- b) Accident-related Board of Inquiry
- c) Loss of Stores related Board of Inquiry
- d) Cash Management related Board of Inquiry
- e) Estate Management related Board of Inquiry

DISCIPLINARY-RELATED BOARD OF INQUIRY

Disciplinary Board of Inquiry is in the nature of a preliminary inquiry to determine whether a prima facie case for a formal departmental disciplinary case is made out. In this case, the Inquiry is mainly for the satisfaction of the Govt. to decide whether any punitive action should be taken on facts in regard to the conduct and work of Govt. servant so that the authority concerned, may decide whether or not to formally institute inquiry under **CCS (CCA)** Rules for inflicting one of the major punishments. It is a mere fact-finding preliminary inquiry and such an inquiry may even be held ex-parte. Though usually, for the sake of fairness, explanation is taken from the employee concerned even at the stage of preliminary inquiry, yet at that inquiry should not be confused with regular departmental "Court of Inquiry" for the purpose of inflicting one of the major punishments. From the findings of the preliminary board of inquiry, the Govt. comes to know of the real facts for deciding whether the employee should be Charge-sheeted and the departmental court of Inquiry starts after the charge-sheet stage only.

ACCIDENT-RELATED BOARD OF INQUIRY

In ordnance Factories accidents do occur. Such accidents may take place inside the factory or even outside the factory involving workmen and other officials when they meet with accidents while on duty inside the Factory or while coming to the Factory for their work. The provisions of workmen's Compensation act are applicable in these cases.

In case of an accident inside the factory, a Board of Inquiry is immediately ordered to ascertain the various details about the accident, when, where and as to how such an accident occurred, the extent of damage to plant and machinery, any injuries, has been caused due to negligence of any person, whether any person is responsible for the accident, and for suggesting remedial measures to ensure that such accidents do not recur. In such an accident board of inquiry, technically qualified persons are associated. A representative from the accounts branch is also co-opted so that the loss to the Govt. arising out of the accident can be quantified for the purpose of "write-off" at a later date. The purpose of any accident board of inquiry is totally different from any disciplinary board of inquiry as explained above.

The second kind of accident Board of Inquiry is ordered in factories to ascertain the exact reasons as to how an accident has, taken place outside the factory premises resulting in injuries to workmen/ employees while they are on way to the factory for duty or on their return from the factory to their residence after duty. This is governed under the provisions of workmen's compensation Act, as any accident, to the employees under the theory of "National extension of the employer's premises" taking into account the journey between a workmen's residence and the place of work as on duty is deemed to be an accident arising out of and during the course of employment resulting in payment of compensation. The findings of such a leave and accident compensation where applicable. Accident Board of Injury proceedings are a pre-requisite for passing compensation claims to the affected employees/their dependents in case of fatal accidents.

OTHER TYPES

Where loss of cash/public money or stores is involved, here also a board of inquiry is mandatory to go into details the loss was **due to** or **not due to** theft, fraud or neglect on the part of any employees/ and to write-off the losses. In matters relating to estate/lease of land to co-operative societies/contractors etc. also, an inquiry is constituted to go into the details of matters for corrective action.

DEPARTMENTAL COURT OF INQUIRY

A departmental court of Inquiry should not be got confused with a board of inquiry for descriptions indicated above. The departmental court of inquiry is sometimes called “domestic Inquiry” and it is held specifically under the provisions of **CCS (CCA) Rules**, an oral inquiry is mandatory under the protection available to every Government Servant under **Article 311** of the Constitution of India. When the Govt. servant is charge-sheeted under **Rule 14 of CCS (CCA) Rules**, an oral inquiry is mandatory before one of the major penalties is imposed on that employee. This inquiry is ordered by the disciplinary authority and specific written orders are issued, nominating inquiry officers and presenting officer for proceedings such a court of inquiry has to take are unambiguously indicated in the CCS (CCA) Rules. Such a Court of Inquiry is ordered to afford to the employee charge-sheeted, a ‘reasonable opportunity’ to meet his charges so that ‘natural justice’ is not denied to him while taking a decision about penalty to be imposed on him. This is an oral inquiry, and it can also take the shape of ex-parte inquiry if the charge-sheeted employee repeatedly fails to appear before such an inquiry. Based on the finding of the Court of Inquiry only, the disciplinary authority can take a decision to impose any major penalty.

BOARD OF INQUIRY vis a vis COURT OF INQUIRY:

A tabulated version of differences between a Board of Inquiry and a Court of Inquiry follows.

BOARD OF INQUIRY	COURT OF INQUIRY
Nature : Fact-finding Administrative	Nature : Charge-Proving Disciplinary
TYPES	TYPES
1. Discipline - Related	1. Under Rule 14 of CCS (CCA) Rules 65
<ul style="list-style-type: none"> ▪ Lack of conclusive evidence e.g. gambling, theft cases. ▪ Multiple categories of employees involved in scuffles, mutual assaults inside & outside Fys. 	2. Under Rule -16 - converted at the instance of the DGS.
2. Accident – Related	
<ul style="list-style-type: none"> - Fatal and non-fatl cases - Arising out of and in the course of employment - Both inside and outside Fys. -Notional extension of employers “premises” rule under W.C. Act/E O P Rules. 	
3. Loss of Stores – Related (theft, fraud, or neglect)	3. Remitted Court of Inquiry due to procedural lacunae
4. Estate - Management Related <ul style="list-style-type: none"> - Sub - letting - Unauthorised activities - Private trading - Encroachment 	4. De Novo Court of Inquiry <ul style="list-style-type: none"> - Due to procedural lacunae - Due to change of IO or PO
5. Cash - Management Related <ul style="list-style-type: none"> - Loss of public fund - Loss of L.W. Fund - Loss of Coop. Stores - Non- Public Fund (theft, fraud or neglect) 	5. Re-Inquiry <ul style="list-style-type: none"> - at the instance of <ul style="list-style-type: none"> a) Disciplinary Authority b) Appellate Authority c) CAT and Courts

ROLE OF ENQUIRY OFFICER:

QUASI - JUDICIAL:

APPOINTMENT

- Rule: 14 (2) of CCS (CCA) Disciplinary Authority can hold an enquiry or He may appoint an Authority Enquiry Officer is a Delegate of Disciplinary Authority.

MAIN FUNCTIONS

1. Smooth conduction of enquiry
2. Observing principles of natural justice in the process of enquiry.
3. Finalisation of case

1. Smooth conduction of enquiry

4. A. Issue of notices
5. B. Summoning of witnesses
6. C. Recording of day to day proceedings
7. D. Decision regarding Defence assistance
8. E. Maintenance of proper decorum of court
9. F. Inspection of documents.

2 Observing principles of natural justice in the process of enquiry.

1. A speaking order should be passed.
2. Justice should not only be done, but manifestly and undoubtedly seen to be done.
3. Justice delayed is justice denied-justice hurried is justice buried.
4. Judges [EO] should be above suspicion
5. No man should be judged in his own case.
6. Hear the other side-no man should be condemned unheard.

7. Interested parties should not sit in for judgment.
8. Reasonable opportunity-fair, adequate, complete opportunity.

Actions where principles of natural justice are reflected.

1. Charge sheet framing and issue
2. EO's appointment
3. Document inspection
4. Defence presentation
5. Defence assistant-provision
6. Cross examination
7. Recording of evidence
8. Speaking order
9. Timely completion of enquiry.

3. Finalisation of case

Some important points.

Burden of proof lies with the employer

Formative principles of conclusion are-rules, regulations, laws that are violated, evidences produced, conclusions drawn, circumstances analysed, information got from examination and cross-examination in Enq, inferences drawn, conclusions to be arrived after analyses of facts. Report based on reasoned, logical conclusions. ***Hearsay evidence not to be considered.***

4 Assessment of evidences:-

Various categories of evidences.

1. Direct evidence-written statement, eye witness.
2. Documentary evidences
3. Oral evidence recorded before enquiry officer,
4. Statement of Defence
5. Brief by PO
6. Brief by Defence
7. Behaviour of witness.
8. Basic principles to be followed for assessing evidence
 - Evidence adduced during enquiry,
 - Personal knowledge of E.O should not be taken
 - DGS/DA should present while recording evidence
 - Circumstances and facts to be analysed in relation to rules and regulations
 - Opportunity to cross-examination
 - No matter should be relied upon which was not appreciated before DGS/PO
 - It is presumed that all govt. Servants should know all rules
 - Preponderance of probability-circumstantial evidence
 - No need to prove motives
 - DGS/DA should present while recording evidence

6. Preparation of Report.

E.O should act as impartial investigator, with a sense of fair play, without any fear, prejudice or favour.

Assessment should be supported by reasons agreeing /disagreeing arguments of both parties, with justification /grounds for acceptance/rejection.

Final findings with all annexures--day to day proceedings, briefs, copies of notices, chronology of proceedings.

7. Some case studies

Some case studies where EO 's role has been clarified by various tribunals, courts orders

Balu Singh vs Union of India-1986-E.O cannot assume the role of prosecutor and judge.

Abdul Wajeed vs State of Karnataka- E.O examined and cross examined DGS/witnesses and made suggestions that they are giving false evidence.

A.N Desilva vs UOI AIR 1962 – E.O cannot recommend quantum of penalty- it is the disciplinary authority, competent to impose penalty -in commensurate with offence

Amaly K.K Sikdhar vs Bakshi-1958 – EO to see the demeanour of the witness and elicit answers to to doubtful points

OCF Shahjhanpur -high court of Allahabad- language used should be known to all viz., PW.DGS.DA,DW etc

*Tarlochan singh vs UOI-1982- Inordinate delay in disposal of case - case delayed for 5 years 1963-67. 22 petitions were given by **DGS** to speed up enquiry but to no avail.*

ROLE OF PRESENTING OFFICER:-

SOME IMPORTANT KEY POINTS

1. The Departmental disciplinary proceedings under the CCS (CCA) Rules, 1965 are quasi-judicial in nature. The judicial proceedings under criminal law of the land demand proof beyond all reasonable doubts before concluding that the accused is guilty of the offence. Even the slightest benefit of doubt is extended to the accused and he is acquitted of the charges. In such cases the universally accepted dictum in legal circles that a thousand guilty could be acquitted but not even one innocent be punished is the golden mean.
2. The basis for arriving at any conclusion both in judicial proceedings and quasi-judicial inquiries fall under the following categories :
 - (a) Direct evidence in the form of statements and by eye witnesses.
 - (b) Documentary evidence
 - (c) Truth brought out in examination, cross-examination and re-examination.
 - (d) Circumstantial or indirect evidence.
3. In judicial proceedings, the evidence both direct and circumstantial has to be conclusive and overwhelming. In departmental proceedings too, the evidence has to be conclusive but a fine distinction could be drawn. For example, when an employee is charged with inciting his co-workers to stop work and to prevent other willing workers from doing their assigned job, the accused is in a position to present numerous witnesses who may ever that he did not incite or prevent. The management may present only one witness from amongst senior staff, who may aver that the accused did incite and prevent. In such a situation, the Inquiry Officer need not infer whether the Defence witnesses had made statements that

were motivated by the partisan end of helping a co-worker. If he is so satisfied, he can reject the statements of all the **D.W.s** and accept **P.W.s** solitary evidence, provided, the **I.O.** is reasonably satisfied that this lone witness has no reason to utter falsehood.

4. The above discussion is intended to bring out some of the differences between judicial and departmental proceedings. But the fundamental norms of natural justice such as reasonable opportunity, fair-play, protection of the right, to justice etc. are valid and relevant in departmental proceedings, no less than in judicial proceedings. The **I.O.** should act with the highest degree of objectivity and fair-play. The following two sayings about the administration of justice are as much a concern of an IO as of a Judge. *Justice should not only be done, but should also appear to have been done*; and *Justice delayed is justice denied*.
5. An important aspect of inquiry proceedings is affording of Reasonable Opportunity to the accused to defend his case. What is reasonable or not reasonable cannot be conclusively defined and can be derived only from the circumstances, experience and common-sense. For the sake of convenience and clarity, the concept of reasonable opportunity could be elaborated as under :-
 - Opportunity to the accused should be adequate in as much as sufficient time should be given to him for examination of evidence, witnesses, etc.
 - The opportunity should be fair; inasmuch as the parties should be treated alike and there should not even be the slightest ground to suggest that one of the parties received preferential treatment at the hands of the IO.
 - The opportunity should be complete, inasmuch as no aspect of the inquiry should remain uncovered. For instance, allowing sufficient time and opportunity to examine and cross-examine witnesses and disallowing time for inspecting documents would make the proceedings incomplete.

The IO can assure a reasonable opportunity to the parties only when he acts with objectivity and fair-play. While these terms cannot be defined with precision, the proceedings should be such that any ordinary man of prudence will accept these as conducted in a fair and impartial manner.

Before recording his conclusion, the IO should record an objective assessment of the evidence and his assessment should stand the test of any logical scrutiny. They should be supported by reasons, particularly in situations wherein he accepts the arguments/evidence presented by one party and rejects that of the other.

6. In a nutshell, an IO should act as an impartial investigator, acting with objectivity, a sense of fair-play and due care for adherence to the prescribed procedure. He should also act without fear, prejudice or favour. His responsibility would lie in ensuring reasonable opportunity to all the parties and recording logical conclusions after diligently applying his mind.

CASE LAWS

1. **I.O.** cannot assume the role of both the Judge and the Prosecutor **I.O.**” was within his right to seek clarifications from the accused but his examination of the accused was so over-stretched that it runs into several pages and over two days. Again when this kind of examination by IO was resumed next day, it bears the caption of ‘Cross-examination’. It, therefore, stands established that the IO assumed the role of both the judge and the prosecutor which has vitiated the entire proceedings. The impugned orders therefore deserve to be quashed and are hereby quashed”

(Balu Singh V. UOI 1986 - ISLJ (CAT) 149)

2. Where **I.O.** Cross - examined **DW’s** and made a suggestion to them that they were giving false evidence, Inquiry became biased and vitiated.

A Head-constable was charge-sheeted for his misbehaviour and accepting bribe from a person. After inquiry, he was found guilty and removed from service. When his appeals were rejected by his DIG and the state Government, he approached the High Court, pleading plain violation of principles of natural justice stating that **I.O.** himself cross-examined **P.W.s** treating as “Hostile Witnesses” and **I.O.** also cross-examined both the **D.W.s** and made a suggestion to both of them that they were giving false evidence. This suggestion is sufficient to hold that the **I.O.** was biased and he had made up his mind to find the employee guilty. The manner in which the **I.O.** conducted himself during the inquiry vitiates the entire proceedings as the same was in violation of the principles of natural justice. Removal order was quashed.

(Abdul Wajeed vs. State of Karnataka - Kar. H/Court Lab.IC 402)

3. **I.O.** cannot recommend Quantum of Punishment or Exoneration.

A. As Supreme Court held in *A. N. D'Silva v. UOI (AIR 1962 SC 1130)*, IO is not required to specify the punishment which may be imposed on the delinquent officer. His task is merely to hold an inquiry into the charges and make his report, setting forth his conclusions.

(State of Assam vs. Bimal Kumar AIR 1963 SC 1612)

B. The **I.O.** did not have any business in making recommendation regarding punishment which is the exclusive preserve of the disciplinary authority. The function of the **I.O.** is only to inquire into the matter and give a finding on the facts placed before him. Therefore, the recommendation of the **I.O.** for taking a lenient view in the matter of imposition of punishment cannot in any way bind the disciplinary authority. It is the disciplinary authority which has got the exclusive jurisdiction to award the punishment commensurate with the charges framed against the delinquent official.

(Sabed Ali Vs. GM, NF Rly & Ors. 1987 (1) SLR (CAT) 620 (Guwahati Bench)

4. **I.O.** to observe the "Demeanour" of the witnesses.

One of the salient features in an inquiry proceedings is for the IO to observe the demeanour of the witnesses. As it has been said, even the devil does not know the mind of man, and therefore, to arrive at the truth, it is necessary not only to read the evidence but to see the demeanour of the person giving evidence and, where necessary, to elicit answer to doubtful points. The evidence of a witness which might sound allright on paper, may be rendered useless by observing his demeanour.

(Amalya Kr. Sikdar vs. LM Bakshi AIR 1958 Cal. 470)

5. Language to be used in conducting court of inquiry - It should be known to all concerned - not in English only.

'The learned counsel for appellant contended that total inquiry proceedings took place in English and the English language was not known to the appellant. The IO, PO and Appellant were all conversant with Hindi language. I fail to understand why the total inquiry was conducted in English. It has been more proper and just if the inquiry had been conducted in Hindi language known to all parties.

(OCF shahjahanpur Case - High Court, Allahabad)

6. Inordinate delay of more than 5 year in disposal of disciplinary proceedings cannot be justified.

'A bare perusal of the chronological events will show that there has been inordinate delay. The delay of about one and half years in framing the charge-sheet and four years taken for completing the inquiry cannot be justified on any account, much less in a case where the employee was under suspension and was being paid subsistence allowance while doing no work. The petitioner did not contribute to the delay inasmuch as he had sent 22 reminders between 1963 and 1967.

(Tarlochan Singh vs. UOI & Ors, AIR 1982 (2) CAT 405 (Delhi)

ROLE AND RESPONSIBILITIES OF A PRESENTING OFFICER

Appointment of IO & PO in a departmental court of inquiry is governed under the provisions of Sub Rule 5 of Rule 14 the CCS (CCA) Rules. The PO is a delegate of the Disciplinary Authority (DA) to present the case on its behalf in support of the articles of charges framed against the delinquent employee. The relationship between the PO and DA is that of a counsel and client. There should be a proper and constant dialogue between the PO and the Officer Incharge of Administration. He plays a vital role in establishing the charge based on the evidence, oral as well as documentary. It is his style and mode of presentation and understanding of rules which help the IO in arriving at a just and fair conclusion.

A RESUME OF HINTS TO THE P.O. IS AS BELOW:-

1. PO should present the case in an understandable and orderly manner with precision, clarity and logic.
2. PO should enable IO to plan the stages of regular hearing purposefully.
3. PO should read carefully the statements of various PW's, prepare brief notes on questions to be asked from them.

4. PO should ensure that all relevant documents are received with his appointment letter.
5. P.O. should meet the **P.W.'s** in advance before the inquiry and refresh their memory by referring to their statements earlier recorded - this will help **P.O.** and **P.W.'s** to recollect the actual facts and have a good grip over them while tendering evidence at the inquiry.
6. **P.O.** should proceed with the case only to the extent of charges not accepted by the delinquent employee.
7. **P.O.** should produce **P.W.'s** one by one allowing the accused / defence assistant to cross-examine them.
8. Examination of witnesses should be done in the language known to the delinquent employee.
9. Objections should be raised before the **I.O.** to disallow irrelevant questions by delinquent employee or his Defence assistant during cross-examination of **P.W.'s**.
10. **P.O.** is authorised to examine the delinquent employee only when the latter produces himself as **D.W.**
11. As regards standard of proof, it has been held that the technicalities of criminal law cannot be invoked in disciplinary proceedings. The standard of proof required in disciplinary proceedings is that of preponderance of probability and not proof beyond reasonable doubts.

12. As per Sub Rule 19 of Rule 14, the IO may, after completion of production of evidence, hear the PO and permit him to file written briefs. PO should utilise both these opportunities.

CASE LAWS

01. While introducing New/Additional **P.W.'s** other than those listed in the charge memo, rule laid down should be followed without violating the principles of natural justice.

(OCF Avadi Case, Madras High Court / 1975)

02. The learned counsel for appellant contended that in the charge-sheet only Shri X was mentioned as a witness to be examined against the appellant. In the inquiry, witness Y, Sipahi DSC Z and Durwan A were also examined. The appellant was never informed that these persons would also be examined against him. The appellant was just kept in dark and persons not named as witnesses in chargesheet were examined against him and this is a clear violation of natural justice.

(OCF Shahjahanpur Case - Allahabad High Court / 1983)

DEFENCE ASSISTANT

In departmental inquiries, the delinquent Govt. servant (DGS) has a right to have a defence assistant of his choice but within the limits laid down under the rules. The right to have a defence assistant flows not only from the statutory orders but also from the principle of natural justice. In CG Subramanian Vs Collector of Customs, AIR 1972, SC 2173, the Supreme Court of India observed

“Government servants by and large have no legal training.... Moreover, when a man is charged with the breach of a rule entailing serious consequences, he is not likely to be in a position to present his case as best as it should be. The accusation against the appellant threatened his very livelihood. Any adverse verdict against him was bound to be disastrous to him it was proved to be. In such a situation, he cannot be expected to act calmly and with deliberation”.

It would thus be seen that the rules providing for **D.A.** to **D.G.S.** are mandatory and are in conformity with the concept reasonable opportunity contemplated under **Article 311** of Constitution of India. The role of the DA emanates and develops from **Sub Rule 8 of Rule 14 of CCS (CCA) Rules.**

WHO MAY BE NOMINATED AS A DEFENCE ASSISTANT:-

Government Servant - As defined under Rule 2 (h) - Central or State Government employee.

1. Retired Government Servant of Central Government. Since 2-5-1984 there is no restriction on the number of cases a retired Govt. servant may handle. There is also no restriction on period from date of retirement.
2. Govt. servant under suspension - subject to the restriction that he will not ask for pay and allowances for the days he assists **D.G.S.** and time spent will not be treated as on duty.
3. Labour Officer - Provided he can be spared.
4. Trade Union Members - provided they are Govt. servants and can be spared.

RESTRICTION ON NOMINATION OF DA:

As per 25th June 1983 amendment to CCS (CCA) Rules, the DA must be a person from the same office or at the Headquarters of the DGS or the place where the inquiry is held, subject to the provision that for reasons to be recorded in writing by the IO, DA can be from outstation.

PERMISSION / INTIMATION TO VARIOUS AUTHORITIES:

D.A. should obtain permission of his controlling authority to absent himself from office to assist **D.G.S.** To avoid delays, **I.O.** should intimate the controlling authority for securing the services of **D.A.**

ASSISTANCE OF A LEGAL PRACTITIONER AS DEFENCE ASSISTANT

As per rules, **D.G.S.** may take the assistance of a legal practitioner only in the following two circumstances:

- (1) The PO is a legal practitioner.
- (2) The Disciplinary Authority having regard to the circumstances of the case so permits.

When on behalf of the disciplinary authority the case is being presented by prosecuting officer of the CBI or a Govt. Law Officer, there is good and sufficient reason for allowing a legal practitioner as DA.

In cases where appointment of a legal practitioner is essential, it should be referred to DGOF. HQrs for approval.

AUTHORITY OF THE DEFENCE ASSISTANT

- In case the DGS is unable to attend a hearing for any reason, his DA can proceed with the case if he has written authorisation to this effect from the DGS. Similarly, the DA can submit the Defence written brief on behalf of DGS if he holds a written authorisation to this effect from DGS. The IO should check up this point, and retain a copy in records before accepting the brief.
- The DA has full right to cross-examine the PW's and also recross-examination in case of re-examination by the PO. With reference to the IO so appointed, DA should check up that he is an impartial person with an open mind and without any prior knowledge of the matter under inquiry.
- While making inspection of official documents, DA should take extracts of important papers as necessary. DA can accompany the DGS during the inspection of documents. DA can insist furnishing of additional documents so required for defence.

- If the PO makes a request to examine some new evidence or recall a witness who has already been examined, the DA should make sure that it is not done to fill up gaps and it is done before the examination of DW's is taken up.
- DA should ask for a copy of the written brief filed by the PO at the end of the hearings. In case the PO argues the case verbally, the DA should listen to him carefully, keep notes of the important points and explain these points satisfactorily in his arguments or in the written brief.
- The DA should ensure that his attitude at the inquiry is one of complete cooperation and his role is not of a Defence counsel in a criminal proceeding but that of a Govt. Official with duty to assist the IO in finding out the truth by placing before him the correct view-point of Defence.

CASE LAWS:

1. "Permission should not be refused to engage a legal practitioner (LP) where a legally trained departmental officer such as the Legal Adviser or Law Officer is appointed as the PO and the scales tilt in favour of the organisation. The reason is that the employers have now on their pay rolls, labour officer, legal advisers, lawyers, who, in the garb of employees may be appointed as Presenting-cum-Prosecuting Officers and the delinquent employee is pitted against legally-trained persons".

(Board of Trustees, Port of Bombay vs. Dilip Kumar R Nadkarni AIR 1983 SC 109)

2. "The Personal qualifications or ability of the charged officer, though a relevant factor, cannot be the sole ground to refuse permission, where it is justified on the facts and circumstances of the case. In this case Shri Bagchi was himself an Additional District Judge even then the refusal of permission to engage a legal practitioner was held as violation of the principles of natural justice in the circumstances of the case".

(Nripendra Nath Bagchi vs. Chief Secretary AIR 1961 SC1)

3. "Where the record of the case is voluminous, permission to engage a legal practitioner should be given. In this case, the total number of witnesses examined by both sides was 91, their depositions ran into 437 pages, the written

statements of the petitioner consisted of 25 pages, and the total number of documents exhibited were 166. The report of the Tribunal ran into 137 pages”.

(Nitya Ranjan vs. State, AIR 1962 Orissa 78)

4. “In this case a legal practitioner the Court felt should have been allowed keeping in view the manner in which the inquiry was to be conducted and intricacies involved in interpretation of Article 311 of the Constitution were certainly matters on which the petitioner should have had the guidance of a legally trained person.

(Rao Rallapalli Suryanarayan vs. State of Andhra Pradesh 1968 SLR P 77)

5. “In this case a legal practitioner should have been permitted as two very senior officers of the department were the prime witnesses and hence nobody from the department was volunteering as Defence assistant; and accused himself was perturbed, in a bad state of health and in an unbalanced state of mind; legal and factual complexities were involved, his nominee for defence assistant from other department was not released by that department; the case was being presented by experienced Police Inspectors of the CBI who has developed their skills by virtue of constant handling of the cases; and representation of the accused against bias of the inquiry officer had been rejected”

(AJ Vaswani vs. UOI, SLR 1982 (3) Cal. 173)

6. “Normally a Government servant should have the liberty of having the assistance of another Government servant of his choice. But it does not follow that the authorities should, under all circumstances, make the exigency of services as valid reasons for refusing permission, such as, it being not possible to spare his services, he being engaged in important work. When once a person is named to assist the Government servant, it does not mean that the permission cannot be withdrawn for it is common knowledge that when once an authority can appoint a person to assist the Government Servant, it can, for valid reasons withdraw the same”

(D. Govindaswamy vs The Assistant General Manager (Admin), Office of the General Manager, Madras Telephones, Madras - 1 (1977) 2 N L J 454)

7. “When PO was not a Prosecuting Officer of the CBI but merely an Inspector of CBI, he cannot be called a legally trained mind”

(Anantha Raghavendra Purohit vs UOI - CAT Bangalore - Regn No. 873/87)

6. ROLE AND FUNCTIONS OF THE ADMINISTRATIVE TRIBUNALS

INTRODUCTION

Establishment of the Administrative Tribunals has ushered in a new era in service related litigation. Although the original objective of disposing the grievance as early as possible and within six months' continues to be a far cry, there cannot be two opinions that the Administrative Tribunals provide a cheap and procedurally simple mechanism for the redressal of the grievances of the employees. Facilities provided by the Tribunal have probably encouraged more and more employees to go in for judicial settlement of their grievances. Consequently, there is a spurt in the number of employees filing cases against the Govt. Earlier, only the perseverant few were prepared to file civil suits, that too, only after a cautious comparison of the cost of litigation and the benefits likely to accrue from the case. As the cost of litigation has drastically come down, there is a tendency to go in for Judicial settlement. Besides, the growing awareness about one's rights is another factor which has contributed to the increase in the quantum of service related cases being filed against the Govt

1.2 As regards the Govt. officials entrusted with the task of defending these cases, their workload has increased considerably after the establishment of the Administrative Tribunals. It would, however be incorrect to view that the Administrative Tribunals have only added to the workload of officials who are defending the cases on behalf of the Govt. Tribunals have simultaneously offered a number of other facilities for the defending Department as well. Procedural simplicity is a common advantage for the employee as well as defending department. Besides, there are provisions for defending the cases through departmental officials. As a result of all these factors, the Govt. officials who are entrusted with the defence of cases in the Administrative Tribunals play a more constructive role than what they could do earlier when the Cases were being fought in the civil courts,

GENESIS

Present era is one of specialization for litigation. Unlike the trend in yesteryears when all the disputes relating to the rights and liabilities of the parties used to go to civil courts, of late, we have a number of for a which adjudicate on cases relating to a limited area. Some such for a are:

- (a) Consumer disputes redressal forum.
- (b) Motor vehicle Accident claim tribunal.
- (c) Monopolies and Restrictive Trade Practices Commission.

The need for a specialized forum for adjudication of services related disputes of the Govt. employees was being felt for a long time. One of the Items in the Forty Second Amendment of the Constitution was the insertion of a new **Article 323A**. This Article has empowered the parliament to create the Administrative Tribunals for adjudication of "disputes and complaints with respect to recruitment and condition of services of persons appointed to provide services and posts in connection with the affairs of the union or of any state. or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Govt.

Clause (2) of Article 323 A further provides certain guidelines for certain specific terms for the law which Parliament would enact in this connection. Some of them are as under:-

- a) Establishment of an Administrative Tribunal for the Union and a separate Administrative Tribunal for each state or for two or more state.
- b) Central Administrative Tribunal (Contempt of Court) Rules, 1986.
- c) CAT(Financial and Administrative Powers) Rules, 1985 .

Administrative set up

Central Administrative Tribunal is headed by a Chairman whose office is in the Principal Bench. The Chairman used to sit in other benches as well for adjudications of the cases. Apart from being the presiding judge in the court, the Chairman has certain administrative functions also such as requests for transfer of cases from one bench to another, allowing requests for early hearings, constitution of File Bench etc.

As mentioned above, the benches of the CAT are located in various places all over the country. Every Bench has a Registry which performs the administrative functions relating to the disposal of the cases, such as the following:

- (a) Receipt of the application filed in the Bench and acknowledge the same.
- (b) Listing the cases before the Benches.
- (c) Issue of copies of the orders.
- (d) Issue of notice to the parties.

Functioning of the CAT

Central Administrative Tribunals Rules of Practice, 1993 provides that depending on the nature of relief sought in a case, the same will be listed before a single Division Bench. Presently the matter falling within the purview of a single and Divisional Bench are as under:

- a) Single Bench:
 - i) Change of date of birth
 - ii) Adverse entries in ACR.
 - iii) Compassionate Appointment
 - iv) Allowances
 - v) LTC.
 - vi) Transfer

vii) Pension

viii)GPF

b) Divisional Bench

i) Seniority

ii) Promotion

iii) Termination

iv) Disciplinary Proceedings.

In addition to the above two Benches, at times the full bench is also constituted to decide certain specific issues wherein there have been conflicting order on various occasions in the past. A case is referred to the Full Bench only on the basis of the order of another Bench. Single and Division Benches are constituted on regular basis, on day to day basis. Cases are listed before these benches depending upon the subject to which the case relates. On the other hand, Full Bench is constituted on as and when required basis. Besides, there is no specified subject which is meant for disposal by the Full Bench.

The CAT functions on five days, a week. The courts commence at 10.30 AM and breaks at 1300 hrs for lunch. Post lunch session commences at 1400 hrs and goes on upto 1630 hrs. Normally, the benches of the GAT have summer vacation for three week in June and winter

c) Specifying the jurisdiction power (including the power to punish for contempt) and authority of tribunal.

d) Excluding the jurisdiction of all courts except the Jurisdiction of the Supreme Court under Article 136 with reference to the disputes and complaints on recruitment and conditions of service. [The position with regard to jurisdiction of other courts has undergone a change consequent to a ruling of the Supreme Court **dt.18.3.97** in Chandrakumar Vs Union of India and other.

In exercise of the power conferred under Article 323A, the Parliament enacted the Administrative Tribunals Act, 1985. Accordingly, the Central Administrative Tribunals came into being on 1.11.85 with Its principal office at New Delhi. Subsequently, more benches of the CAT were also created. The Benches of the CAT and the jurisdiction of the various Benches are as under :-

Sl. No,	Bench	Jurisdiction of the Bench
1	Principal Bench(New Delhi)	Union Territory of Delhi
2	Ahmedabad Bench	State of Gujarat
3	(a) Allahabad Bench (b) Lucknow Bench	State of Uttar Pradesh, excluding 12 districts mentioned S.No.3(b) under the jurisdiction of Lucknow Bench. Lucknow, Hardoi, Kheri,RaiBareilly ,Sitapur, Unnao, Faizabad, Bahr, Barabanki, Gonda, Pratapgarh & Sultanpur
4	Banglore Bench	State of Karnataka
5	Calcutta Bench	States of Sikkim and West Bengal and Union Territory of Andan & Nicobar Islands
6	Chandigarh Bench	State of Jammu & Kashmir, Haryana, Himachal Pradesh, Punjab the union territory of Chandigarh
7	Cuttack Bench	State of Orissa
8	Ernakulam Bench	State of Kerala and Union Territory of Lakshdweep
9	Guwahati Bench	State of Assam, Manipur, Meghalaya, Nagaland, Arun Oradesh and Assam '
10	Hyderabad Bench	State of Andhra Pradesh
11	Jabalpur Bench	State of Madhya Pradesh
12	(a)Jodhpur Bench (b)Jaipur Bench	State of Rajasthan, excluding 11 districts mentioned in S.No.12 under the jurisdiction of Jaipur Bench Ajmer, Alwar, Bharatpur, Bundi, Jaipur, Jhalawar, Jhunjhunu, Sawni Madhopur, Sikar and Tonk.
13	Madras Bench	State of Tamil Nadu and the Union Tenito,ylof Pondicheny
14	Bombay Bench	States of Maharastra Goa and the Union Territories of Dadra Nagar Haveli and Daman and Diu
15	Patna Bench	State of Bihar

Major amendments to the Administrative Tribunals Act were made in 1986 and 1987. The act also provides for creation of Rules. Accordingly, a number of Rules have been framed under the powers conferred on the Central Government vide Sec.3.5 of the Administrative Tribunals Act, 1985. Presently, the statutory provisions relating to the CAT are available in:-

- a) Article 323A of the Constitution.
- b) Administrative Tribunals Act, 1985. ..
- c) Central Administrative Tribunal (Procedure) Rules. 1987. ,
- d) Central Administrative Tribunal Rules of Practice, 1987.
- e) Central Administrative Tribunal (Destruction of Records) Rules,'1987
- f) Central Administrative Tribunal (Grant of Certified Copies) Regulations, 1988.

THE CENTRAL ADMINISTRATIVE TRIBUNAL RULES OF PRACTICE. 1993.

Rule 4. Preparation of pleadings and other papers.-(a)All pleadings. Affidavits, memoranda and other papers filed in the Tribunal shall be fairly and legibly type-written or printed in English or Hindi language on durable white foolscap folio paper of Metric A-4 size (30.5 cm long and 21.5 cm wide) on one side only in double space with a left margin of 5 cm and right margin of 2.5 cm duly paginated, indexed and stitched together in the paper-book form. The index shall be in Form No.-1

(b) English translation of documents/ pleadings shall be duly authenticated by any legal practitioner.

Rule 7. Production of authorisation for and on behalf of an Association.- Where an application/pleading or other proceeding purported to be filed is by an Association, the person or persons who sign(s)/verify(IES) the same shall produce along with such application. etc. for verification by the Registry, a true copy of the resolution of the Association empowering such person(s) to do so:

Provided the Registrar, may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorisation.

Rule 62. Appearance on behalf of Government. etc.-(a) Any legal practitioner appearing on behalf of the Central Government or State Government or any Government servant sued or suing in his official capacity or any authority/ corporation/ society notified under Section 14 of the Act shall not be required to file a vakalathnama but he shall file into Tribunal a Memo of Appearance in Form No.11 duly signed by him

(b) A presenting officer other than a legal practitioner representing any of the parties referred to in sub-rule (a) shall also file a memo of appearance in Form No.11.

AFFIDAVITS

Rule 80. Title of affidavits.- Every affidavits shall be entitled" In the Central Administrative TribunalBench at followed by the cause title of application or other proceeding in which the affidavit is sought to be used.

Rule 81. Form and contents of the affidavit.-(a) Every affidavit shall be drawn up in Form No.14 in the first person and divided into paragraphs numbered consecutively.

(b) Every affidavit shall contain the full name, occupation, age, father's/mother's/husband's name and address of the deponent. The deponent shall be described with such other particulars as may be necessary to identify him. He shall affix his signature / mark on each page.

Rule 82. Corrections / erasures, etc.- Corrections erasures and interlineations shall be initialed by the attestor and the number of corrections made on each page indicated.

Rule 83. Persons authorised to attest. - Affidavits shall be sworn or affirmed before any Judicial Officer. Registrar, Joint registrar and Deputy Registrar of the Tribunal, Notary, District Registrar or Sub-Registrar, the Chief Ministerial Officer of any civil or criminal court in the State or any Advocate.

Rule 86. Annexure to the affidavit. - Document accompanying a affidavit shall be

referred to therein as Annexure No.....The attestor shall make the following endorsement thereon:

"This is the document marked as Annexure No.
in the Affidavit of ..,....."

(Signature)
Name and Designation of the
attestor with date".