

# **CCS (CCA) Rules, 1965**

**Presentation prepared**

**by**

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# LEARNING OBJECTIVE

- By the end of the session, you will learn -
  - the various provisions and the rules relating to suspension and also decide whether a particular incident/case would warrant suspension or not;
  - about the procedure for imposing minor and major penalties;
  - about appeal, revision and review of penalty.

# Article 311 – What it states?

Article 311 states that no person who is a member of civil service shall be dismissed or removed by an authority subordinate to that by which he is appointed.

No such person shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

# Article 311 – What it states?

**This clause shall not apply –**

- (a) Where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge or;**
- (b) Where the authority empowered to dismiss or remove a person or reduce him in rank is satisfied that for some reason, to be recorded in writing, it is not reasonably practicable to hold such inquiry; or**
- (c) Where the President is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.**

# Identification of Appropriate Authority

- i. Appointing Authority
- ii. Disciplinary Authority

The above two authorities could be one and the same or different.

# Appointing Authority

In relation to a GS means-

- 1.The authority empowered to make appointments to the service of which the GS for the time is a member or;
- 2.The authority empowered to make appointments to the post which the GS for the time being holds or;
- 3.The authority which appointed the GS to such service, grade or post as the case may be.

# Disciplinary Authority

In relation to a GS means-

The authority competent under the Rules to impose on a GS any of the penalties specified in Rule 11.

# Authenticity of the Complaint

- Sources.
- Alleged commission of misconduct.
- Sources within the office either in the form of a written complaint or anonymous petition or a pseudonymous letter.
- Surprise checks.
- Vigilance.

# Preliminary Inquiry

- Preliminary Inquiry, is only a fact finding inquiry to confirm whether there is a prima-facie case so as to institute a departmental inquiry against misbehaviour of the charged officer.

# Necessity for Preliminary Inquiry

- A Preliminary Inquiry, is only for the purpose of collection of facts in regard to the conduct and work of a GS.
- It may be held ex-parte for it is merely for the satisfaction of the Disciplinary Authority.

# Necessity for Preliminary Inquiry

- **What is a prima facie case ?**
- **A prima facie case does not mean a case proved to the hilt but a case which can be said to be established if the evidence which is led in support of the same were believed.**

# Necessity for Preliminary Inquiry

- **Can the preliminary inquiry report be included in the charge sheet?**
- **How does the preliminary inquiry conducted in sexual harassment cases differ from the preliminary inquiry conducted for the purpose of initiating departmental proceedings against a GS?**

As per the principles of natural justice, the disciplinary action and quantum of punishment are to be commensurate with the gravity of the offence committed.

# Minor Penalties

- **Censure**
- **Withholding of promotion**
- **Recovery from pay for any pecuniary loss to Govt. by negligence or breach of orders.**
- **Reduction to a lower stage in the time-scale of pay by one stage for a period not exceeding 3 years without cumulative effect and not adversely affecting his pension.**
- **Withholding of increments of pay.**

# Major Penalties

- **Reduction to a lower stage for a specified period with further direction as to whether the GS will earn increments of pay during the period of such reduction and whether on expiry of such period, the reduction will or will not have the effect of postponing the future increments of pay.**
- **Reduction to lower time scale of pay, grade, post or service for a specified period with the direction as to whether or not, on the expiry of the specified period –**
  - (a) The period of such reduction shall operate to postpone future increments of pay**
  - (b) The GS shall regain his original seniority in the higher time scale of pay, grade, post or service.**

# Major Penalties

- **Compulsory retirement;**
- **Removal from service which shall not be a disqualification for future employment under the Government;**
- **Dismissal from service which shall ordinarily be a disqualification for future employment under the Government**

# Penalties

## **Action for unauthorised absence from duty or overstaya of leave.**

- **If the Authority is not satisfied with the grounds adduced by the GS for his unauthorised absence, he may institute disciplinary action against the GS.**
- **After the conclusion of the disciplinary proceedings, the period of unauthorised absence to be treated as dies non for all purposes.**
- **When a day can be marked as dies non and its effect.**
- **Should dies non be marked for late coming?**

# Penalties

**Can two penalties be imposed for one lapse/offence –**

- **Normally no need to impose two penalties at a time.**
- **The authority should bear in mind that when more than one penalty is imposed, the net cumulative effect on the GS should not be so severe so as to make it impossible for him to bear the strain.**

# Implementation of penalties

## How penalties are to implemented?

- **Penalty of withholding of increment or reduction to a lower stage – whether it should be for specified period? What happens if the period is not specified in the penalty order?**
- **What is the difference between withholding of one increment and withholding of next increment?**
- **Whether all the increments or only one increment to be withheld during the currency of penalty?**
- **What is reduction to the lower stage and reduction to the lower post?**
- **Implementation of series of penalties; how second or subsequent penalty/penalties are to be imposed during the currency of first penalty?**

# Implementation of penalties

- **Illustrations –**
- **(a) Reduction to a lower stage in a time scale –**
- **“The .....has decided that Sri.....should be reduced to a pay of Rs.....for a period of .....with effect from..**
- **(b) Reduction to a lower service, grade or post or to a lower time scale –**
- **(i) for indefinite period –**
- **“A is reduced to the lower post/grade/service of X until he is found fit by the CA to be restored to the higher post/grade/service of Y”**
- **(ii) for specified period –**
- **“A is reduced to the lower post/grade/service of X until he is found fit, after a period of .... Years from the date of this order to be restored to the higher post/grade/service of Y”**

# Implementation of penalties

- **Reduction to a lower grade/service/post not held before not permissible.**

## **Action on refusal of promotion –**

- **Where the reasons adduced by the official for refusal of promotion are not acceptable, the AA can enforce the promotion.**
- **If still the promotion is refused, disciplinary action can be taken for refusing to obey orders.**

## **Entry of punishments in Service Books and confidential rolls –**

- **Should be recorded in the service book and record of the same should invariably be kept in the confidential roll,**

# SUSPENSION

# SUSPENSION - WHAT IS IT ?

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

# PROVISIONS RELATING TO SUSPENSION

- Suspension pending departmental enquiry is a safeguard against the GS interfering with and hampering the preliminary investigation and tampering with material evidence – oral or documentary.
- It would not be proper to allow the person concerned to work as a public servant, unless there are exceptional reasons for not resorting to suspension.

## **PROVISIONS RELATING TO SUSPENSION**

- Suspension provides the GS with enough time to prepare himself adequately for the enquiry and to clear himself of the charges levelled against him.
- An order of suspension of a GS does not put an end to his service under the Government.
- Though suspension is not a form of penalty, it constitutes a great hardship and apart from not being allowed to perform legitimate duties and earn his salary, he is paid at reduced rates and thus affects him injuriously.

## PROVISIONS RELATING TO SUSPENSION

- Suspension may cause a lasting damage to the GS's reputation and its stigma is not easily washed away, even if he is ultimately exonerated or awarded only a minor penalty or reinstated.
- During the period of suspension, the relationship of master and servant does not cease. He continues to be the subject of the same discipline and penalties and all rules continue to apply to him.
- The suspended GS retains a lien on the permanent post held by him at the time of suspension. He continues to be in the grade held by him immediately before suspension.

## **Authority competent to order suspension**

- Is the authority who is the appointing authority for the charged official.
- Is the authority higher in rank than the appointing authority.
- Is the authority lower in rank than the appointing authority under special circumstances. This should be reported to the appointing authority, immediately.

# When suspension resorted to

- When disciplinary proceedings are pending or contemplated.
- When a case of criminal offence is under investigation or trial.
- When competent authority feels that the government servant engaged himself in activities prejudicial to the interests of the Security of the State.

# When suspension resorted to

- Corruption, embezzlement or misappropriation of government money;
- possession of assets disproportionate to the known source of income;
- misuse of official powers for personal gains;
- Serious negligence of duty resulting in considerable loss to Government;
- Where his continuance in office will prejudice investigation, trial or any enquiry e.g. apprehending tampering with witnesses or documents.

# **When suspension should not be resorted to**

- An order of suspension should not be made in a perfunctory or in a routine and casual manner without proper regard to the guiding principles.
- Power should be exercised sparingly with care and caution and only when it is absolutely essential. Should not be resorted to for petty offences.
- Where a GS remains absent from duty or overstays leave without permission and his movements are not known, he should not be placed under suspension.

# Deemed suspension

- A GS shall be deemed to have been placed under suspension –
- If he is detained in custody whether on criminal charge or otherwise, for a period exceeding 48 hours.
- If in the event of conviction for an offence, he is sentenced to a term of imprisonment exceeding 48 hours.

# Period of suspension

- Commences from the time of issue of orders.
- Deemed suspension takes effect even without formal orders, retrospectively, from the date of his detention.
- Suspension continues till order of revocation issued by the competent authority.

# Review of suspension

- Order of suspension shall be reviewed by the CA on the recommendation of the Review Committee constituted for the purpose. The order of suspension shall not be valid after 90 days unless it is extended after review before the expiry of 90 days.
- Composition of Review Committee –
  - (i) DA, AA and another officer of the level of DA/AA.

# Review of suspension

The RC may take a view regarding revocation/continuance of suspension keeping in view facts and circumstances of the case and also taking into account the unduly long suspension, while putting the employee concerned to undue hardship, involve payment of subsistence allowance without the employee performing any useful service to the Government.

# Review of suspension

No review of suspension shall be necessary in case of deemed suspension, if the GS continues to be under detention at the time of completion of 90 days of suspension.

# Revoking of suspension

Suspension can be revoked when

- No further proceedings are initiated
  - Exonerated of the charge
  - Order is modified on appeal
  - Acquitted of the charges in criminal cases
- 
- Takes effect from the date of issue or specified date.

## **Hqrs During suspension**

1. The station of posting immediately before his suspension will be the headquarters of the suspended official.
2. The CA can change the hqrs of a GS under suspension if it is in public interest.
3. The CA can change the hqrs at the request of the GS under suspension.
4. The fixing of hqrs during suspension of a GS on bail will be subject to any restriction the court may impose on his movement while granting bail.

## **Resignation during suspension**

1. Should not be accepted normally.
2. The CA should examine with reference to the merits of the disciplinary case and where the quantum of evidence against him is not strong enough and the proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation, the resignation may be accepted.
3. Should not be accepted until all his accounts are adjusted.

# Subsistence Allowance

- 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 appropriate Dearness and Compensatory allowances.
- 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 during the period to which the claim relates<sup>39</sup>

# Recovery from Subsistence allowance

- Obligatory:- Repayment of loans and advances taken, contribution to CGHS and Group Insurance, house rent and allied charges and Income Tax.
- Optional:-With the official's written consent:-PLI Premium, GPF advances.
- Not enforceable: GPF subscription, Court attachments dues and recovery of loss to Government.

# About Suspension (cond)

- A GS can appeal against suspension.
- A suspended GS may seek Voluntary retirement only with prior approval of appointing authority if he tenders unconditional resignation.
- A suspended GS cannot be granted leave during the period of suspension

# About Suspension (cond)

- A suspended employee while becoming due for superannuation can retire.
- In the above case the GS cannot be sanctioned DCRG, Commutation of Pension, Encashment of leave at his credit.
- A suspended GS can take Departmental examination.

# About Suspension (cond)

- A suspended GS cannot go on deputation to outside post.
- When a GS under suspension dies, the proceedings get terminated.
- A suspended GS can continue to live in Government Quarters.
- He cannot draw scooter advance/car advance.

# About Suspension (cond)

- He can be sanctioned HBA.
- A suspended GS cannot avail of Leave Travel Concession during the period of suspension.
- Suspension orders cannot be issued with retrospective effect.
- A GS on leave can be suspended only after his return from leave.

# About Suspension (cond)

- Suspension order may not contain reasons for suspension.
- Payment of subsistence allowance for the first 3 months is automatic and no orders is necessary.
- Duration of suspension cannot be prolonged for a longer time.
- Suspension cannot be based on oral orders.

# About Suspension (cond)

- If the reporting/reviewing officer is under suspension when the confidential report has become due to be written/reviewed, it may be got written/reviewed by the officer concerned within two months from the date of his having been placed under suspension or within one month the date on which the report was due, whichever is later.

## About Suspension (cond)

- A GS under suspension is eligible to function as defence assistant if his services are required by the accused official.
- Merely because an official is under suspension, it does not mean that he has ceased to be a GS.
- An official under suspension has full right to work as Defence Assistant.
- There is no rule that a person under suspension is not entitled to assist another GS in inquiry proceedings.

## About Suspension (cond)

- Promotion/Confirmation of officers under suspension. Procedure to be followed in respect of those under cloud –
- DPC shall assess the suitability of such officers alongwith other eligible candidates without taking consideration of the disciplinary case/criminal prosecution pending.
- The assessment of the DPC shall be kept in a sealed cover.

## About Suspension (cond)

- The cover will be super scribed 'Findings regarding suitability for promotion to the grade/post of ..... in respect of Sri .....  
Not to be opened till the termination of the disciplinary case/criminal prosecution against Sri .....
- On conclusion of the disciplinary case/criminal prosecution/dropping of allegation or complaints against the GS, the sealed cover shall be opened.

## About Suspension (cond)

- In case the GS is fully exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover.
- He may be promoted notionally with reference to the date of promotion of his junior.
- Arrears of pay for the period of notional promotion to be decided by the AA.
- In case the arrears are denied, AA shall record reasons for doing so.

## About Suspension (cond)

- Normally arrears are allowed.
- Denial or arrears justified when disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee.
- If any penalty is imposed on the GS as a result of the disciplinary proceedings or if he is found guilty in the criminal proceedings, the findings of the sealed cover shall not be acted upon.

## About Suspension (cond)

- Review of ‘Sealed Cover’ cases to be done on the expiry of 6 months from the date of convening the first DPC.
- Review to be done every six months.
- After completion of 2 years, the AA shall review the case, provided the GS is not under suspension, and come to the conclusion that it would not be against the public interest to allow ad-hoc promotion, he shall place the case before the next DPC for consideration.

## About Suspension (cond)

- An order for ad-hoc promotion may be issued making it clear in the order that –
- The promotion is being made purely on adhoc basis and will not confer any right for regular promotion.
- The promotion shall be until further orders.
- The Government reserves the right to cancel the adhoc promotion and revert the GS at any time to the post from which he was promoted.

## About Suspension (cond)

- If the GS is acquitted on merits or fully exonerated in the departmental proceedings, the adhoc promotion may be confirmed and promotion treated as regular one from the date of adhoc promotion.
- If the GS is not exonerated the adhoc promotion granted to him should be brought to an end.

# When Suspension Period is treated as duty

- On reinstatement due to full exoneration in departmental proceedings.
- On reinstatement due the official's acquittal on merits of the case in court proceedings and no further Departmental inquiry is held.
- On reinstatement when suspension is held to be wholly unjustified.
- When minor penalty is awarded.

# When Suspension Period is treated as duty

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

# When Suspension Period is treated as duty

- In case of arrest for debt, if the liability is proved to be due to circumstances beyond the official's control.
- Official's death while under suspension

# When Suspension Period is treated as duty

- In cases of departmental proceedings where the GS is fully exonerated or the earlier order is set aside solely on the ground of non-compliance with the requirements of Article 311.
- In court cases under similar circumstances.
- In case where suspension is considered wholly unjustified.

# Suspension

First review –

It is obligatory that in sufficient time before the expiry of 90 days of suspension, the CA should review each case in which the period of suspension is likely to exceed 90 days.

Second or subsequent review –

Though not specifically provided in the Rules, second or subsequent review may be made by the CA.

# COMPONENTS OF CHARGE SHEET

- **The charges should be specific;**
- **It should be in clear terms;**
- **It should contain full particulars of the incident;**
- **The language used should be free from ambiguity;**
- **It should be concise and clear.**

# Annexures to Major Penalty charge sheet

- **Annexure 1: to contain statements of articles of charges framed against the Government servant.**
- **Annexure 2: to contain statement of imputation of misconduct or misbehavior in support of the articles of charges framed against a Government servant.**

# Annexures to Major Penalty chargesheet

- **Annexure 3: to contain list of documents by which the articles of charge framed against the Government servant are proposed to be sustained.**
- **Annexure 4: to contain list of witnesses by whom the articles of charges framed against a Government servant are proposed to be sustained.**

In the following types of cases the authority relevant may consider imposing one of the major penalties.

- Possessing disproportionate assets to the known source of income.
- Illegal gratification.

contd.,

In the following types of cases the authority relevant may consider imposing one of the major penalties.

➤ Misappropriation of Govt. money

or

➤ Stores or properties

➤ Falsification of Government records

contd.,

In the following types of cases the authority relevant may consider imposing one of the major penalties.

- Negligence in discharge of official duties with dishonest motive;
- False claims on the Government in respect of TA, reimbursement claims.
- Misuse of official position for personal gain.

# Essential elements of notice of Preliminary Hearing

- **Notice to appear – before him on appointed date / time / venue.**
- **Name of DA.**
- **Ex-parte if not attended.**
- **Copy to P.O. directing him to attend along with listed documents.**

# Essential Elements of Preliminary Hearing

- **Whether received charge sheet**
- **Accept charges or not**
- **Order for inspection of documents**
- **List of additional documents**
- **Name of D.A.**
- **Signature of PO, CO, IO**

# Initiation of Proceedings

- After the preliminary hearing, the IO will fix date and the place for regular hearing. If the CO fails to appear at the preliminary hearing, the IO should send intimation under acknowledgement due, to reach him in good time.
- During the inquiry, the PO will produce all documentary evidence and also have his witnesses examined. He should ensure that his witnesses are present in the inquiry.
- If any person is summoned in his official capacity, the notice should be served through the Controlling Authority.

# Initiation of Proceedings

- A GS cannot refuse to be a witness in an inquiry against another GS.
- Non-compliance to summons can be treated as conduct unbecoming of a GS rendering himself liable for disciplinary action.
- Examination of witnesses, departmental as well as defence and recording of evidence is the important stage in the inquiry proceedings.
- Examination of witnesses will be in three parts – examination, cross examination and re-examination.

# Initiation of Proceedings

- Admitted documents and facts can be taken note of straightaway. Earlier statement given by the witness may be read out to him and he may be specifically questioned whether he admits the same or not. If he does so, the statement may be marked as exhibit and the CO asked to proceed with cross examination.
- If the witness does not admit the statement in full then his statement has to be recorded from the beginning.
- The witness should be examined in such a way as to bring out the case in a logical manner.

# Initiation of Proceedings

- After the examination is over, the witnesses may be cross examined by the CO or his DA.
- This cross examination is utilized to bring out the facts which have not come out in the examination, to remove any discrepancies or to prove the reliability or otherwise of the witnesses.
- It is the duty of the IO to see that the witnesses understand the question properly before answering it and to protect from any unfair treatment.
- The IO should disallow questions if considered irrelevant, oppressive or verbose.

# Initiation of Proceedings

- After the cross examination, the PO can re-examine the witnesses on any points on which he has been cross-examined.
- At the discretion of the IO and before the close of the case on behalf of the DA, the PO may produce new evidence not included in the original list supplied to the CO.
- The CO is entitled to produce evidence in support of his defence by examining himself if need be and any witness to be produced by him. He cannot be forced to give evidence but if he offers himself as his own witness, he can be examined.

# Initiation of Proceedings

- On conclusion of the proceedings, the PO should submit his written brief to the IO.
- If the CO wants to state about the case in writing, the IO should supply a copy of the written brief submitted by the PO and supply a copy of the same to the CO for preparing his written brief.

# Report of the Inquiry Officer

- After the conclusion of the inquiry, the IO should prepare a report and forward the same to the DA together with the records of the inquiry
- The report of the IR should contain –
  - (a) An introductory para indicating appointment of IO and the dates of hearing.
  - (b) Charges that were framed.
  - (c) Charges that were admitted or dropped or not pressed.

# Report of the Inquiry Officer

- (d) Charges actually inquired into
- (e) Brief statement of the case of the DA
- (f) Brief statement of facts and documents admitted
- (g) Brief statement of the case of the GS
- (i) Assessment of evidence in respect of each article of charge
- (j) Finding on each article of charge.

# Report of the Inquiry Officer

Alongwith the IR, the IO should send a folder containing the following –

- (a) List of exhibits produced by the PO
- (b) List of exhibits produced by the GS
- (c) List of prosecution witness
- (d) List of defence witness
- (e) A folder containing deposition of witnesses in the order in which they were examined.

# Report of the Inquiry Officer

- (f) A folder containing daily order sheets
- (g) A folder containing written statement of defence
- (h) Written brief of both sides.

The IO should give definite findings on the articles of charge individually.

The standard of proof required in a departmental inquiry is that of preponderance of probability and not proof beyond reasonable doubt as in criminal trial.

# Action on the Inquiry Report

- The report of the IO is only an enabling document which helps the DA in coming to a conclusion about the guilt of the GS.
- The findings of the IO are not binding on the DA who can disagree with them and come to its own conclusion on the basis of its own assessment.
- The DA should examine carefully the IO's report and satisfy that the GS has been given reasonable opportunity to defend himself.

# Action on the Inquiry Report

- The DA may, for reasons to be recorded in writing, remit the case to the IO for further inquiry.
- The DA before taking a suitable decision and making the final order, forward a copy of the IR together with its own tentative reasons for disagreement, if any, with the findings of IO on any article of charge to the GS so as to enable him to make any representation or submission in writing within 15 days irrespective of whether the report is favourable or not to the GS.

# Action on the Inquiry Report

- The DA shall consider the representation, if any, submitted by the GS and record its findings before proceeding further in the matter.
- Based on his own findings on the articles of charge and on consideration of the written submission of the GS, if the DA is of the opinion that the articles of charge have not been proved and the GS should be exonerated, it will make an order to that effect.

# Passing of final orders

- The DA can pass any of the minor/major penalties straight away without giving any opportunity to the GS.
- Where it is considered that the GS should be punished, the DA should award the penalty of 'Censure' at least.
- Past good or bad conduct of the GS can be taken into consideration while awarding the penalty. However, it should not be taken into account in determining the quantum of penalty to be imposed.

# Requirements to be complied before making the final order-

- 1. Personal hearing should be granted where a request is made by the appellant. Defence assistance is also available in such hearing;**
- 2. No major penalty can be imposed unless the prescribed procedure has been followed.**

# Final Order

- 1. Self contained, speaking and reasoned order to be passed and to be issued over the signature of the prescribed Disciplinary Authority.**
- 2. Final Order to be passed within three months.**
- 3. Disciplinary Case should be closed on the death of the charged official –**

**Where a GS dies during the pendency of inquiry, without charges being proved against him, imposition of any penalty would be unjustifiable. Therefore, disciplinary proceedings should be closed immediately on the death of the alleged GS.**

# Role of Inquiry Officer

- **IO is the delegate of the DA but he is not subject to his orders/instructions.**
- **IO's functions are threefold viz., to document, to analyze and to recommend whether the charges are proved or not.**
- **should be unbiased, fair, just and judicious.**
- **should see that both sides get just and reasonable opportunity to place their view points.**
- **Ensure that there is no undue delay in the commencement and conduct of inquiry.**
- **Not to allow the parties to dominate the proceedings by seeking adjournments.**
- **Should not indulge in loose talks or give any indication about his view at any stage.**

# Role of Inquiry Officer

- **Should not hold ex-parte inquiry if the CO under suspension is unable to attend due to non-receipt of subsistence allowance.**
- **Should not allow questions which are irrelevant or are malicious or are likely to cause annoyance to the witness during examination.**
- **Should not allow leading questions in main examination. They may be permitted in cross-examination.**
- **Protect witness from any unfair treatment during examination.**
- **Ensure that the witness understands the question put to him before he answers and see that the answers in vernacular is properly translated in English and recorded.**

# Role of Inquiry Officer

- **Finding must be based on evidence adduced during the inquiry, reliance should be made only on facts.**
- **Conclusions should be logical and should not appear as one-sided presentation of facts.**
- **Should bear in mind the principles of natural justice and reasonable opportunity and burden of proof *vis-à-vis* departmental proceedings.**
- **After signing the report, IO becomes *functus officio* and cannot change his report or offer comments, clarifications etc.**
- **Should not overstep his functions. It is not in his domain to condemn the CO or to suggest a deterrent punishment.**

# Role of Presenting Officer

- **PO should be knowledgeable about the rules and procedures. Should be able to introduce rules and procedures essential to prove the event/transaction.**
- **PO should ensure that all the documents relevant to the inquiry are received along with his appointment order.**
- **Collect from the concerned departmental officers all the statements of witnesses taken and the statements seized during the investigation.**
- **Should study the case fully and take the proceedings seriously.**
- **Anticipate the possible defence of the CO and be ready to cross-examine the DA.**
- **Should try his best to disprove the facts deposed by the defence witnesses.**

# Role of Presenting Officer

- **Take notes so that no points are left to be covered during cross-examination/re-examination.**
- **Properly canvass the evidence appearing against the GS and try to meet the possible line of defence and arguments on the other side**
- **Should conduct in such a manner that the accused officer will have no reason to feel that the PO has exerted any undue influence over the IO.**

# Role of Defence Assistant

- **A boon to defend the one in trouble. If not properly selected, may land the CO in more troubles than relieving him from them.**
- **An ideal DA should be a person with an open mind and thorough with the departmental rules, regulations and with a fair knowledge of examination or witnesses in criminal trials. Previous experience as DA to be an added advantage.**
- **Should not wait for the hearing for knowing the facts of the case.**
- **Should get all the papers available with the CO without any loss of time and study them in consultation with the CO and act quickly in applying for additional documents required.**

# Role of Defence Assistant

- **Should note down the points for clarification in cross-examination.**
- **Should frame the questions for cross-examination sufficiently in advance.**
- **Should put suggestive questions so that possible line of defence is somewhat laid even during the examination of defence witness.**
- **Should not put too many questions to POs witness. Not put unnecessary questions.**
- **Should not obstruct or hinder the proceedings.**
- **Should not clash with the PO, except on technical flaws.**
- **Should not raise frivolous objections at the same time should not fail to achieve valid points.**

# Action against absconding officials

- **Case of loss and fraud are usually reported to police and the officials involved are placed under suspension.**
- **In such cases, officials abscond and are not apprehended by the police.**
- **The officials continue to be under suspension till they surrender or are apprehended by police.**
- **Cases drag on for a long time and until then such officials are to be paid subsistence allowance if they produce certificate of non-employment.**

# Action against absconding officials

- **The DA may take the following action in such cases-**
- **To obtain a certificate from the police to the effect that the whereabouts of the official concerned are not known.**
- **Prepare a brief statement of allegations and charges and keep it in file.**
- **The DA to himself record on the file that the whereabouts of the official are not known and police authorities have also certified to that effect and therefore it is not reasonably practicable to hold the enquiry.**
- **DA should issue orders imposing penalty as it may deem fit.**
- **Removal or Dismissal to be meted out normally.**

# Orders against which Appeal lies

- 1. An order of suspension made or deemed to have been made;**
- 2. An order imposing any of the penalties imposed;**
- 3. An order enhancing any penalty;**
- 4. An order which denies or varies to his disadvantage his pay & allowances, pension or other conditions of service;**

# Orders against which no Appeal lies

**1. No appeal shall lie against –**

**(i) An order made by the President.**

**(i) Any order by the IO in the course of an inquiry under Rule 14.**

# Appellate Authorities

**A GS including a person who has ceased to be in service may prefer an appeal to the authority specified in this behalf either in the schedule or by a general or special order of the President or, where no such authority is specified.**

## **Period of limitation of appeals-**

**Shall be preferred within a period of 45 days from the date of copy of the order is delivered.**

**AA may entertain the appeal after the expiry of the said period if it is satisfied that the appellant had sufficient reasons for not preferring the appeal in time.**

# Appellate Authorities

## Form and Contents of Appeal –

- 1. Every person shall prefer an appeal separately in his own name.**
- 2. Appeal shall be presented to the AA, a copy being forwarded to the DA.**
- 3. It shall contain all material statements and arguments on which the appellant relies.**
- 4. Shall not contain any disrespectful or improper language.**
- 5. The DA shall forward its comments on the appeal without waiting for any direction from AA.**

# Appellate Authorities

## Consideration of Appeal -

1. In case of an appeal against the order of suspension, the AA shall consider with regard to the circumstances of the case, whether the order of suspension is justified or not and confirm or revoke the order.
2. In case of appeal against an order imposing penalties, the AA shall consider whether –
  - (a) The procedure laid down in the rules have been complied with and if not whether such non-compliance has resulted in violation of any provision of constitution or in the failure of justice.

# Appellate Authorities

**(b) the findings of the DA are warranted by any evidence on record; and**

**(c) the penalty imposed is adequate, inadequate or severe and pass orders –**

**(i) Confirming, enhancing, reducing or setting aside the penalty; or**

**(ii) Remit the case to the authority which imposed the penalty with such directions as it may deem fit in the circumstances of the case.**

# Appellate Authorities

## **Implementation of orders in Appeal –**

**The authority which made the order appealed against shall give effect to the orders passed by the Appellate Authority.**

# Appellate Authorities

## **Time limit for disposal of appeal–**

- **A high priority should be given to the disposal of appeals within a short period.**
- **If AA are too full and man not be able to devote time and attention for disposal of appeal, AA can be relieved of his normal work to enable him to dispose the appeal. His normal work can be redistributed amongst other officers.**
- **However, if the number of appeals received**

# Appellate Authorities

**Time limit for disposal of appeal—**

**or pending with any particular AA is very large, the appellate work itself could be redistributed among a number of officers of equivalent rank and in any case not below the rank of AA through a general order.**

- Appeals pending over a month are to be reviewed by appropriate higher authorities which may take remedial steps after going through the reasons for delay in disposal of appeals.**

# Revision

**The President, C&AG of India, Head of the department under the Central Government, the Appellate Authority within six months of the date of the order proposed to be revised or any other authority specified in this behalf by the President by a general or special order may at any time, either on its own motion or otherwise call for the records of any inquiry and revise any order made under the rules from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed and may -**

# Revision

- (a) Confirm, modify or set aside the order; or**
- (b) Confirm, reduce, enhance or set aside the penalty imposed by the order or impose any penalty where no penalty has been imposed; or**
- (c) Remit the case to the authority directing it to make such further enquiry as it may consider proper in the circumstances of the case; or**
- (d) Pass such order as it may deem fit provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the GS concerned has been given a reasonable opportunity of making a representation against the penalty proposed.**

# Review

**The President may, at any time, either on his own motion or otherwise review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of the passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought to his notice.**

**That's All**

**Thanks**