

# Departmental Enquiry & Disciplinary Proceedings

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# What is Dept. Enquiry?

- An investigation into allegations or charges levelled against govt employee.
- It can be conducted under a law made by legislative body or a rule made under the constitution of India.
- Can be conducted by the disciplinary authority.
- Disciplinary authority generally means appointing authority or any other authority authorised by it who shall be competent under the rules to impose on a government servant any of the penalties specified in clause in (i) to (iv) in rule 14 of CCA Rule 2016.

# What are essentials for conducting Dpt. Enquiry

- Memo of Charges/Charge sheet
- Inquiry Officer/Conducting Officer
- Presenting officer
- Documentation
- Natural Justice

# Memo of charges/Charge Sheet

- It should be specific
- It should include all relevant details of the imputations of misconduct or misbehaviour as distinct and definite article of charge
- It should have list of such documents by which and list of such witnesses by whom the article of charges are proposed to be sustained
- It should also state which rules or clauses the charges are violating

# Inquiry officer/conducting officer

- Disciplinary authority appoints Inquiry officer or conducting officer to investigate charges levelled against the employee

# Presenting Officer

- Disciplinary authority appoints Presenting officer
- Its duty is to place the charges levelled against the govt servant, provide evidences and witnesses to sustain the charges

# Documentation

- It is a critical part of the departmental enquiry
- Disciplinary authority sends the Enquiry officer appointment order along with all documents related to the enquiry and memo of charges
- It includes –
  - 1.A copy of the articles of charge with the statement of imputations of misconduct or misbehaviour
  - 2.A copy of the written statement of defence if any submitted by the delinquent employee
  3. A copy of the statement of the witness if any
  - 4.Evidence proving the delivery of the memo of charge
  - 5.A copy of the order appointing the presenting officer

# Natural Justice

- Giving ample opportunity to the delinquent employee to defend himself/herself



# Disciplinary Proceedings

- Structured process that government uses to address allegations of misconduct , negligence or inefficiency against a Govt servant.
- Quasi-judicial in nature meaning they have some of the same characteristics as judicial process.
- It involves a thorough enquiry to establish the truth of the allegations and to ensure a fair trial for the employee.

# Purpose of Disciplinary Proceeding

- To determine if the govt employee is suitable to remain in service
- To impose penalties if they are found guilty in departmental proceedings.

# Jharkhand Govt Servants (CCA)Rules2016

- It is notified by the DOPAR
- It came into being on 3<sup>rd</sup> Feb 2016
- It extends to the whole of Jharkhand
- It applies to every govt servant of Jharkhand excluding (i) member of AIS , (ii) casual employee , (iii) any person subject to discharge from service on less than one month notice , and (iv) any person whom special provision is made such as police manual etc.
- It is divided into eight(8) parts

# Part I General

- This part deals with the extent, commencement of rules and definition of certain terms e.g. Government ,orders , appointing authority etc.
- This part also deals with to whom these rules apply

# Part II Classification

- It deals with the classification of services of the state of Jharkhand
- The services of the state government are classified into four groups based on the grade pay of the concerned post
- Services are divided into four groups –
  1. Group A(GP-5400,6600,7600,8700,8900,10000)
  2. Group B(GP-4200,4600,4800,5400)
  3. Group C(GP-1800,1900,2000, 2400,2800)
  4. Group D(1650,1800)

# Part III Appointing Authority

- Appointment to Group A&B posts of state services are made by the government
- Appointments to Group B,C&D posts of other services are made by the secretary /Head of the department/Head of the office specified in that behalf by a general or special order of the government

# Part IV Suspension

- A government servant may be placed under suspension by appointing authority or any authority to which appointing authority is subordinate
  - Three conditions when government servant may be placed under suspension-
    - (I) A disciplinary proceeding against the government servant is contemplated or is pending
    - (II) In the opinion of the authority the government servant has engaged himself or herself in activities prejudicial to the interest of the security of the state
    - (III) A case against the government servant in respect of any criminal offence is under investigation, inquiry or trial and the competent authority is satisfied that it is expedient to suspend the government servant in public interest.
- Deemed Suspension – From the date of detention and from the date of conviction if detention or sentence exceeds 48 hours
- An order of suspension made or deemed to have been made under these rules shall continue to remain in force until it is modified or revoked by the competent authority
- An order of suspension made or deemed to have been made may be modified or revoked by the same authority who has passed such order
- Subsistence allowance during suspension-
- Leave salary on half pay in addition dearness allowance admissible on such half pay
- Headquarters during suspension
- Subsistence allowance only for such period when he is actually present at the headquarters
- He is required to mark his attendance in attendance register
- Treatment of service on reinstatement and admissibility of pay and allowance after suspension
- Treatment of service on reinstatement and admissibility of and allowances after dismissal, removal or compulsory retirement as a result of appeal
- Treatment of service on reinstatement and admissibility of and allowances where dismissal, removal or compulsory retirement is set aside by a court of law

# Part V Penalties

- Minor Penalties-4
- Major Penalties-7



# Minor Penalties

- Censure
- Recovery from his pay of the whole or part of any pecuniary loss caused by him to the government 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 three years without cumulative effect and not adversely affecting his pension
- Withholding of increments of pay without cumulative effect and not adversely affecting his pension or withholding confirmation in service

# Major Penalties

- Withholding of promotion
- Withholding of increments of pay with cumulative effect
- Reduction to a lower stage in the time scale of pay for a specified period with further direction as to whether or not the government servant will earn increments of pay during period of such reduction and whether on the expiry of such period the reduction will have the effect of postponing the future increments of pay
- Reduction to lower time scale of pay grade post or service for a period to be specified in the order of penalty which shall be a bar to the promotion of the government servant during such specified period to the time scale of pay grade post or service from which he was reduced with direction as to whether or not on promotion on the expiry of the specified period –
  - (a) The period of reduction to time scale of pay grade post or service shall operate to postpone future increments of pay and if so to what extent
  - (b) the government servant shall regain his seniority in the higher time scale of pay grade or service
- Compulsory retirement
- Removal from service
- Dismissal from service

# Procedure for imposing Penalties

- No order imposing any of the penalties can be made without holding an inquiry
- Where criminal case is pending against a government servant the departmental proceeding and criminal proceeding may be conducted simultaneously, but the set of evidence of departmental proceedings shall be different from criminal proceeding
- In such cases the article of charges shall be based on administrative lapses and misconduct committed by the government servant

# Appeal