

A BRIEF PRESENTATION

ON

CCS(CCA) Rules

- CCS(Conduct) Rules 1964 are framed to prescribe the behaviour and conduct expected from a Govt. servant.
- In case any of the laid down conduct rules is violated, it results in misconduct.
- Procedure to deal with misconducts is mentioned in CCS(CCA) Rules 1965, from Rule no. 10 onwards.
- The process of disciplinary proceedings for issue of major penalty is dealt in Rule 14 of the CCS(CCA) Rules. Similarly the process of disciplinary proceedings for issue of minor penalty is dealt in Rule 16 of the CCS(CCA) Rules.

PROCESS OF DISCIPLINARY PROCEEDINGS

DISCIPLINE- Definition and importance

- Obeying rules and adhering to a laid down code of behaviour is discipline.
- Maintaining discipline – responsibility of individual
- Enforcing discipline - duty of supervisor
- Code of behaviour for govt. employees is laid down in CCS(Conduct) Rules 1964.
- Rule 3 in general specifies the ways amounting to misconduct.

Rule 3(1) of CCS(Conduct)

Rules 1964 mandates that every employee

- **To maintain absolute integrity** (the quality of being honest and having strong moral principles-refers to uprightness and purity);
- **To maintain devotion to duty** (Refers to performing duties with utmost care and attention duly following the guidelines stipulated in work sphere- Faithfulness to service) ;
- **To do nothing which is unbecoming of an Govt. employee**(Refers to the undesirable behavior due to which the master/ Govt. may be defamed- Conduct which is indecent and involving moral lapses) .

- Rule 3 (2)

- (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority.
- (ii) No Government servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior.

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- (iii) The Direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Oral direction shall be confirmed in writing immediately thereafter;
- (iv) A Government servant who has received oral direction from his official superior shall seek confirmation of the same in writing

SOURCE OF COMPLAINTS

- Suo-motu by supervisory officials
- Complaint
 - Genuinely signed
 - Anonymous
 - Pseudonymous
- Audit reports
- Newspaper/ Media reports
- Other sources (Staff, agencies, etc.,)

Complaints of moral turpitude

- Special provision in NVS
- Preliminary fact finding Inquiry at JNV level on receipt of information
- Intimation under POCSO act
- RO level Committee
- NVS HQ level Summary trial
- Decision on the basis of findings. (Provision to terminate is available, if proved beyond doubt)

Disciplinary action against misconduct

- If any misconduct is apparent in terms of CCS (Conduct) Rules 1964, appropriate disciplinary action will be taken.
- The procedure for taking such disciplinary action is prescribed in CCS (CCA) Rules 1965, especially in Rule 14 and 16.

Why is this process important ?

- If charge is proved, penalty may be imposed.
- It is important to ensure that the stipulated process of inquiry is followed.
- If not followed, the inquiry report may be quashed and action may also be taken on the I.O.

PRINCIPLES OF NATURAL JUSTICE

In Disciplinary Proceedings

- Prior written intimation to the Charged Officer
- Notices should be given well in time every time to the C.O. and allow fair hearing
- Make the process transparent
- Every decision of the I.O. should be self speaking as per laid down procedure.

PENALTIES

- If charge of misconduct is proved, the disciplinary authority can levy any penalty listed in Rule 11 of CCS(CCA) Rules, 1965

MINOR PENALTIES

- Censure
- Withholding of promotion
- Recovery from pay
- Reduction to 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 future increments of pay

MAJOR PENALTIES

- Reduction to a lower stage in the time scale of pay (exceeding 3 years)
- Reduction to a lower time scale of pay, grade, post or service
- Compulsory retirement
- Removal from service
- Dismissal from service

Outcome of a Minor Penalty

- **Censure** - It is only a recorded warning. It has no financial implication..
- **Withholding of promotion** – If this penalty is awarded, the promotion of the individual will be withheld for the specified period.
- **Recovery from pay** – This penalty is imposed to recover the proven loss caused to the govt. by the individual.

- **Reduction of pay to lower stage** –The existing pay of the individual can be reduced by one stage without cumulative effect for a period not exceeding three years.
- **Withholding of future increments of pay** –If this penalty is imposed, the individual will be deprived of future increments of pay.

Impact of a major penalty...

- Reduction to a lower stage in the timescale of pay for a specified period.
- The reduction will or will not have the effect of postponing the future increments of his pay
- Reduction to lower time-scale of pay, grade, post or Service for a period to be specified in the order of penalty.

- Compulsory retirement - No more service left from that day. All retirement benefits are payable in this case. Only the balance service will be forfeited.
- Removal from service
- Dismissal from service

Difference between Removal and Dismissal

- The penalty “removal from service” is not a disqualification for future employment under the Govt., whereas “dismissal from service” shall ordinarily be a disqualification for such employment.
- A Govt. servant removed or dismissed from service shall forfeit his past service and shall not be entitled to pension and gratuity.

SUSPENSION

1. An administrative action resulting in temporary detachment of the employee from his duties.
2. Suspension is not a penalty or punishment.

Rule 10 of CCS(CCA) Rules, 1965

- Provision to place under suspension falls under Rule 10 of CCS(CCA) Rules 1965.
- Suspension is to be sparingly done.
- Suspended employee gets 50% pay without any work, which is called as **SUBSISTENCE ALLOWANCE**.
- Suspended employee is not eligible for any kind of leave.
- Prolonged suspension is a loss to Govt.

AUTHORITY TO SUSPEND

- A) Appointing authority or his superior officer
- B) Disciplinary authority (if specifically appointed)
- C) Any appropriate lower authority duly empowered by the disciplinary authority.

WHEN TO SUSPEND ?

An employee may be suspended when

- a) Disciplinary proceedings are contemplated or pending
- b) Activities of the individual are prejudicial to the security of the nation
- c) Criminal offence is under investigation

EFFECTIVE DATE OF SUSPENSION

- Suspension is generally effective from the date of passing of suspension order unless the employee concerned is holding charge of large volume of cash / stores
- If the suspended employee is on leave, the order will be communicated and the unavailed portion of leave will be cancelled

DEEMED SUSPENSION

An employee remains under deemed suspension on happening of any of these events :

- 1) He/she is detained in police /judicial custody for more than 48 hours (effective from the time of detention)
- 2) He /she is imprisoned on conviction for more than 48 hours (effective from the time of imprisonment)
- 3) If a dismissed employee is reinstated by an appellate authority / court on technical grounds (effective from the date of penalty)

ATTACHMENT & EMOLUMENTS DURING SUSPENSION PERIOD

- On suspension, the employee can be attached at the last place of work or at a different place, depending upon the circumstances and nature of the suspended employee. Request for change may be considered by the authority.
- Subsistence allowance at an amount equal to half pay leave salary for first 3 months- To be paid by the office at which the suspended employee is attached
- The suspended employee should submit every month during suspension, a certificate that he is not gainfully employed elsewhere or not having any other source of income.
- Deductions will be made from the allowance as per allowed norms only (compulsory deduction – IT, License fee, re-payment of loan and advance taken from Government, CGHS contribution, GIS contribution.) (optional deduction : PLI premium, amount due to cooperative stores, refund of GPF advance) (Deduction not to be made GPF subscription, amount due to court attachment and recovery of loss to Government).
- **Unless extended and intimated within 90 days**, suspension stands automatically revoked after 90 days. It should be reviewed within the first 90 days and extended if recommended by the committee
- Subsistence allowance can be revised after 90 days if the suspension period is extended.

ISSUES DURING SUSPENSION

- Resignation tendered during suspension may or may not be accepted.
- If an employee dies during suspension, all proceedings get automatically cancelled / withdrawn.
- An employee under suspension can not avail LTC for himself.
- Application of a suspended employee for outside employment can be forwarded, but covering letter should specifically mention that employee is under suspension.

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- If an employee retires during suspension, he will not be paid gratuity until the conclusion of disciplinary proceedings and issue of final orders.
- No leave is admissible during suspension. No work can be taken from him. He should not sign in any register
- The recommendation of the DPC for promotion of a suspended employee will be kept in a sealed cover which will be opened after conclusion of disciplinary proceedings (Including penalty period)

TREATMENT OF SUSPENSION PERIOD

Duty :

- (i) Full exoneration
- (ii) Acquitted by court
- (iii) Minor penalty
- (iv) Death during suspension

Non-duty :

- (i) Other than full exoneration in departmental proceedings
- (ii) In court cases under similar circumstances
- (iii) Where suspension is justifiable.

THE CHARGE SHEET

Rule 14 & 16 of CCS (CCA) Rules

- A charge is an allegation or accusation, intended to be proved
- Suspension is not mandatory to issue charge sheet
- If suspended, Charge sheet should generally be served within 3 months

Disciplinary authority

- The disciplinary authority will decide the gravity of accusation, and will finalise the nature of charge sheet, i.e. whether it should be issued under Rule 14 or Rule 16 of CCS (CCA) Rules 1965
- Rule 14 indicates possibility of award of major penalty if charge(s) are proved.
- Rule 16 indicates possibility of award of minor penalty

Drafting of Charge sheet

For Violation of departmental rules

- Articles of charges should mention the departmental rule which has been violated apart from conduct rule violated

For Contravention of Conduct Rule

- 3(1)(i) to be quoted when integrity is suspected
- 3(1)(ii) to be quoted when devotion to duty is suspected
- 3(1)(iii) to be quoted when unbecoming of a govt. servant is alleged
- 3(2)(i) is to be used when the supervisor fails to ensure integrity and devotion duty of his subordinates

Charge sheet for Major Penalty (Rule 14) contains

- i. Memorandum (letter with conditions)
- ii. Annexure I containing articles of charge
- iii. Annexure II explaining each charge
- iv. Annexure III which is a list of documents by which the charge is proposed to be sustained
- v. Annexure IV which is a list of witnesses by which the charge is proposed to be sustained.

MINOR PENALTY CHARGE SHEET (Rule 16)

- No list of documents or witnesses needed. Only memorandum (covering letter) and statement of imputation of misconduct are required.
- It is not necessary to conduct an inquiry
- If necessary, penalty can be awarded on the basis of explanation received.

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- Charged Officer has no right to demand inquiry
- Disciplinary authority may impose penalty or withdraw charges after considering the reply of Charged Officer.

ISSUES WITH CHARGE SHEET

- It should be issued by disciplinary / delegated / higher authority.
- Charges should be clear, precise and unambiguous
- Charge should be separate for each alleged misconduct
- Charge should contain complete details of alleged misconduct

- Charge should mention the CCS(Conduct) Rules, 1964 which has been violated.
- Annexure II to charge sheet should be narrative and specify how the misconduct was committed.
- Annexure-IV should not be blank. Efforts should be made to include at least one witness.
- It can be amended even while inquiry is on.
- It should not indicate the proposed penalty

REPLY TO CHARGE SHEET

- The person who receives the charge sheet is called the CHARGED OFFICER (C.O.)
- The C.O. is expected to furnish reply to the charge sheet within 15 days of receipt of charge sheet.
- C.O. can seek reasonable time for replying to charge sheet if 15 days time is not sufficient due to any reason.
- C.O. is supposed to accept or deny each charge specifically. If there is no reply or if the reply is not clear, it will be treated as denial of charges.
- The total time limit including extended time limit for reply to charge sheet can not exceed 45 days in any case.

- If the reply by the Charged officer to the charge sheet is found justified by the disciplinary authority, he can drop the charges.
- If the charges are accepted by the Charged officer, the disciplinary authority shall impose penalty.
- If some articles of charge are agreed and some are denied by the Charged officer, inquiry will be held in case of the denied charges only.

ENQUIRY or INQUIRY ?

- Enquiry refers to an informal questioning.
- Inquiry refers to extracting the facts through a formal investigation through a laid down procedure.
- In disciplinary proceedings as per CCS(CCA) Rules 1965, we use the word INQUIRY only.

- **In case of inquiry, we have the following characters :**
 - The person who inquires into the charges is called INQUIRY OFFICER (I.O.)
 - The person who presents the case of the disciplinary authority before the Inquiry Officer is called PRESENTING OFFICER (P.O.)
 - The person facing the charges is called the CHARGED OFFICER (C.O.)
 - The person who is allowed to assist the C.O. in the proceedings is called DEFENCE ASSISTANT
 - Listed witnesses and defence witnesses

APPOINTMENT OF I.O. & P.O.

- If the disciplinary authority feels that the reply of the CO to the charge sheet is not satisfactory, he may inquire the charges by himself or appoint Inquiry Officer (IO) and Presenting Officer (PO) or inquire the matter himself.
- Appointment of P.O. is not mandatory. In case P.O. is not appointed, the I.O. will carry out all the duties of P.O.
- Copies of appointment orders of I.O. & P.O. should be sent to C.O. also

RIGHTS OF THE CHARGED OFFICER

- He can represent to the disciplinary authority to provide additional time to furnish reply to the charge sheet, if there are valid reasons. The reply of the Charged Officer to the charge sheet is also called WRITTEN STATEMENT OF DEFENCE.
- He can seek permission from I.O. and produce his own witnesses in his defence. They are called Defence Witnesses.
- He can seek additional documents for his own defence. These will be called Defence Exhibits.

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- He can have the help of a Defence Assistant with the permission of the Inquiry Officer
- He can cross examine the State Witnesses
- He can examine and re-examine the Defense Witnesses
- He can chose to depose as his own witness, but he may be subjected to cross-examination by the P.O.

INQUIRY OFFICER

- Senior to the Charged Officer. He can be a retired senior officer also.
- He will be the only judge in the proceedings
- He will verify the identity of the witnesses before allowing them to depose.
- He will just listen to the depositions of witnesses, but will not interfere. He will seek clarification wherever needed
- He will give the Charged Officer opportunity to submit his defence at appropriate stages on more than one occasion.
- He will obtain the relevant defence documents from the custodian directly and provide copies of the relevant documents to the C.O. The I.O. will not entrust this responsibility to the P.O. or C.O.

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- After the depositions of witnesses are over, he will appraise the C.O. about the circumstances going against him (if any) and ask general questions about the same and record them. This is mandatory if the C.O. refused to become his own witness. This event will also be recorded in the D.O.S.
- He will ensure that only one witness, P.O., C.O., D.A. and a typist are present before him during deposition. No other person is to be allowed in the inquiry room.
- After the deposition of all witnesses is over, the I.O. will intimate the C.O. that he is at liberty to be his own witness.
- If the C.O. does not want to be his own witness, mandatory general questions will be posed to him by the I.O.

- After all the depositions are over, he will direct the P.O. to sum up his case orally or submit his brief within 10 days to the C.O. directly or to him, so that he can forward to C.O.
- The I.O. will also direct the C.O. to submit his comments to him on P.O.'s brief within 10 days after receipt.
- He will submit his final report to the Disciplinary authority. He can not recommend any penalty.

PRESENTING OFFICER

- He will play the role of a public prosecutor in a court.
- He will present the case on behalf of the disciplinary authority
- Before close of the case of the disciplinary authority, he can include new evidence with the permission of the disciplinary authority & Inquiry officer if there is a lacuna in the evidence.
- He can not pose any questions to the C.O. unless C.O. wants to appear as his own witness.

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- He will examine the State Witnesses and cross examine the Defence Witnesses
- After inquiry is completed, he will submit his brief preferably directly to the Charged Officer with a copy to the Inquiry Officer
- He should always support the case of the disciplinary authority and mention in his brief with reasons, as to why the charges should be held as proved.

THE DEFENCE ASSISTANT

- He can not be a legal professional unless the Presenting Officer is a legal professional or unless legal issues are involved in the charge sheet
- He can be present at every stage of the inquiry. Defence assistance is not allowed during self examination and mandatory questioning by the I.O
- He is eligible for TA / DA as per rules based on his last pay drawn. This payment will be made by the office of the C.O.

ELIGIBILITY OF A DEFENCE ASSISTANT

- The person chosen by the C.O. as defence assistant, should not have more than 7 cases in hand at that time if he is a retired person. If he is a serving employee, he should not have more than 3 cases in hand.
- If he is working, his controlling officer should be ready to relieve him in time.
- The Defence Assistant should generally be from the same place of the Charged officer or the place of misconduct. Final decision to permit the Defence Assistant rests with the Inquiry Officer.

Preliminary Hearing

- After receipt of order of appointment of I.O. along with documents, the I.O. fixes date and issues summons for preliminary hearing to the C.O. & P.O. This will be generally done in consultation with the P.O. within 10 days.
- The place of preliminary hearing will be decided by the Inquiry Officer.
- The Defence Assistant may also be present in the preliminary hearing if already approved by the I.O.

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The Charged Officer will make clear to the I.O.

- a) Whether he received the charge sheet
- b) Whether he understood the charges
- c) Whether he accepts or denies the charges

On query, the Charged Officer may state whether he has confidence in the Inquiry Officer or not. This query is not mandatory.

- The I.O. will ask the C.O. whether he desires to utilize any additional documents / witnesses in his support and the services of a defence assistant to assist him during the inquiry.

- If the C.O. wants any documents / witnesses in his support, he will be required to give such list to the I.O., clearly mentioning the relevance of each document / witness to the case in the prescribed format.
- The I.O. will subsequently allow only relevant documents / witnesses. The I.O. will not go through the documents before taking a decision in this regard.
- The details of the proposed defence assistant should also be given by the C.O. to the I.O. for consideration.
- With due consent of all, a date will be fixed for the next stage of inquiry.

INSPECTION OF DOCUMENTS

- All the original documents listed in the Annexure-III of the charge sheet will be with the Presenting Officer. Only copies will be given to the I.O. & C.O. by the disciplinary authority initially.
- On the day of inspection of documents, the P.O. will show all original listed documents to the C.O. and hand over them to the I.O. and get the same recorded in the Daily order sheet.
- Objections if any will be recorded. Wherever original documents are not available, certified copies can be allowed. If a document still remains disputed, it will be authorized through the writer / signatory of the said document.
- If there is any further dispute, the decision of I.O. will be final.

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- Defense assistant is allowed to be present during inspection of listed documents. Original documents will have to be carefully handled by the P.O. at his stage.
- Signature of the CO will be taken as a token of inspection of listed documents.
- Listed documents will be numbered as SE-1, SE-2 etc.
- Defence documents (if allowed by I.O.) will also be taken on record later and numbered as DE-1, DE-2 etc.
- All original documents (State & defense) will be taken over by I.O. from P.O. after inspection and the same should be mentioned in the Daily order sheet.
- Signature of the parties on the original documents is appropriate but not mandatory. If such signatures are taken, photocopies of such documents are to be provided to the C.O. & P.O. by the I.O. while numbering them as above.

REGULAR HEARING

- I.O. will fix dates and venue of regular hearings
- Summons will be sent to P.O., C.O., Defense Assistant and listed State witnesses
- First, the hearing of the State Witnesses will take place.

DAILY ORDER SHEET

- The daily order sheet (D.O.S.) is a record of events that take place on the day of the hearing.
- D.O.S. is prepared separately for each day of hearing. It may be session-wise also.
- Some Inquiry Officers prepare a DOS on the dates of receipt of papers by them also.
- D.O.S. is generally in narrative form.

- From the day of preliminary hearing, all the events and decisions on representations will be recorded in the Daily Order Sheet.
- The Daily Order Sheet indicates the progress of the Inquiry
- The D.O.S. will be signed by I.O., P.O. and C.O (& D.A. if present) on every occasion.
- If the P.O. or C.O. submits any representation regarding the inquiry, it should also be mentioned in the Daily order sheet and appropriate decision will be taken by the Inquiry officer and recorded in the D.O.S. The decision of I.O. is final and there is no scope for any argument on such matters.

Examination-in-Chief

- The P.O. poses questions to State Witnesses for deposition during regular hearing process. This is called examination-in-chief.
- Similarly, the C.O. conducts the examination-in-chief of his defence witnesses

Cross examination

- After the examination-in-chief of one State Witness by P.O. is over, the C.O. will put questions to that state witness. This process is called cross examination.
- Similarly, the P.O. will cross examine the defence witnesses.
- Cross examination is nothing but questioning the opposite witnesses during inquiry proceedings.

Re-examination

- This will be done only when any new issue point arises during the cross examination or if there is lack of clarity in the deposition during cross examination
- The re-examination of the state witness will be done by P.O. and the re-examination of the defence witness will be done by C.O.

EXAMINATION,
CROSS EXAMINATION,
AND RE-EXAMINATION

EXAM

State Witness

Defence Witness

- Examination in Chief
- Cross Examination
- Re-Examination

P.O.

C.O.

C.O.

P.O.

P.O.

C.O.

Contd...

- The questions to the witnesses and their answers will be recorded verbatim.
- The IO will generally narrate the events which will be recorded in the Daily Order Sheet in the presence of the C.O. & P.O.
- The Daily Order Sheets will be numbered as DOS-1, DOS-2 etc.
- The deposition (Q&A) will generally be an enclosure to the DOS

THE BIAS PETITION

- At the preliminary stage of the inquiry, if the C.O. states that he has no confidence in the Inquiry officer and he is biased, he will get it recorded in the Daily Order Sheet and C.O. will submit a detailed representation to the disciplinary authority with reasons for believing that I.O. is biased. If rejected by Disciplinary authority, appellate authority may be approached by C.O.

- If the non-confidence / bias is expressed at any stage, the I.O. will not proceed ahead with the Inquiry and will wait for the directions of the disciplinary authority.
- The Disciplinary authority may or may not be convinced with the grounds of bias expressed by the C.O.
- If he is convinced, the I.O. may be changed.
- If the C.O. is not satisfied with the decision of the disciplinary authority, he can move another bias petition (representation) to the appellate authority.

Ex-parte Inquiry

- If the Charged Officer does not respond / turn up for inquiry wilfully for no reason even after reasonable opportunity, the inquiry can be held ex-parte.
- This is to be done only after giving sufficient number of opportunities to the Charged officer and understanding his circumstances.
- If there is sufficient proof that the C.O. is in receipt of the charge sheet, summons and other orders but purposefully not presenting himself before the I.O. for inquiry, ex-parte can be resorted to. There is no need to issue any newspaper advertisement for this purpose.
- All the processes mentioned in Rule 14 have to be followed even in the ex-parte inquiry and the C.O. has to be given the copy of DOS from time to time.
- The C.O. can participate in the ex-parte inquiry at any stage.

After the completion of Inquiry...

- P.O. will forward the written brief to C.O. with a copy to I.O.
- C.O. may send his comments to I.O.
- I.O. will prepare Inquiry report to forward to the authority

INQUIRY REPORT

- It will contain the charge sheet, original listed documents, all the daily order sheets, brief of the P.O. and comments of C.O. on the said brief of P.O.

The Inquiry report should confine to the charges in the charge sheet and should not comment on the past misconduct of the employee if any.

- In terms of sub rule 24(a) of Rule 14 of CCS(CCA) Rules 1965, the report has to be submitted normally in six months time.

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- The report will clearly state whether the charge(s) are proved or not.
- It will justify the conclusion for every article of charge.
- It will not contain any proposal of penalty.

DISCIPLINARY AUTHORITY

- He may appoint an Inquiry Officer if he does not have time to inquire himself into the charges and provide copies of charge sheet, reply and copies of listed documents. If any original document is seized by CBI or submitted to any court, a copy of the list of such documents and the acknowledgement by CBI or court should be provided to all concerned.
- He may appoint a Presenting Officer to present the case on behalf of the department / disciplinary authority and provide him copies of charge sheet, reply and all original listed documents.
- The onus to prove the charge is on the disciplinary authority through the P.O. The C.O. should not be asked to prove his innocence. Rather, the disciplinary authority should prove the charge through the P.O., documents & witnesses.
- He will check from the inquiry report whether the prescribed inquiry procedure has been followed by the Inquiry Officer or not.

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- He will forward a copy of Inquiry report to the Charged Officer for his comments before further decision even if charges are not proved.
- He may or may not agree with the findings of the Inquiry Officer
- If he does not agree, he may send a disagreement note and conclude the proceedings after reply from C.O., or order fresh inquiry if any procedural lapse is found out.
- He can award only the penalties listed in rule 11 of CCS (CCA) Rules 1965.

APPEAL AGAINST PENALTY

- The Charged Officer can appeal to the appellate authority within 45 days of receipt of order.
- Appeal need not be routed through proper channel.
- There is no specific format for appeal.

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- The appellate authority can exonerate, reduce or increase or confirm the penalty
- If the Charged Officer is still aggrieved, he can appeal to the Revisionary authority.

Queries, if any.

