

No. 39011/12/2010-Estt.(B)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

North Block, New Delhi, the 14th September, 2010

OFFICE MEMORANDUM

Subject:- Departmental proceedings against Government Servants- Consultation with the Union Public Service Commission for advice.

The undersigned is directed to refer to this Department's O.M. of even no. dated 10th May, 2010 on the subject mentioned above forwarding the updated Proforma (copy enclosed) for forwarding the disciplinary cases to UPSC wherein all Ministries/Departments have been requested to ensure that the complete and timely reference on disciplinary matters (under Article 320(c) of the Constitution of India read with Regulation 5 of the UPSC (Exemption from Consultation) Regulations, 1958 is made to the UPSC allowing sufficient time to the Commission to give its advice.

2. This Department had set up a Committee of Experts under the chairmanship of Shri P.C.Hota, former Chairman, UPSC to suggest measures to expedite the process involved in disciplinary/vigilance proceedings. In its Report, the above Expert Committee has observed that at present in as many as 40% cases of disciplinary inquiries referred to the UPSC for advice, the case records are deficient in terms of requisite information wanted by the UPSC as per the proforma prescribed and therefore returned by the UPSC to the Department/Ministry for rectification of the deficiencies which causes avoidable delay in the Department/Ministry getting timely advice from the UPSC. In order to ensure prompt disposal of disciplinary inquiries by Departments/Ministries, **the Expert Committee has recommended that before the case records in a Disciplinary Inquiry are sent to the UPSC for advice, the Joint Secretary/Director/Deputy Secretary in charge of the matter in the concerned Department/Ministry must give a certificate in writing that the case records are being sent to the UPSC for advice after complying with all items in the standard "Proforma" by the Department/Ministry. The expert Committee has suggested that if the certificate of Joint Secretary/Director/Deputy Secretary is found to be defective, as all items in**

the standard proforma have not been complied with before furnishing the certificate and the certificate has been issued in a slipshod manner, the concerned Joint Secretary/ Director/Deputy Secretary of the Department/Ministry should be held responsible.

3. In view of the above, it is reiterated that all Ministries/Departments may ensure that all the requisite details in the proforma are properly filled up and sent with the relevant documents required to be sent to the UPSC so that there does not arise occasion for the UPSC to make a back reference to the Ministries/Department for the deficiencies found by the Commission in the papers sent to them. While forwarding the case records to the UPSC, a certificate shall be appended duly signed by the concerned Joint Secretary that the case records are being sent to the UPSC for advice after complying with all the items as applicable in the proforma by the Ministry / Department concerned. In future, if the UPSC has to return the documents in this regard for correct filling up and forwarding of the requisite documents stated in the proforma, the Commission may address the letter to the Secretary in the Ministry/ Department. In case it is found that the Proforma had been forwarded to the UPSC in a casual manner, the Secretary in the Ministry / Department may issue a written warning to the Joint Secretary / Director / Deputy Secretary concerned to be more careful in future. A second time default by the same officers shall invite minor penalty proceedings against them.

Rakesh Moza
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To

All Ministries/Departments of Government of India

Copy to:-

1. All officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate offices of the Ministry.
2. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/Supreme Court/Rajya Sabha Secretariat/Lok Sabha Secretariat/Cabinet Secretariat/UPSC/CVC/C&AG/Central Administrative Tribunal [Principal Bench], New Delhi.
3. Estt.(B) Section - 100 copies.
4. NIC, DOPT, North Block for up-dating of the OM in DOPT website.
5. Hindi Section for Hindi version.

Proforma/Check List for forwarding disciplinary case to the
Union Public Service Commission

PART I : SERVICE AND RELATED PARTICULARS

-
1. Name of charged officer and the service on which borne
-
- 2 (i) Whether temporary/permanent/contract service
(ii) If confirmed, date of confirmation
-
- *3 Post held substantively, if in permanent service
(a) Designation
(b) Pay Band and Grade Pay(indicating stages, etc.)
(c) Pay drawn
(d) Date from which pay shown against (c) drawn
(e) Date of increment
-
4. Post held at present
(a) Designation
(b) Pay Band and Grade Pay(indicating stages, etc.)
(c) Pay drawn
(d) Date from which pay shown against (c) drawn
(e) Date of next increment
-
5. The next lower post (along with Pay Band and Grade Pay), the officer would have held but for his appointment to the present post he is holding
-
6. Date of Birth
-
7. Date of joining Govt. Service
-

*Not to be filled in the case of All India Service officers.

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8. Due date of retirement or actual date of retirement, if already retired
-
- 9 (a) Amount of monthly pension admissible/sanctioned
 (b) (i) Amount of gratuity admissible
 (in respect of disciplinary proceedings initiated during service)
 (ii) Amount of gratuity withheld
 (for disciplinary proceedings after retirement)
-
- 10 (a) Appointing authority in respect of the post held at present, or the authority which actually appointed the person, if that authority is higher.
 (b) Authority competent to impose the penalty in respect of the post held at present.
 (c) Appellate authority in respect of the post held at present
-
- 11 Whether an oral inquiry, if required under the rules, has been held
-
- 12 Name and designation of Inquiry Officer, appointed, if any.
-

PART II : DETAILS OF CASE RECORDS

(All the records are required to be arranged and cross-referenced, as indexed below and page numbers of the file/folders to be indicated against each item.)

Item	*Reference/comments
(A) <u>ORIGINAL CASES</u> (Where the Central Government or the State Government is the Disciplinary Authority and an order of penalty is to be passed for the first time)	
(a) Complaint , if any, received by the authorities	
(b)(i) Report of the preliminary enquiry, if any, held in the matter leading to the institution of formal disciplinary proceedings against the C.O. (together with Depositions recorded)	

* indicate references in terms of page numbers, file numbers folders etc. Do not leave any column blank, if a document is not enclosed, indicate reasons.

(ii) Order, of suspension / revocation
of suspension, if any.

(c) Order, if any of the competent authority
for joint/common proceedings where
two or more Govt. servants are
involved.

(d)i) Charge sheet together with the
statement of imputations along with
enclosures.

ii) Records of delivery of charge sheet to
the charged officer

iii) Whether the Charge sheet issued
as per the Rules

(e) Reply of the Charged Officer

(f) A note from the Disciplinary Authority
explaining the factual or procedural
points, if any, raised in the Charged
Officer's reply in minor penalty cases
where no enquiry has been held

g) Order of the disciplinary authority
appointing the Inquiry Officer.

h) Order of the disciplinary authority
appointing the Presenting Officer

i) Daily Order Sheet maintained by
the Inquiry Officer, indicating the
progress of oral inquiry

j) Correspondence of the Inquiry
Officer, if any, with the disciplinary
Authority or the Charged Officer

k)i) Depositions - oral statements, recorded
from prosecution witnesses and defence
witnesses

ii) Statement of defence of the Charged
Officer

iii) General examination of the charged
officer

iv) Whether copies of relevant documents
have been supplied to the Charged
officer

- v) Exhibits
 - a) Prosecution
 - b) Defence
-

- l) i) Written brief, if any, submitted by the Presenting Officer
 - ii) Whether a copy of brief of Presenting Officer supplied to the Charged Officer
-

- m) Written brief, if any, submitted by the Charged Officer
-

- n) Inquiry Officer's report
-

- o)i) Whether Inquiry Officer's report provided to the charged officer.
 - ii) Whether disagreement of the Disciplinary Authority, if any, on the report of the Inquiry Officer, communicated to the Charged Officer
 - iii) Representation of the Charged Officer on the findings of the Inquiry Officer.
 - iv) Para-wise comments of the Disciplinary Authority on the representation of the Charged Officer, if any.
-

- p) Whether the disciplinary authority:
 - has considered the merits of the case and come to the conclusion that a formal penalty is called for
-

(B) APPEAL CASES

(Where the order of penalty has been passed by a subordinate authority and an appeal lies to the President)

(In these cases all the documents listed in (A) should also be sent)

- a) Order passed by the disciplinary authority together with a note, if any, containing the conclusion arrived at by him in respect of each charge
-

- b) Appeal of the officer concerned
-

- c) Whether appeal has been addressed to the competent authority
-

- d) Comments of the disciplinary authority on the appeal including clarification on procedural points, if any, raised by the appellant
-

(C) REVISION/REVIEW CASES

- i) Whether appeal addressed to the President of India or to some subordinate authorities.

(Where the appellate authority is subordinate to the President and a modification of the appellate order is sought by way of revision/review or where the President has passed the original order)

(In these cases all the documents listed in (A) and (B) should also be sent)

- ii) Whether the approval of the Competent Authority obtained before referring the Case for Commission's advice.
-

(a) Appellate Authority's order/ President's order

(b) Petition/Memorial submitted by the officer

(c) Note indicating the Reviewing Authority's findings on the charges, detailing the reasons warranting modification of the penalty already imposed and the extent of such modification

(d) Additional comments on the procedural or factual points, if any, raised in petition.

(D) PENSION CASES

(Where the President proposes to withhold or withdraw pension otherwise admissible to the officer as a result of disciplinary proceedings instituted/deemed to continue in respect of an officer who has retired from service)

(In these cases all the documents listed in (A) should also be sent)

- a) Order of the President*, if any, that the disciplinary proceedings should be instituted/continued under the relevant pension rules.

*Central Govt. in the case of All India Service Officers.

b) Show cause notice issued to the officer indicating precisely the quantum of cut proposed to be made in his pension and the period for which it shall be operative

c) Reply of the officer to the aforesaid notice

d) Comments on factual or procedural points raised by the officer in his reply

(E) **GENERAL**

a) Miscellaneous documents regarding evidence such as the exhibits, statements, etc. referred to in (A) to (D) and extracts of relevant Rules, Codes, Manuals, Acts, Judgments etc.

b) Information/position of disciplinary proceedings instituted against other co-accused officers.

c) Whether complete and up-to-date Confidential Roll of the officer has been enclosed.

**Signature _____

Name in Block letters of _____

Officer signing _____

this statement _____

Designation _____

Telephone No. _____

Dated: _____