



भारतसरकार/ GOVERNMENT OF INDIA

वित्तमंत्रालय/ MINISTRY OF FINANCE

राजस्वविभाग /DEPARTMENT OF REVENUE

सीमाशुल्कआयुक्तकाकार्यालय /OFFICE OF THE COMMISSIONER OF CUSTOMS

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VIGILANCE CIRCULAR

Sub: Departmental Inquiries: Guidelines to Inquiry Officers.

While processing vigilance/disciplinary cases, infirmities have been observed in some of the inquiries. The Inquiry report in some cases contains some technical/ procedural infirmities, thereby resulting in remitting the case back for further inquiry from certain stage to remove the said infirmities.

2. Hence, it is imperative on the part of Inquiry Officers conducting Departmental Inquiries that due process of law as laid down in the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is followed by them.

3. To facilitate the Inquiry Officers, an Annexure containing do's and don'ts is appended to this circular which may guide them in Departmental Inquiries. It may kindly be noted that these guidelines are illustrative and not exhaustive. In case of doubt, relevant provisions of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and other Government instructions/guidelines issued from time to time may be referred to. Further, they may access a "Handbook for Inquiry Officers and Disciplinary Authorities" prepared by Institute of Secretariat Training & Management (Department of Personnel and Training) for Inquiry Officers available at DOPT site under Reports tab.

Mihir Ranjan
31.01.2020
(MIHIR RANJAN)

COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, MARMAGOA

To,

1. The Joint Commissioner of Customs (P&E), Custom House, Marmagao,
2. The Joint Commissioner of Customs (Appg.), Custom House, Marmagao,
3. All DCs / ACs, Custom House, Marmagao,
4. Website
5. Office Copy.

Do's and Don'ts for the Inquiry Officers in Departmental Inquiries
(for ease of reference, relevant rules of CCS (CCA) Rules 1965 are also indicated)

Receipt of documents

- See that the following documents are received from the Disciplinary Authority -
 - Appointment order of the Inquiry Officer (IO) issued by the Disciplinary Authority
 - Memorandum of charges containing Annexure I to IV with copies of the documents listed in Annexure III and statements of witnesses, if any, listed in Annexure IV
 - Proof in support of having served the Memorandum of charges on the Charged Officer (CO)
 - A copy of the written statement of defense, if any, submitted by the CO
 - A copy of the order appointing the "Presenting Officer" (PO)

[Rule 14(6)]

Notice for Preliminary Hearing

- Issue notice to the PO and CO, through respective Controlling Officers, for preliminary hearing.
- Ensure service of the notices on the PO and CO.
- Ensure that preliminary hearing is held within ten days from the date of receipt of order of appointment as IO.

[Rule 14(7)]

Defence Assistance

- Allow the CO to take assistance of a serving or retired Government servant
- Allow the CO to take assistance of a legal practitioner in the following conditions —
 - The PO is a legal practitioner, Prosecuting Officer of CBI or a Government Law Officer (such as Legal Adviser, Junior Legal Adviser)
 - The Disciplinary Authority, having regard to the circumstances of the case, so permits
- Record the reasons in writing for rejecting the request of CO for defence assistance.

[Rule 14(8)]

Preliminary Hearing

- On the date of Preliminary Hearing, ascertain from the CO
 - Whether he has received Memorandum of Charges
 - If so, whether he has understood the charges.
 - Whether he pleads guilty or has any defence to make
- If the CO pleads guilty of all the articles of charge
 - Record the plea, sign the record and obtain signatures of the CO
 - Return the record to the Disciplinary Authority with findings of guilt.
- If the CO pleads guilty to some of the articles of charge
 - Record the plea in respect of such articles of charge to which the CO has pleaded guilty, sign the record and obtain signatures of the CO
 - Return a finding of guilt in respect of those articles of charge to which the CO pleads guilty
- If the CO pleads not guilty to some or all the articles of charge
 - Direct the PO to produce the evidence by which he proposes to prove the articles of charge
 - Direct the CO to
 - ✓ Inspect the documents listed in Annexure III of the Memorandum of Charges within five days of the order
 - ✓ Submit a list of additional documents which may be in possession of the office but are not mentioned in Annexure III

- of Memorandum of Charges and duly explaining their relevancy, within ten days of the order
- ✓ Submit a list of witnesses to be examined on his behalf
 - Adjourn the case to a later date not exceeding thirty days

[Rule 14(9)(10)(11)]

Production of additional documents

- On receipt of the list of additional documents from the CO, satisfy about their relevancy
- Refuse the documents not considered relevant to the articles of charge duly recording the reasons for such refusal
- Forward the list of documents considered relevant to the authority under whose custody the additional documents are held, for their production by a specified date
- Watch for an intimation from the authority about inspection of the additional documents having been given to the CO
- Watch for an intimation from the authority with reasons for refusal to give inspection of the additional documents to the CO.

[Rule 14(12)(13)]

Regular Hearing — Presentation of the case of the Disciplinary Authority
Production of prosecution documents and examination of prosecution witness

- On the date fixed for regular hearing, direct the PO to produce the documentary evidence
- Take on record the documentary evidence as 'Prosecution Exhibits'
- Direct the PO to examine Prosecution Witnesses, if any [Examination-in-Chief]
- Give an opportunity to the CO/ his defence assistant to cross-examine the Prosecution Witnesses [Cross-Examination]
- Give an opportunity to the PO to re-examine the Prosecution Witnesses on any point on which they have been cross-examined, if requested, but not on any new point [Re-Examination]
- Question the Prosecution Witnesses, if considered necessary
- Make a record of deposition of the witnesses
- Ensure that Cross-Examination of a witness follows its Examination-in-Chief and the same is not postponed till Examination-in-Chief of all witnesses is over

[Rule 14(14)]

Regular Hearing — Production of new evidence

- In the interest of justice, the IO by reasons to be recorded in writing, may
 - Allow the PO to produce new evidence not included in the Memorandum of Charges
 - Call for new evidence Call new witnesses not included in the Memorandum of Charges
 - Allow the CO to produce new evidence
- Give an opportunity to the CO to inspect the documents proposed to be introduced as further evidence
- Adjourn the inquiry for three clear days exclusive of day of adjournment and the day to which it is adjourned
- Allow adducing of new evidence only if there is an inherent lacuna in the evidence produced and not for filing up the gaps in the evidence

[Rule 14(15)]

Regular Hearing — Statement of Defence of the CO

- After closure of the case of the disciplinary authority, ask the CO to state his defence either orally or in writing
- If the CO states his defence orally, record it and get it signed by the CO
- If the CO states his defence in writing, give a copy of the same to the PO

[Rule 14(16)]

Regular Hearing - Presentation of the case of the CO

- Direct the CO to present his defence by producing evidence
- Take the same on record as 'Defence Exhibits'
- Allow the CO to examine himself on his own behalf, if the CO so desires
- Direct the CO to examine Defence Witnesses, if any
- Direct the PO to cross-examine the Defence Witnesses
- Make a record of deposition of the Defence Witnesses
- Allow the CO to re-examine the Defence Witnesses, if so desired
- Examine the Defence Witnesses, if considered necessary

[Rule 14(17)]

Regular Hearing — General Examination of the CO by the IO

- After close of the case of the CO, if the CO does not offer himself to be examined as his own witness, generally question the CO on the circumstances appearing against him in the evidence to enable him to clear his position
- Mandatorily do the General Examination and record the same

[Rule 14(18)]

Regular Hearing- Summing up of Arguments or filing of written briefs

- After completion of production of evidence, hear the PO and the CC, to sum up their cases
- Direct the PO and the CO on his own or permit the PO and the CO to submit their written briefs, if they so desire
- Make available a copy of the written brief of the PO to the CO
- Direct the CO to submit his written brief on receipt of the PO's written brief

[Rule 14(19)]

Ex-parte Inquiry

- Hold ex-parte inquiry in the following circumstances
 - The CO does not submit written statement of defence on or before the date specified for the purpose even after receipt of Memorandum of Charges
 - The CO does not appear in person before the IO
 - The CO fails to or refuses to comply with orders of the IO
 - The CO attends part of the hearings and remains absent for rest of the hearings
- Hold the Ex-parte inquiry strictly adhering to the procedure laid down under Rule 14(11) to (20)
- Ensure that notices for hearings and the copies of the proceedings are invariably sent to the IO

[Rule 14(20)]

Change of the IO

- If for any reason, the IO is changed during the course of inquiry, the successor IO shall proceed from the stage from which the predecessor left
- In the interest of justice, the succeeding IO may take the following action in respect of witnesses whose evidence has already been recorded
 - Recall the witnesses
 - Examine the witnesses
 - Cross-examine the witnesses
 - Re-examine the witnesses

[Rule 14(22)]

Inquiry Report

- At the close of the inquiry, prepare a report in writing containing the following—
 - Reference to the order of appointment of the IO

- The articles of charge indicating and statement of the imputation of misconduct or misbehavior, indicating those which are admitted and which require discussion
- Each article of charge inquired into
- The case in support of each article of charge inquired into
- The defence of the CO in respect of each article of charge inquired into
- An assessment of the evidence adduced during the inquiry in respect of each article of charge inquired into
- Reasoned findings on each article of charge inquired into
- Clearly state whether or not the charges can be held to have been proved against the CO i.e. proved or not proved
- The conclusions in the Inquiry Report must flow logically out of the evidence on record
- The findings must be in conformity with the charges
- Avoid merely summarizing the version of the two sides and selecting one Version
- Avoid irrelevant considerations, conjectures, surmises, suspicion etc. in the Inquiry Report
- Avoid reference to the proceedings happened before and after the inquiry
- Avoid giving weight, whatsoever to his personal knowledge of the matter against the IO
- Avoid giving recommendations either to impose a stringent penalty, or to take a lenient view, or for imposing a specific penalty
- Forward the Inquiry Report duly signed to the Disciplinary Authority along with the following folders -
 - Folder - I : Memorandum of Charges with Annexures I to IV
 - Folder - II : Proof of receipt of Memorandum of Charges by the CO
 - Folder - III : Written statement of defence of the CO
 - Folder -IV : Orders of the Disciplinary Authority appointing the IO and the PO
 - Folder - V : Daily Order sheets
 - Folder - VI : Prosecution Exhibits
 - Folder -VII : Depositions of the Prosecution Witnesses and their examination and cross examination etc
 - Folder- VIII : Defence Exhibits
 - Folder -IX: Depositions of the Prosecution Witnesses and their examination and cross examination etc.
 - Folder - X : Correspondence made in connection with the inquiry with the CO and the Disciplinary Authority; copies of representation moved by the Co during the inquiry and decisions taken by the IO thereon and any other miscellaneous correspondence relevant to the inquiry.

Time Limit for completion of Inquiry

- The IOs should conclude the inquiry and submit his within a period of six months from the date of receipt of order of his appointment.
- An additional time not exceeding six months for completing the inquiry can be allowed at a time on the basis of sufficient and good reasons to be recorded in writing by the disciplinary authority.

[Rule 14 (24)]