

Immediate

File No.106/7/2015-AVD.I(Part)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, Dated 15th March, 2017

To

1. **The Chief Secretaries of All the State Governments / Union Territories**
2. **All the Cadre Controlling Authorities (as per standard list).**

Subject: - Amendments to All India Service (Discipline & Appeals) Rules, 1969- Guidelines regarding adherence to timelines for Departmental Proceedings.

Dear Sir / Madam,

Reference is invited to this Department's Notification dated 20.01.2017 vide which amendments were made to the All India Service (Discipline & Appeal) Rules, 1969 by providing specific time frames for different stages of the inquiry process.

2. The salient features of the amendments are:

- i. Introduction of time frame in Rule 8(5) providing the Charged Officer (CO) a period of 30 days for submission of his representation on the chargesheet served on him. The period may be extended by another 30 days by the Disciplinary Authority (DA) for reasons to be recorded in writing. Under no circumstances, the extension shall exceed 90 days from the date of receipt of the Articles of Charge.
- ii. Insertion of new Sub-rule 8(25) (a), (b) & (c) whereby the Inquiring Authority should conclude the inquiry and submit his report within six months from the date of appointment. Any further extension of time would be permissible, six months at a time with the approval of the DA or any authority authorised by the DA on his behalf for reasons to be recorded in writing by Inquiring Authority.
- iii. Introduction of time frame of 15 days for submission of the representation by the charged officer on the advice of UPSC regarding quantum of penalty proposed. This period can be extended by 15 days by the DA for reasons to be recorded in writing. Under no circumstances, the extension shall exceed 45 days from the date of receipt of the Articles of Charge.

3. In view of the introduction of time frames as elaborated in paragraph 2, all the State Governments / Union Territories and Cadre Controlling Authorities are advised to adopt the following measures so that the time frames can be strictly adhered to and the inquiry process can be completed expeditiously.

- i. All listed documents on the basis of which the proposed disciplinary proceeding is to be initiated must be in the custody of the DA.
- ii. In case disciplinary proceedings are initiated simultaneously with criminal proceedings on the same set of charges, a copy of all the documents and files should be kept in the custody of the DA prior to handing over the records, in case the said records are to be submitted in a court of law. In this regard, CVC OM No. 3(v)/99/7 dated 6th September, 1999 may be referred to.
- iii. Care may be taken to ensure that all listed documents are provided to the charged officer along with the chargesheet to enable him to submit his representation within the stipulated time.
- iv. The date of serving notice on the CO seeking his representation should be duly noted and acknowledgement of the same should be retained in records as well as communicated to the Central Government in case departmental proceedings are initiated by the Central Government

as well as in the departmental proceedings forwarded to the Central Government for imposition of major penalties under rule 6.

- v. The chargesheet / advice of UPSC served on the CO may clearly indicate that in the absence of a Statement of Defence or comments on the advice from the CO within the stipulated time frame as mentioned in Rule 8(5) and Rule 9(5) or a request from CO for extension of time, it would be assumed that the CO has no views to offer.
- vi. During the course of inquiry, where the CO seeks additional documents, the IO may decide on the relevance of the documents so sought expeditiously. The IO may be advised to procure the permitted additional documents from the custodian Department / Ministry and supply copies of documents to CO within one month. In case of delays at the level of the Department / Ministry, the same may be brought to the notice of the DA by the IO to resolve the issue expeditiously and DA should issue a non-availability certificate with regard to the documents which are not available.
- vii. The time taken during the inquiry process may be regularly monitored and a register of all pending inquiries may be maintained. The IO should be advised to complete the inquiry within six months. However, if he is unable to do so for any good and sufficient reasons, he should make a request for extension in terms of new sub-rule 8 (25) to the DA well within the stipulated time frame. Every such extension must be approved by the DA before expiry of the six months time period.
- viii. As per Rule 7 of the AIS (D&A) Rules, 1969, the Competent Authority is the State Government itself to institute proceedings if the act of omission was while the CO was serving in connection with the affairs of a State Government. Hence, the DA for granting extension for submitting the representation by the CO on the chargesheet [Rule 5 (b)] as well as extension of the inquiry for a further period of six months at a time [Rule 8 (25) (a)] is the State Government in all such cases.
- ix. As per Rule 8 (22) (a) where a State Government on completion of the inquiry is of the opinion that a major penalty under Rule 6 is to be imposed on the member of service, the records are forwarded to the Central Government for imposition of the major penalties under Rule 6. In such cases, the Competent Authority for granting extension to the CO for submitting his representation on the advice of UPSC will be the Central Government.
- x. The DA may authorise any authority subordinate to him to grant extension of time period as elaborated in paragraph 2 above on his behalf.
- xi. The CCA / State Governments should appoint a Nodal Officer of the rank of Under Secretary, Government of India / UTs with contact details (mobile / e-mail / fax) for effective coordination between the Central and the State Governments.

Yours faithfully,



(Kavitha Padmanabhan)

Deputy Secretary to the Government of India

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Copy for information to:

1. Prime Minister's Office
2. Cabinet Secretariat
3. Central Vigilance Commission