

**No. 39034/1/2009-Estt.(B)**  
**Government of India**  
**Ministry of Personnel, Public Grievances and Pensions**  
**(Department of Personnel and Training)**

New Delhi, 12<sup>th</sup> January, 2010

**OFFICE MEMORANDUM**

**Subject :** Departmental proceedings against Government servants – Procedure for consultation with the Union Public Service Commission.

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The undersigned is directed to make a reference to this Department's O.M 39021/4/81-Estt(B) dated 29<sup>th</sup> May, 1982 which inter alia provided that while forwarding a disciplinary case for consultation with the Union Public Service Commission, the Disciplinary Authority should not express any opinion regarding the penalty to be imposed on the officer. UPSC has brought to the notice of this Department that of late, in many cases the Disciplinary Authorities (DAs) while referring the disciplinary case to the Commission for advice proposed the quantum of penalty. The values of independence, impartiality and integrity are the basic determinants of the Constitutional conception of the UPSC. The Commission's function is purely advisory. The consultation prescribed by the Constitutional provision is only to afford proper assistance to the Government in assessing the guilt or otherwise of delinquent officer as well as the suitability of penalty to be imposed. It has also been made clear in this Department's OM No 39023/02/2006-Estt(B) dated 5.12.2006 that in cases where the DAs want to differ with the advice given by the Commission, the case may be referred back to the Commission for reconsideration if the opinion of the DA is based on a new fact/evidence having a bearing on the case which became available after the recommendation of the Commission was received or it became available earlier but the Commission could not be informed of the same before it made its recommendations.

2. It is reiterated to all Ministries and Departments that as already provided in the above OM dated 29/5/1982, the Disciplinary Authorities while referring the disciplinary cases to the UPSC for advice, should not propose to the Commission the quantum of penalty.

  
**(Smt. Sati Mohandas)**

Under Secretary to the Government of India  
Tel : 23093175

To

1. **All Ministries/Departments of Government of India**
2. **UPSC**