

No. 39011/12/2009-Estt(B)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

North Block, New Delhi
Dated: the 10th May, 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 say that all Ministries/Departments were requested vide this Department's OM No. 39011/4/87-Estt(B) dated 15/4/87 to ensure that references to the Commission in disciplinary matters [under Article 320(3) (c) of the Constitution of India read with Regulation 5 of the UPSC (Exemption from Consultation) Regulations, 1958] are made without any avoidable delay so that adequate time is available for the Commission to give their advice and also for the department to take a decision in time.

2. The Commission has again brought to the notice of this Department that the references on disciplinary matters from various Ministries/Departments are being received in the UPSC only a few days before the officer is due to retire or where a deadline set by a judicial order is to expire shortly, thereby leaving little time for the Commission to tender its advice.

3. The disciplinary proceeding being quasi-judicial in nature, the Commission tenders its advice after a thorough judicious and independent consideration of all relevant facts, which is a time-consuming process. While the Commission tries to give its recommendation most expeditiously, the process generally takes 3 to 4 months. All Ministries/Departments are once again requested to ensure that the complete reference on disciplinary matters [under Article 320(3) (c) of the Constitution of India read with Regulation 5 of the UPSC (Exemption from Consultation) Regulations, 1958] is made to the Commission allowing sufficient time to the Commission to give its advice. The Commission would expect that the complete reference is received in the Commission at least six months in advance of the retirement of the charged officer in order to get advice of the Commission and the implementation thereof.

4. Some minor changes in certain Columns in the Proforma/Checklist for forwarding disciplinary cases to the UPSC have become necessary and an updated Proforma is enclosed.

Rakesh Moza
(Rakesh Moza)

Under Secretary to the Government of India
Tel: 23093175

To

All Ministries/Departments, Government of India

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.

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
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- m) Written brief, if any, submitted by the Charged Officer
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- n) Inquiry Officer's report
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- 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.
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- p) Whether the disciplinary authority:
 - has considered the merits of the case and come to the conclusion that a formal penalty is called for
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(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
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- b) Appeal of the officer concerned
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- c) Whether appeal has been addressed to the competent authority
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- d) Comments of the disciplinary authority on the appeal including clarification on procedural points, if any, raised by the appellant
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(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.
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(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.
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*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: _____

**To be signed by an officer not below the rank of CVO/Joint Secretary to the Government of India