

No. 39034/07/2012-Estt (B)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi, 15th May 2012

OFFICE MEMORANDUM

Subject:-Departmental proceedings against Government servants-Procedure for consultation with the Union Public Service Commission (UPSC).

....

The undersigned is directed to make a reference to this Department's OM. No. 39021/4/81-Estt (B) dated 29th May, 1982 and OM. No. 39034/1/2009-Estt (B) dated 12th January, 2010 which *inter-alia* provide that the Disciplinary Authority should not express any opinion regarding the penalty to be imposed on the officer while forwarding a disciplinary case for consultation with the Union Public Service Commission. UPSC has brought to the notice of this Department that in many cases the Disciplinary Authorities (DAs) while referring the disciplinary case to the Commission for advice proposed the quantum of penalty. Such recommendation by Disciplinary Authorities at this stage recommending a penalty by Disciplinary authority is not in keeping with the proviso(s) to Rule 15 (3) & 15 (4) of CCS (CCA) Rules, 1965. The consultation prescribed by the Constitutional provision is 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.

2. As per Rule 14 (23) (i) of the CCS (CCA) Rules, 1965, the inquiry officer is to prepare an inquiry report which should *inter-alia* contain an assessment of the evidence in respect of each article of charge as well as findings on each article of charge and reasons therefor. It has, however, been observed that in a number of cases, no clear finding is given separately on each of the articles of charge in the inquiry report. Instead, the IOs tend to record findings in the form of a running narrative where all the articles of charge are clubbed together, which is not correct. Submission of a comprehensive and cogent report and assessing each article of charge separately by the I.O. is essential to evaluate the gravity of each article of charge.

3. The UPSC has also observed that in a number of cases there has been considered delay on the part of the disciplinary authorities in seeking the

advice of the Commission, resulting in undue delay causing hardship to the charged officer. It may also be noted that there have been instances where the Hon'ble CAT/Courts have struck down entire disciplinary proceedings simply on the ground of delay.

4. It is reiterated to all Ministries and Departments that they should ensure that the instructions in the above OM dated 29th May, 1982 and 12th January, 2010 are followed by the Disciplinary Authorities while referring the disciplinary cases to the UPSC for advice and they adhere strictly to provisions of the Rules 14 and 15 of CCS (CCA) Rules, 1965 or other applicable Discipline and Appeal Rules.


(P. Prabhakaran)
Director

To

All Ministries/Departments of Government of India.

Copy to:-

Union Public Service Commission/Central Vigilance Commission/Election Commission of India/Comptroller and Auditor General of India/Central Information Commission/Lok-Sabha Secretariat/Rajya Sabha Secretariat.

All attached offices under the Ministry of Personnel, P.G. & Pensions.

All Officers and Sections in the Ministry of Personnel, P.G. and Pensions

NIC, Department of Personnel and Training, North Block, New Delhi.