No: 5/48/99-VIG
Government of Goa,
Directorate of Vigilance,
Junta House (6th floor).,
Panaji – Goa.

Dated: 11/10/1999

CIRCULAR

All the Heads of Departments/Offices and Chief Executive Officers of Government Undertaking/Corporation/Autonomous Bodies, etc. are aware that in so far as conduct and discipline is concerned, our employees are covered by the Central Civil Services (Conduct) Rules, 1964 and Central Civil Service (Classification, control and Appeal) Rules, 1965. It is, therefore, imperative that every employee is made aware of these Rules for guidance in their day to day conduct and dealings.

2) While the Head of Departments in their capacities as the Appointing Authorities over Group "C" and "D" employees, also exercise the powers of the Disciplinary Authorities over them, in so far as Group "A" and "B" Officers are concerned, such powers are exercised by the Governor. Although under Rule 14(5) of CCS (CCA) Rules, 1965, the Disciplinary Authority, may itself inquire into the charges framed against his subordinate, another Officer, preferably not connected with the Department, is appointed as an Inquiry Officer, so that he is not suspected of any bias against the Charged Official.

3) In order that the departmental inquiries are conducted and completed as speedily as possible, it is necessary that the Memorandum containing the Articles of charge, the Statement of imputations of misconduct or misbehavior in support there to, the list of documents relied upon and list of witnesses by whom the charges are proposed to be sustained, is drawn up in the prescribed format expeditiously and the Charged Official given an opportunity to submit his written statement of defence within 10 days. If the Charged Official admits the charges, then the Disciplinary Authority should take appropriate decision as may be necessary in the circumstances of the case including imposition of penalty commensurate with the gravity of the charges. Where however, the charge are denied, then the Director of Vigilance should be immediately consulted and on his advise, action should be taken to appoint the Inquiry Officer. Side by side, the Disciplinary Authority should also appoint an Officer conversant with the facts of the case as the presenting Officer, to present the case on his behalf before the Inquiry Officer.

4) Once appointed, the Inquiry Officer should fix the preliminary hearing at the earliest opportunity and ascertain from the Charged Official whether he would like to plead guilty to the charges framed or not. If at this stage, the Charged Official pleads guilty, then the Inquiry Officer would proceed to record his statement to this effect under acknowledgement and inform the Disciplinary Authority accordingly for further appropriate action. Where however, the Charged Official does not plead guilty, the Inquiry will proceed to the next stage of inspection of documents cited by the prosecution and the additional/defence

documents cited by the Charged Official in his defence with due advance notice to the Presenting Officer, to enable him to produce these documents.

5) Once these two stages are over, then the Inquiry Officer will go ahead with regular hearings which should be conducted at regular intervals with minimum possible adjournments, so that the proceedings are not prolonged to the detriment of the Charged Official, and in the process, he is not made to suffer mental agony besides being deprived of his promotion if and when due or, as the case may be, the pensionary benefits which accrue with the retirement. In any case, the Inquiry Officer should ensure that the Inquiry is completed within a reasonable time frame, say 6 months, and the inquiry report containing the findings is submitted to the Disciplinary Authority concerned.

6) No sooner the Disciplinary Authority has received the Inquiry Report containing the findings of the Inquiry Officer, a copy of the Inquiry Report should be sent to the Charged Official and he is given opportunity to submit his representation if any, within 15 days, as provided in Rule 15(1-A) of C.C.S (CCA) Rules, 1965, and after taking into consideration the facts and circumstances of the case, an appropriate decision is taken , including the imposition of penalty commensurate with the findings of the Inquiry Officer.

7) In order to monitor the progress of the departmental inquiries, a format has been devised and enclosed herewith, to enable the Inquiry Officers to forward such reports regularly to the disciplinary Authorities concerned under intimation to the Directorate of Vigilance by the 10th of the month following the month to which these relate (Annexure – I).

8) There may be instances when the Disciplinary Authority may have to place an employee under suspension where disciplinary proceeding is contemplated or is pending, or wherein the opinion of that Authority, he has engaged himself in activities prejudicial to the interest of the security of the State, or where a case against him in respect of any criminal offence is under investigation, inquiry or trial. The basic intention is placing the Government servant under suspension is to ensure that while in Office, he will not prejudice the investigation, a trial or inquiry, by tampering with the witnesses or the documents or likely to seriously subvert discipline in the Office in which he is working, or if he is involved in scandals, particularly corruption, and it is necessary in wider public interest to deal strictly with such cases and thereby demonstrate the policy of the Government, or where a prima facie case is made out after preliminary inquiry justifying his prosecution which is likely to end in his conviction and/or dismissal, removal or compulsory retirement from service. Even in such cases, the principles of natural justice require that every effort is made to finalize the charges against the official within 3 months, review the suspension itself periodically, and if it is no longer necessary to keep the official under suspension, revoke the same and reinstate him in service as early as possible.

9) A set of basic guidelines on dealing with various complaints, departmental inquiries, etc. issued by the Central Vigilance Commission,

is enclosed for the guidance of the Disciplinary Authorities/Inquiry Officers (Annexure _II)

10) On receipt of the complaint, the Head of the Department should get it investigated through departmental Vigilance Officer, If on the basis of investigation, a prima facie case is established , then and then only, the matter may be referred to the Vigilance Department for detailed investigation.

11) Complaint involving mere administrative irregularities such as, absence from duties, private business etc. should be dealt at the departmental level itself , and only those cases having Vigilance angle and involving corruption, possessing of assets disproportionate to known sources of income, etc. should be brought to the notice of the Vigilance Department for detailed investigation.

12) A good number of complaints received are either anonymous or pseudonymous. Such complaints are mostly false and malicious and are often made against the employees out of jealousy or with a view to prejudice the service career. Obviously, inquiries into such complaints have an adverse effect on the morale of the employees. Hence, the Central Vigilance Commission has advised that no action should be taken on anonymous or pseudonymous complaints against the employees. However, when there are reasons for doubts, the pseudonymous character of a complaint could be verified by inquiring from the complainant, if he has disclosed his address, whether it has actually been sent by him. If he cannot be contacted at the address given or if no reply is received from the complainant within a reasonable time, it should be presumed that the complaint is pseudonymous and ignored.

Sd/-
(ASHOK KUMAR)
Development Commissioner
&
Chief Vigilance Officer.

To,
1. All the Secretaries to Government.
2. All Heads of Departments/Offices.
3. The Chief Vigilance Officer, Secretariat, Panaji.
4. All Inquiring Authorities in Panel.

Contd.../-

ANNEXURE - 1

Sr.No	Name & Designation of the Charged Official	Department/Office to which he/she belongs	Date of preliminary hearing	Dates of subsequent hearings	Present stage of the inquiry	Remarks
1	2	3	4	5	6	7

Cont.../-

ANNEXURE - II

1. PROCEEDINGS PRIOR TO REGULAR HEARINGS

Inquiry Officer (I.O.) takes cognizance of a case or receipt of the following documents from the Disciplinary Authority (D.A.):-

(i) Article of Charge;
(ii) Statement of imputations of misconduct or misbehavior;
(iii) Reply to the charge or a clear statement that the public servant has not replied within specific time;
(iv) List of witnesses by whom the articles of charge are proposed to be sustained;
(v) Statement of such witnesses recorded during the investigation;
(vi) List of documents by which the article of charge are to be proved;
(vii) Copy of Memorandum addressed to the Suspect Public servant;
(viii) Poof of receipt of the documents by the Government servant concerned;
(ix) Orders appointing the Inquiry Officer and the Presenting Officer and
(x) Bio-data of the Charged Officers in Form 1.

1.2 Documents (i) , (ii) and (iii) gives an idea about the cases in support of charge and defence version in a nutshell. Documents (iv), (v) and (vi) indicate how the charge is sought to be proved. Document (vii) will indicate the rules under which the proceedings are to be held. Document (viii) will prove that the charge Officer has received the documents. I.O. should satisfy himself that he has been correctly appointed (document ix). He should check all the documents and study the case fully. He should identify the points for clarification at the preliminary hearings.

1.3 I.O. will then send a notice to the Suspect Public Servant (SPS) asking him (a) to present himself for preliminary hearing at the appointed place, on a date and time within 10 days, (b) intimate the name of his defence assistant and (c) in case the defence assistant is a legal practitioner to produce the Department's permission to engage him. He will also intimate the presenting Officer (P.O.) about the date, time and place of the preliminary hearing. The P.O will bring copies of statements of the listed witnesses and the listed documents within him.

1.4 At the preliminary hearing, I.O. will ask Suspected Public Servant whether he pleads guilty and if he has any defence to make. If he pleads unequivocally guilty, I.O. shall proceed to record his findings. If Suspected Public Servant refuses or omits to plead or pleads not guilty, I.O. will (a) ascertain from S.P.S. whether he accepts the authenticity or genuineness of the documents in the list accompanied the Chargesheet, (b) record admitted facts, (c) decide in consultation with S.P.S. and P.O. witnesses and documents necessary to prove or disprove not admitted issues; (d) fix regular hearings on a date not later than 30 days at a convenient place and send a programme of inquiry in Form 2 to the Chief Vigilance Officer (C.V.O.). Natural justice is not violated if the place of inquiry is fixed by I.O. suo moto.

1.5 If either party fails to appear at the preliminary hearings, the I.O. may proceed to fix the date and place for regular hearing and send intimation to the parties.

1.6 I.O. will also record an order that S.P.S. may for the purpose of preparing his defence (i) inspect within 5 clear days documents; a list of which was sent to him with the charges; (ii) submit a list of witnesses to be examined on his behalf with their addresses indicating what issues they will help clarifying; and (iii) submit a list of additional documents which S.P.S. may wish to have access to, indicating the relevance of the documents to the presentation of his case. If P.O. and S.P.S. are present, they will be supplied with the copies of the order. In case either or both are absent, they would sent by registered post A.D to reach them in good time.

1.7 If S.P.S. fails to indicate and convince the I.O. about the issues to which the deposition of his witnesses and production of additional documents are relevant, I.O. may reject the request in writing for examining the witnesses or requisitioning the documents. If, however, he finds that the witnesses are relevant, they will be examined. If documents are relevant, I.O. will arrange to have the documents to be shown to S.P.S. In case of doubt, a point may be stretched in favour of S.P.S. Even when I.O. has decided to call for documents, the authority having custody of possession of the documents may decide that the production of such documents would be against public interest of security of the state.

1.8 On the date and at the place fixed for inspection of documents, the public servant will be given facilities to see them. The inspection will be in the presence of P.O. or his substitutes or any other gazetted Officer deputed for the purpose by I.O. S.P.S. may keep notes or extracts but it will need to be ensured that the documents are not tempered with during the course of inspection. S.P.S. will not be allowed to take photostate copies but if I.O. decides that authenticity of any documents is in doubts, he may arrange to supply its photostate copy to S.P.S.

1.9 Normally, P.O. and S.P.S. should themselves ensure that their witnesses are present. In case they are not able to do so, I.O. may in appropriate cases, or when he finally decides to call upon a person to tender evidence, issue summons through P.O., S.P.S. or through registered post A.D.

1.10 Any public servant may be requested by I.O. to depose in a case. I.O. may send a copy of such summons to the Department Office head under whom a public servant is working with request that the public servant concerned be asked to make it convenient to attend the inquiry. Non-compliance can be treated as conduct unbecoming of a public servant.

1.11 Forms 3 and 4 can be used for summoning public servant and private individuals, respectively.

2. REGULAR HEARINGS

2.1 I.O. Should start regular hearings on the fixed day and should take particular care to see that once a regular hearing is started, a case is heard DE DIE IN DIEM i.e. from day to day. This is fair to both the parties. It is not fair that an indifferent P.O. is allowed to lengthen the agony of S.P.S. who may be innocent. It is not fair that S.P.S. allowed to waste public money and time by delaying the proceedings. There should be no adjournment except for illness supported by medical certificate or some such unavoidable and adequate reasons.

2.2 (a) Admitted documents and facts can be taken note of straight away.

(b) P.O. should introduce those documents which are not admitted. He should examine the witnesses in any way which will bring out the case in a logical and understandable order. He will examine them without putting leading questions i.e. questions which suggest a definite answer. This examination can be done by P.O.

(c) After the examination is over, the witnesses may be cross-examined by S.P.S. or his Defence Assistant to bring out facts which have not come in examination, to remove any discrepancies or to prove the reliability or other wise of the witnesses. It is the duty of I.O. to see that witnesses understand the question properly and to protect them against any unfair treatment. He should disallow questions if the cross-examine is irrelevant, oppressive or of inordinate length.

(d) After cross-examination, P.O. can re-examine the witness on any points on which he has been cross-examined but not on any new matter unless specifically allowed by the I.O. In that case, the other party will have a right to further cross-examine the witness.

(e) If at any stage party wishes to cross-examine his own witness, he may so with the permission of I.O.

2.3 At any time during the inquiry, the inquiry officer may put such question to a witness as he thinks fit to bring out the truth so that he has a fair and clear understanding of the whole case. I.O. may also allow both the sides to cross-examine such witness on any question put by him.

2.4 Any time during the inquiry, S.P.S. may decide to plead guilty. In that case, I.O. may in his discretion accept the plea and record his findings or he may continue the case to its conclusion.

2.5 If before the close of the case the Disciplinary Authority, P.O. produces new evidences not included in the list of documents and witnesses given to the Government Servants, S.P.S. will entitled to have a copy of such lists and adjournment of atleast 3 clear days and an opportunity for inspecting a relevant documents. It is obvious, however, that P.O. should avoid such a course of action.

2.6 It would not be correct for either party ordinarily to record a witness or produce further evidence to fill up any gap in evidence. He can do so only where there is an inherent lacuna or defect in the evidence originally produced.

2.7 After the closure of the case for the Disciplinary Authority, I.O. will ask S.P.S. to state his defence and produce his witnesses. If he submits his defence in writing, every page it will be signed by him. If orally, I.O. will record it and get it signed by him. The copy of the statement will be given to the P.O.

2.8 S.P.S. or his Defence Assistant will then proceed to examine his witnesses who will then be cross-examined by P.O. and if necessary be re-examined by S.P.S.

2.9 S.P.S. cannot be forced to give evidence. However, if he offers himself as his own witness, he can be examined by the Defence Assistant and cross-examined by P.O.

2.10 At the end of the case, P.O. shall examine S.P.S. generally to enable him to explain any circumstances against him and he may do so even if S.P.S. has offered himself as a witness.

2.11 On the completion of evidence of both sides, I.O. should proceed to hear the arguments only if the case is complex he may permit them to present a written briefs. P.O. should be given not more than two days to present his brief unless the rule prescribe a longer period. While presenting his briefs, he should certify that a copy of the brief has been received by S.P.S. S.P.S. should also be given two days thereafter for filling his brief.

2.12 All evidence will be taken down as far as possible in a narrative form to the dictation of I.O. Previous statements admitted by witness may be taken on records as evidence. The deposition of each witness will be on a separate sheet of paper at the head of which will appear the number of the case, the name of the witness, and sufficient information as to his age, designation or occupation, residence etc. for complete identification. Generally deposition of state on defence witnesses will be recorded as narration's and numbered SW1, SW2.....or DW1, DW2.....as the case may be. Exhibits will be numbered as S1, S2..... or D1, D2..... After the evidence is recorded, I.O. will have the depositions read out to the witnesses in the presence of both the parties. If the witness denies correctness of any part of the record except verbal changes, the I.O. will not alter the evidence but will record the facts separately. He will record a certificate at the end of each deposition as follows: " read over to the witness in the presence of the accused and admitted correct/objections of witnesses recorded". The witness will sign every page of the deposition. If witness refuses to sign, I.O. will record this fact and sign. I.O. should take particular care to explain the deposition to the witnesses if the deposition has been given in the language other than the language in which the record is kept.

2.13 I.O. will maintain a daily order-sheet to record in brief the business transacted on each day of the hearing. Requests and representations made by either party should also be dealt with and disposed of in the sheet. In particular the following points should find mention in the Order Sheet :-

i) The additional documents and the witnesses asked for by S.P.S. in his defence.
ii) The additional documents and D.Ws permitted by the I.O.
iii) Reasons for disallowing the remaining documents and witnesses.
iv) Whether the additional documents permitted as relevant, were made available for inspection of S.P.S. and were inspected by him.
v) If the authority having custody of any such document does not consent to its production, the facts of such refusal.

2.14 During an inquiry if the Inquiry Officer feels it necessary to amend the charge-sheet or frame an additional charge, he may do so as long as he gives a fresh opportunity to S.P.S. to explain the charges against him. I.O. can hold the inquiry from the stage considered necessary to give reasonable opportunity to the S.P.S. to submit his defence or produce his evidence in respect of the amended Charge-Sheet.

2.15 If the evidence is able to establish a part of transaction/event which by itself continues a misconduct/misbehaviour, the Inquiry Officer can express his findings whether such misconduct is proved or not, as long as the imputations clearly state the event and the defence has adequate opportunity to reply them.

2.16 If S.P.S. does not submit his written statement of defence within a time specified or does not appear before I.O. or refuses to comply with the provisions of the rules, the I.O. may hold the inquiry ex-parte.

2.17 If an Inquiry Officer is changed in the middle of a case or if a case is transferred to another than it is within the discretion of the Inquiry Officer to hear the case de novo or from the stage which it had reached, keeping in mind the facts that the Charged Officer must receive fair and just treatment consistent with avoiding waste of time.

2.18 Disciplinary should not be stayed except under orders or a Court of competent jurisdiction or under the written orders of the Disciplinary Authority.

3. CONDUCT OF I.O.

3.1 After discussing the mechanics of proceedings, it would be appropriate to discuss the conduct to be observed by I.O., discussion on Natural Justice is obviously relevant.

3.2 Two observations are needed. It needs to be emphasized that Natural Justice does not supplant any law or rule. It is only supplementary. Secondly, rules of Natural Justice are generally referred to by or on behalf of the defence. He should in fairness apply to both the parties.

3.3 The rules of Natural Justice cannot be elevated to the position of the Fundamental Rights. Their aim is to secure justice or to put it negatively, to prevent miscarriage of justice. The rules can operate only in areas not covered by any law validly made. This is the view taken by the Supreme Court in the case of Union Of India Vs. J.N. Sinha and others (AIR 1971 SC 40). Since the Disciplinary Rules contain clear provisions about the conduct of the inquiries at various stages, the rules of Natural Justice cannot be invoked for going beyond or round the scope of the rules at any stage. In the case of A.K. Das Vs. Sr. Supdt. of Post Offices (AIR 1969, A&N 99), it has been held that if the Procedure lead down in the C.C.S. (C.C.A.) Rules is complied with, there can be no complaint of violation of Natural Justice.

3.4 Natural Justice is not defined in any rules, but the concept is fairly crystalised through judicial pronouncements and covers three important principles:-

(i) right of other party to be heard;
(ii) no person can be judge in his own cause; and
(iii) justice is not only done but should be seen to be done.

In other words, where there are no specific provisions in rules and procedures, either party has a right to "fair hearing", "unbiased judgement" and "clear speaking order".

3.5 Our disciplinary rules provide time-limits for various purposes like appearance before and I.O., for preliminary hearings, like giving an opportunity to S.P.S. to have his say and to cross-examine the opposite witnesses and I.O.'s witnesses and lastly to argue out his case at he conclusion of the hearing.

3.6 However, it is obvious that there will be exceptions to limits prescribed for hearing, such as, those based on illness or natural calamities. In such case, I.O. should appropriately give minimum necessary adjournment. The adjournment has to be minimum necessary because justice has to be effective has to be quick. It would not be correct for I.O. to allow the P.O. or S.P.S. to dominate the proceedings by asking adjournment. What either party deserves is fair and reasonable opportunity to be heard and not and unfair and unreasonable opportunity to obstruct and hinder.

3.7 For unbiased hearing, an I.O. should obviously have any interest in the case. During hearings, he is expected to be serene and even-handed, even through his patience at times may be tried. At the same time, he cannot permit either party to engage in every trick to delay proceedings and put a spoke in the wheel of justice.

3.8 The I.O. should bear in mind that the technical rules of the Evidence Act are not applicable to domestic inquiries. Hearsay evidence is not barred. The Supreme Court and the High Courts have held that even "hearsay evidence is logically probative, though its probative value may be strong or weak according to the facts and circumstances of the case and if it is logically probative, a Tribunal is entitled to act upon it". It has also been held at though "in admitting hearsay evidence the Tribunal must observe the rules of natural justice, it does not mean that it must be tested by cross-examination".

3.9 There has been an argument whether the I.O. should interrupt during the hearing or even argue while the proceedings are on and whether this constitutes violation of Natural Justice. It is not correct to conclude that every intervention or argument or even a hostile remark of an I.O. is indicative of bias. As Supreme Court has observed " If every remark of a Judge made from the bench is to be construed is indicating prejudice, I am afraid most Judges will fail to pass the exacting test". In the course of an argument, a judge sometimes expresses his opinion, tentatively formed, sometimes even strongly worked; but that does not always mean that the case has been prejudiced. An argument in a Court can never be

effective if the Judges do not sometime point out what appears to be an underlying fallacy in the apparent possibility thereof; and every Lawyer or litigant who forms an apprehension on that score cannot be said to be reasonably doing so. (Vishwanathan Vs. Abdul Vazid – AIR 1963 SCI).

3.10 After having said that I.O. should not be biased, but should give fair opportunity to all the parties, it may be mentioned that this conclusion have to be based on a report which looks reasonable. I.O. should clearly indicate the relation between the imputations, evidence and conclusions. The conclusion should be logical. It should not appear as I.O. has made up is mind and is then making a one sided presentation of facts to support it. While studying a case or rationalising a point or commenting on a witness, the language should be sober, becoming and dignified. It should be judicious and should poise and balance. It should not be satirical or vicious. The pen of an I.O. should be used like a knife of a surgeon, just enough to probe into the relevant tissues and not more. On the other hand, merely summarising the versions of the two sides and selecting one is not right.

3.11 I.O. is expected to be unbiased, fair, just and judicious. He is not interested whether the S.P.S. is proved guilty or exonerated. His only interest is fair play and justice. He will, thereof, continuously endeavour to see that both sides get a reasonable opportunity to place their view points. He should equally be alert to check any tendency on the part of either party to delay or hinder the proceedings. He should remind himself of the Court observation in Bhole Nath Vs. DTC: "Natural Justice prescribes only a minimum standard of fair procedure and this minimum cannot be bloated into rigmarole of technicalities to vitiate the inquiry some how or other. To do so would not be Natural Justice but on the other hand unnatural perverted justice".

4. ASSESMENT OF EVIDENCE

4.1 An Inquiry Officer should not start assuming the correctness of the imputations/charges or the defence version, that would be bias.

4.2 His first duty is to study and understand the department's case and the defence version thoroughly. He must endeavour to reconstruct the conduct expected of S.P.S. He must ascertain all the details of the event or transaction and relevant circumstances attending on them. He must probe into what has happened, where and when. He must know who has done what and what he ought to have done. He should ascertain what was the role assigned to S.P.S. specifically in a relation to the charge; what was expected of him and what he did or omitted to do. He should conclude whether and which of the imputations/charges are proved.

4.3 He should then judge whether S.P.S. within his knowledge and experience behaved with due care and attention, reasonably and honestly; whether he violated the law, rules and procedures he was expected to follow; whether he knew or ought to have known the propriety and results of his acts. In other words, whether he behaved as a prudent man would have been expected to do so. He cannot say that he violated the procedure in the interest of Government Rules and procedures are let down in the interest of public by the persons whose responsibility is to do so. S.P.S. is supposed to follow them. If he has any ideas about better rules and procedures, he

should propose amendments but not break them until the amendments are effective.

4.4 The word "malafides" should be used with great caution. Malafides is irrelevant in proving a misconduct as it is not a necessary element of it. Every act of a public servant is expected to be honest, bonafide and reasonable. If there is any doubt, it is for him to dispel it. An act is not honest when it is not just and fair or when it causes wrongful gain or wrongful loss. It is not bonafide when it is committed without due care and attention. It is not reasonable when a fair and prudent person would not do it.

4.5 In most of the cases S.P.S. raises a plea of absence of malafides. It is not right to expect that the P.O. should prove malafides if the act itself speaks. If a person is found travelling by train without ticket, malafides must be presumed unless he proves otherwise. If a Government Servant is unable to explain satisfactorily his disproportionate assets, it is natural to presume that such assets where amassed in a corrupt way. Malafides thereof will have to be judged from the circumstances of each transaction or event, powers and responsibilities vested in each officer and ultimately what a prudent and rational person would do in those circumstances and with those powers and responsibilities.

4.6 The Inquiry Officer after considering the oral and documentary evidence, noting who said it, when and in what circumstances, whether what was said or done was consistent with the normal probability of human behaviour, and noting the demeanour of the witnesses, should draw inferences as a rational and prudent person would. He should then record his conclusions on each charge whether it is proved or not. He should particularly that the relies on facts which have come into evidence and which the accused Government Servant had opportunity to refute.

4.7 The standard of proof required in departmental inquiry differs materially from the standard of proof required in the criminal trial. The Supreme Court has held that the standard of proof required in a disciplinary inquiry is that of preponderance of probability and not proof beyond a reasonable doubt.

4.8 The report of I.O. should contain:-

(i) reference to the order of his appointment as Inquiry Officer;
(ii) article of charge in brief, indicating those which are dropped/admitted and which requires discussion;
(iii) for each charge inquired into,
  (a) the case in support of the charges,
  (b) the case of defence,
  (c) assessment of evidence, and
  (d) the findings.

In complex cases, it may be necessary to give a brief statement of the transaction/event which amounts to or leads to misconduct.

In certain cases it may be desirable for the sake of clarity, to narrate not only such transaction/event but also the case of the disciplinary authority and that of defence, before considering charges individually.

4.9 The report will be accompanied by:-

(a) a folder containing (i), (ii) and (iii) of para 1.1;
(b) an appendix in form 5;
(c) a list of exhibits together with exhibits produced during the inquiry;
(d) a list of witnesses examined together with their deposition in the order they were taken during the inquiry;
(e) a folder containing daily order sheet;
(f) a folder containing evidence of witnesses, written statement of S.P.S. and briefs, and
(g) correspondence file.

4.10 If the Inquiry Officer concludes that an allegation other than that described in the original article of charge is proved, he may record his finding on such charge as long as the S.P.S. had admitted the facts or had an opportunity of rebutting them.

4.11 I.O. will send his report and on the record of inquiry together with extra copies for the Central Vigilance Commissioner, D.A., each S.P.S. and a copy for C.B.I. in cases investigated by them.

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