

## Steps for holding the Major Penalty proceeding

When the Disciplinary Authority (DA) decides to hold major penalty proceeding. [Rule 14(2)]

### Approval of Charge sheet:

DA has to approve the charge sheet [Rule 14(3)]

### Signature on the charge sheet:

- If the President is the DA – An officer authorized under Article 77(2) of the Constitution to authenticate the order on behalf of President.
- In cases where the DA other than the President – DA itself to sign the charge sheet.

### [Charge Sheet]

DA shall deliver a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article or charges is proposed to be sustained. [Rule 14(4)(a)]

### [Written Statement of Defence (WSD)]

On receipt of article of charge, the Govt Servant (GS) shall submit his WSD within a period of 15 days, extendable for a period of 15 days at a time by the DA but shall not exceed 45 days from the date of receipt of article of charge. [Rule 14(4)(b)]

DA records its findings and shall act in manner laid down in Rule 15 [Rule 14(5)(a)]

If all the articles of charges have been admitted

Drop the charges

If the charges have not been admitted by GS and DA accepted the reply.

Either does not admit the charge or does not submit the WSD.

### [Defence Assistant]

GS may take the assistance of any other Govt. Servant or Legal Petitioner (Only if Presenting Officer a Legal Petitioner) or allowed by the DA. [Rule 14(8)]

GS shall appear before the IA within 10 days as specified by the IA or within such further time, not exceeding 10 days, as the IA may allow. [Rule 14(7)]

DA may itself inquire into any article of charge or appoint an Inquiring Authority (IA) and Presenting Officer (PO) [Rule 14(5)(c)]

**[Proceedings before the IA]**

IA shall ask GS whether he is guilty or has any defence to make. If he pleads guilty to any of the articles of charge, the IA shall record the plea, sign the record & obtain the signature of GS thereon. Thereafter, the IA to return a finding of guilt in respect of admitted charge(s). **[Rule 14(9) & 14(10)]**

if the GS fails to appear within the specified time or refused or omits to plead, IA Shall require the PO to produce the evidence by which he proposes to prove the articles of charge.

The IA shall adjourn the case to a later date, not exceeding 30 days, after recording an order that the GS may :-

- (i) inspect the document (s) within 5 days of the order, extendable to not more than 5 days by the IA, attached with the Charge-Sheet ;
- (ii) submit a list of witnesses to be examined on behalf of GS ; and
- (iii) give a notice within 10 days of the order or within such further time not exceeding 10 days as the IA may allow, for discovery or production of any documents which are in possession of the Government but not mentioned in the charge sheet. **[Rule 14(11)]**

**Production of documents**

Authority, having the custody of requisitioned documents, may inform the IA that production of document(s) would be against public interest or security of State. IA shall thereafter communicate this to GS and withdraw the requisition made by it for production of document (s). **[ Proviso to Rule 14(13)]**

**[Requisition of Documents]**

Request of GS for production of document shall be forwarded to concerned authority in whose custody the documents are kept. IA may, however, refuse, for the reasons to be recorded in writing, to requisition documents if in its opinion such documents not relevant to the case. Authority shall produce the documents by the due date or issue a non-availability certificate before the IA within 1 month **[Rule 14(12) & 14(13)]**

**Enquiry Stage (DA's Case)**

On the date fixed for inquiry, listed documents to be produced by PO; witnesses to be examined by PO, may be cross examined by GS/ Defence Assistant. PO shall be entitled to re-examine the witnesses. **[Rule 14(14)]**

**[New Evidence]**

- ❖ Before closing the case on behalf of DA, PO may be allowed to produce new evidence or itself call for new evidence or recall and re-examine any witness. In all such eventualities, the GS shall be entitled to have a copy of list of new evidence.
- ❖ IA to adjourn the inquiry for three clear days, excluding the day of adjournment and day of hearing.
- ❖ IA to give an opportunity to GS for inspection of such new documents and to allow GS to produce new evidence if necessary in the interests of justice.

**[Rule 14(15)]****[Enquiry stage (GS's Case)]**

After the case is closed on behalf of DA, GS shall be required to state his defence, orally or in writing

**[Rule 14(16)]****[Enquiry stage (GS's Case)]**

The GS may examine himself in his own behalf if he so prefers.

**[Rule 14(17)]****[Enquiry stage (GS's Case)]**

The witness produced by the GS shall then be examined, cross-examined by PO and re-examined by GS

**[Rule 14(17)]****[General Examination]**

The IA may, after the Government servant closes his case, and shall, if the Government servant has not examined himself, generally question GS on the circumstances appearing against him in the evidence to enable GS to explain any circumstances appearing in the evidence against him.

**[Rule 14(18)]****[PO and CO brief]**

Where IA decides to take written brief, PO may first submit its written brief and a copy thereof must be made available to the GS. Thereafter, GS may file its written brief.

**[Rule 14(19) and OM No. 11012/18/77-Estt.(A) dated 2.09.1978 ]**

**[Submission of Report by IA]**

After conclusion of the proceedings, IA to prepare the Report, which shall be forwarded to DA.

**[Rule 14(23)]**

IA shall conclude the inquiry within 6 months, which can be extended by DA for six months at a time, for reasons to be recorded by DA or the authority authorized by it.

**[Rule 14(24)]**

**[Action on Inquiry Report (IR)]**

DA, after reasons to be recorded, may remit the case to the IA for further inquiry.

**[Rule 15(1)]**

DA shall forward a copy of the final IR together with its own tentative reasons for disagreement, if any, to the GS, for submission of written representation/submission, if any, within 15 days.

**[Rule 15(2)]**

DA can impose penalty from clause (i) to (ix) of the Rule 11. Not necessary for DA to afford opportunity to GS of making representation on penalty proposed to be imposed.

**[Rule 15(6)]**

**[Sharing of UPSC advice with CO]**

UPSC advice has to be forwarded to GS, who shall be required to submit, if he so desires, his reply within 15 days.

**[Rule 15(3)]**

**[UPSC consultation, Wherever necessary]**

DA shall forward to UPSC

- (i) IA Report + disagreement, if any
- (ii) DA's comments on the GS's representation + disagreement note, if any, and all case records of the inquiry proceedings.

**[Rule 15(3)]**



## Important Notes

### ❖ Bias petition of CO [OM No. 39/40/70-Estt.(A) dated 9.11.1972]

Whenever an application is moved by a Government servant against whom disciplinary proceedings are initiated under CCS (CCA) Rules, 1965 against the Inquiry Authority on ground of bias, the proceeding should be stayed and the application referred alongwith the relevant material, to the appropriate authority for considering the application and passing of appropriate order thereon.

### ❖ Ex parte inquiry [Rule 14 (20) of the CCS (CCA) Rules, 1965].

Ex-parte inquiry can be resorted to only when the following conditions are satisfied:

- a) Articles of charge should have been delivered
- b) The charged officer had failed to submit the written statement of defence on or before the specified date or
- c) Does not appear in person before the Inquiring Authority or
- d) Fails or refuses to comply with the provisions of the CCS(CCA) Rules.

### ❖ Daily Order Sheet:

Daily Order Sheet is the record of the progress of the case handled by the IA during a day. It is prepared and maintained by the IA. It needs to be appreciated that Daily Order Sheet will be the most authentic record for ascertaining as to what happened in the course of inquiry because it is signed by all present.

### ❖ Abbreviations used in the flow chart.

- a) DA – Disciplinary Authority
- b) IA – Inquiring Authority is a Inquiry officer appointed by DA to inquire into the charges.
- c) GS – Government Servant against whom disciplinary proceedings are initiated
- d) PO – Presenting Officer

## Steps for holding the Minor Penalty proceeding under Rule 16

### Decision of the DA to take action

When the Disciplinary Authority (DA) decides to hold minor penalty proceeding.

### [Charge Sheet – Minor Penalty]

Inform the Government servant in writing of the proposal to take action against him along with the imputations of misconduct or misbehavior on which it is proposed to be taken and give him reasonable opportunity of making such representation as he may wish to against the proposal **[Rule 16(1)(a)]**

DA considers the representation of GS and decides not to hold any inquiry, for reasons recorded in writing.

In Case no consultation with UPSC required, DA can impose any minor penalty.

DA forwards the representation of GS, along with his comments to UPSC for advice wherever consultation necessary.

DA shall forward or cause to be forwarded a copy of the advice of the UPSC to GS who shall be required to submit, if he so desires, his written representation within 15 days time. **[Rule 16(1)(d)]**

DA can impose penalty from clause (i) to (iv) of the Rule 11 [Minor Penalties]