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**A GUIDE TO
INQUIRY OFFICER (IO)
AND
PRESENTING OFFICER (PO)**

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DEPARTMENT OF ATOMIC ENERGY

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Functions of Inquiry Officer (IO)

❖ Basic responsibility of Inquiry Officer (IO)

- The basic purpose of appointment of Inquiry Officer (IO) is to inquire into the truth of the imputations of misconduct or misbehaviour against a Government Servant.
- Inquiry Report is to be submitted by the IO **within 6 months from the date of appointment.**
- The model time limit prescribed is as below :
(CVC Circular No. 21/12/21 vide No. 000/VGL/018 dated 03/12/2021)

Stage of Departmental Inquiry	Time limit
Fixing date of Preliminary Hearing and inspection of listed documents, submission of Defence documents/witnesses and nomination of a Defence Assistant (DA) (if not already nominated)	Within 4 weeks from the date of appointment of Inquiry Officer
Inspection of relied upon documents / submission of list of Defence Witnesses / Defence Documents / Defence Witnesses, procuring of additional documents and submission of certificates confirming inspection of additional documents by CO/DA. Issue of summons to the witnesses, fixing the date of Regular Hearing and arrangement for participation of witnesses in the Regular Hearing. Regular Hearing on day-to-day basis.	3 months
Submission of Writing Brief by PO to CO and IO	15 days
Submission of Written Brief by CO to IO	15 days
Submission of Inquiry Report form the date of receipt of Written Brief by PO/CO	30 days

- IO should submit monthly report to Disciplinary Authority latest by 10th day of the succeeding month indicating present status/progress of the inquiries being conducted by him in the attached format as *SPECIMEN-I*.
(CVC Circular No. 22/12/21 vide No. 000/VGL/018 dated 08/12/2021)

❖ Various activities performed by the Inquiry Officer (IO)

Various activities to be performed by the IO may broadly be classified as under :

- 1) Pre-hearing stage
- 2) Preliminary hearing stage
- 3) Regular hearing stage
- 4) Post hearing stage
- 5) Tackling some unusual circumstances which may arise

Details of activities to be performed by the IO during each stages are as follows :

1) PRE-HEARING STAGE

Various activities to be performed by the IO may broadly be classified as under:

(a) Verifying the appointment order and the enclosed documents :

It is desirable that the IO scrutinizes the order appointing him as IO and the enclosed documents thoroughly.

(b) Acknowledging the appointment :

It is a good practice for the IO to acknowledge his appointment. This will keep the Disciplinary Authority informed that the IO has taken charge of the matters and is proceeding with the task. In case the IO is not able to take up the appointment, on account of any valid reason, it is all the more important that the Disciplinary Authority is informed well in time. While a person is not expected to turn down the appointment as IO due to personal reasons, there may be circumstances wherein the IO may have to decline to act so in the interest of the case or due to organisational reasons. Such occasions should be extremely rare. But when such circumstances arise, the IO should inform the Disciplinary Authority without any delay with complete reasons.

(c) Undertaking to be submitted by IO :

As per DoPT OM No. DOPT-1668597747466 dated 16.11.2022, the designated IO shall be required to give an undertaking that -

- (1) He/she is not a witness or a complainant in the matter to be inquired into or a close relative or a known friend of the delinquent Government Officer. A certificate to this effect will be obtained from the Inquiry Officer with respect to every inquiry and placed on record;
- (2) He/she shall maintain strict secrecy in relation to the documents he/she receives or information/data collected by him/her in connection with the inquiry and utilize the same only for the purpose of inquiry in the case entrusted to him/her.

(d) Preparation of the Daily Order Sheet (DOS) :

Daily Order Sheet (DOS) will be the most authentic record for ascertaining as to what happened in the course of inquiry because it is signed by all present. IO should therefore pay adequate care to the accurate recording of DOS. All the opportunities granted to the PO needs to be recorded without fail because these will help in countering the allegation, if any, of inadequate opportunity raised by the Charged Officer (CO) at the later stage.

While no definite format has been prescribed for the purpose, it is desirable to indicate the following in the Daily Order Sheet :

- (i) Serial No of the order,
- (ii) Date,
- (iii) Parties present,
- (iv) Details of examination, cross-examination and re-examination as the case may be,
- (v) Signature of the parties concerned.

This will be done throughout the inquiry. Copy of DOS must be given to the parties present and signing it. While conducting *Ex-parte proceedings, it would be a good practice to dispatch the copies of the DOS to the delinquent official. This action will manifest the bonafide of the authorities, in case the delinquent official alleges denial of reasonable opportunity, bias, malafide, etc.

Daily Order Sheets are to be prepared whenever there is a progress in the case – not only when hearing takes place. Thus the first Daily order sheet may be made on the day when IO received appointment order. It may as per *SPECIMEN-II*.

*EX-PARTE PROCEEDINGS :

- (i) An inquiry in which the charged officer is not present is known as Ex-parte proceedings.
 - (ii) Rule 14(20) of the CCS (CCA) Rules, 1965 provides that *“If the Government servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex-parte.”*
 - (iii) Following pre-cautions are necessary before resorting to ex-parte inquiry :
 - Before proceeding Ex-parte, IO must ensure that communications are being sent to the correct address of the Charged Officer.
 - Secondly, it must be ensured that sufficient time is being provided for attending the inquiry, with due regard to the travel arrangement between the place of the inquiry and place of posting or residence of the Charged Officer.
 - Thirdly the Inquiring Authority must ensure that the Charged officer is not on sanctioned medical leave or on any official assignment.
 - If the CO is under suspension, IO must check whether the non-attendance is attributable to the non-payment of subsistence allowance.
 - Whether the Charged Officer has been warned that continued absence would result in the proceedings being conducted ex-parte.
 - (iv) Ex-parte inquiry may not be held if the charged officer is under suspension and is unable to attend the inquiry proceedings due to non-receipt of subsistence allowance.
- (e) Analysing and understanding the Charges :
- IO has to perceive the Charge Sheet based on the Charge-Fact-Evidence co-relation. This will help in analyzing and appreciating evidence. This will help the IO to proceed with the task with clarity right from the initial stage.
- (f) Fixing the date for Preliminary Hearing :
- First hearing of the case must be scheduled within 10 days of the IO receiving the Charge sheet and the said time limit is extendable by maximum of another 10 days. The date for the preliminary hearing must be chosen in such a way as to provide reasonable opportunity to the parties concerned. For example, if the parties are posted outstation, date of hearing must

be fixed so that there is adequate time for the communication to reach the parties and adequate time for the parties for undertaking the travel and reaching the venue. The Notice of Preliminary hearing may be as per *SPECIMEN-III*.

- (g) Sending communication to the parties about hearing.
- (h) Informing the controlling officers of CO and PO
- (i) Ascertaining as to whether the CO has finalised a *Defence Assistant and if so, informing the Controlling Officer of the Defence Assistant as per *SPECIMEN-IV*.

*DEFENCE ASSISTANT :

- (i) CO may take the assistance of any other Government servant posted in any office either at his headquarters or at the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits; Provided that the Government servant may take the assistance of any other Government servant posted at any other station, if the IO having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.
- (ii) CO shall not take the assistance of any other Government servant who has 3(three) pending disciplinary cases on hand in which he has to give assistance.
- (iii) The Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to the following conditions :
 - The retired Government servant concerned should have, retired from service under the Central Government.
 - If the retired Government servant is also a legal practitioner, the restrictions on engaging a legal practitioner by a delinquent Government servant to present the case on his behalf, contained in Rule 14(8) of the CCS (CCA) Rules, 1965 would apply.
 - The retired Government servant concerned should not have, in any manner, been associated with the case at investigation stage or otherwise in his official capacity.
 - The retired Government servant concerned should not act as a defence assistant in more than 7(seven) cases at a time. The retired Government servant should satisfy the inquiring officer that he does not have more than seven cases at hand including the case in question.
- (iv) Defence Assistant should be permitted to examine, cross examine and re-examine witnesses and make submission before the IO on behalf of CO, if the CO makes a request in writing in this behalf.

2) PRELIMINARY HEARING STAGE

The phase of the hearing from the first appearance of the parties before the IO till the stage of recording of evidence is known as preliminary hearing.

During Preliminary Hearing, IO is required to perform the following actions :

(A) Making arrangements for conducting the hearing :

Even before the arrival of the parties, the IO should ensure necessary seating arrangements for conducting hearing. Preferably, the seating arrangement should be such that both the parties will have equal access to the IO and the IO can watch and hear both the parties comfortably. At any rate, the seating arrangements should not be such as to send any signal that IO is inclined in favour of either of the parties. Besides, it is desirable that no one other than those who are required for the hearing is present in the room while the hearing is in progress. This may not always be possible, and it depends upon the space provided to the IO by the organisation. However, IO should apply his mind to this aspect. Making a stenographer and a computer available for the recording the proceedings is another aspect to be attended to by the IO.

(B) Setting the stage for smooth conduct of hearing.

(C) Asking the statutory questions :

- (i) When the CO appears before the IO, it is not a bad idea to ask the CO during the first hearing as to whether the CO has faith in the IO and record the answer to the question. This may be quoted against the CO, in case the CO raises any frivolous complaint of bias later.
- (ii) On the other hand, if the CO expresses lack of faith in the IO in the first instance, the same may be recorded and the CO may be advised of the option open to him/her for seeking change of IO.
- (iii) Whenever an application is moved by CO against the IO on grounds of bias, the proceedings should be stayed and the application referred, alongwith the relevant material, to the appropriate reviewing authority for considering the application and passing appropriate orders thereon.
- (iv) The IO should ask whether the CO admits the charges or has any defence to make. If the CO pleads guilty in respect of any of the charges, the IO should get it recorded and get it signed by the CO. IO shall send a finding of guilt to the Disciplinary Authority in respect of the charges for which the CO has pleaded guilty.

(D) Finalisation of the question of Defence Assistant.

(E) Fixing dates for inspection of the originals of the documents :

IO shall fix schedule for inspection of the documents listed in Annexure-III of the Charge sheet by CO, within 5 days, which is extendable by a maximum of another 5 days.

(F) Fixing dates for the submission of the list of additional documents and witnesses required by the CO for the purpose of his defence.

(G) Finalisation of the documents and witnesses admissible for defence.

(H) Supply of documents/additional documents to the Charged officer for defence :

- (1) The IO shall, if the CO fails to appear within the specified time or refuses or omits to plead, require the PO to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the CO may, for the purpose of preparing his defence :
 - Inspect within 5 days of the order or within such further time not exceeding 5 days as IO may allow, the documents specified in the Annexure-III to Charge Memorandum;
 - Submit a list of witnesses to be examined on his behalf;
 - Give a notice within 10 days of the order or within such further time not exceeding 10 days as the IO may allow, for the discovery or production of any documents which are in the possession of Government but not mentioned in the Annexure-III to Charge Memorandum. The CO shall indicate the relevance of the documents required by him to be discovered or produced by the Government.

- (2) Any document sought by the CO for the purpose of defence, can be denied only on either of the two grounds :
 - Firstly, if the IO is of the opinion that the document is not relevant to the case. In this case, the IO has to pass a reasoned order as prescribed in the proviso to Rule 14(12) of the CCA Rules.
 - In addition to the above, authority in possession of the documents may deny the production of documents for reasons to be recorded in writing that the production of the said document is against public interest.
 - After relevancy of additional or defence documents is decided, the IO should write to the authority in whose custody or possession those documents are lying, for their production by such date as may be specified in the requisition. In his letter, he shall specify the purpose for which these documents are required and also certify that he is satisfied that the documents are relevant for deciding the issued before him. The letter should always be addressed to the Head of the Department concerned, even though the documents may actually be in possession of some subordinate officer. The letter for obtaining the documents may be as per *SPECIMEN-V*.

- (3) The right of access to official records is not unlimited and it is open to the Government to deny such access if in its opinion such records are not relevant to the case, or it is not desirable in the public interest to allow such access. The power to refuse access to official records should, however, be very sparingly exercised. The question of relevancy should be looked at from the point of view of the defence and if there is any possible line of defence to which the document may, in some way be relevant, though the relevance is not clear to the Disciplinary Authority at the time that the request is made, the request for access should not be rejected. The power to deny access on the ground of public interest should be exercised only when there are reasonable and sufficient grounds to believe that public interest will clearly suffer. Cases of the latter type are likely to be very few and normally occasion for refusal of access on the ground that it is not in public interest should not arise if the document is intended to be used in proof

of the charge and if it is proposed to produce such a document before the Inquiry Officer, if an enquiry comes to be held. It has to be remembered that serious difficulties arise when the Courts do not accept as correct the refusal by the disciplinary authority, of access to documents. In any case, where it is decided to refuse access, reasons for refusal should be cogent and substantial and should invariably be recorded in writing.

- (4) CO often ask for access to and/or supply of copies of -
 - (i) Documents to which reference has been made in the statement of allegations;
 - (ii) Documents and records not so referred to in the statement of allegations but which the CO concerned considers are relevant for the purposes of his defence;
 - (iii) Statements of witnesses recorded in the course of -
 - A preliminary enquiry conducted by the department; or
 - Investigation made by the Police.
 - (iv) Reports submitted to Government or other Competent Authority including the Disciplinary Authority by an officer appointed to hold a preliminary inquiry to ascertain facts;
 - (v) Reports submitted to Government or other Competent Authority including the Disciplinary Authority, by the Police after investigation.
- (5) A list of the documents which are proposed to be relied upon to prove the charge and the facts stated in the statement of allegations should be drawn up at the time of framing the charge (This will incidentally reduce the delay that usually occurs between the service of the charge-sheet and the submission of the written statement). The list should normally include documents like the First Information Report, if there is one on record. Anonymous and pseudonymous complaints on the basis of which inquiries were started need not be included in the list. The list so prepared should be supplied to the officers either along with the charge-sheet or soon thereafter as possible. The officer should be permitted access to the original documents mentioned in the list, if he so desires.
- (6) If the officer requests for any official records other than those included in the list, the request should ordinarily be acceded to in the light of what has been stated in para 2(H)(3) above.
- (7) While there is no doubt that the CO should be given access to various official records like documents to which reference has been made in the statement of allegations and documents and records which the CO considers are relevant for the purposes of his defence, though the relevancy is not clear to the disciplinary authority, doubts very often arise whether official records include the documents mentioned at items, (iv) and (v) in para 2(H)(4) above. Reports made after a preliminary inquiry, or the report made by the Police after investigation, other than those referred to in clause (a) of Sub-Section 1 of Section 173 of the Code of Criminal Procedure, are usually confidential and intended only to satisfy the Competent Authority whether further action in the nature of a regular departmental inquiry or any other action is called for. These reports are not usually made use of or considered in the inquiry. Ordinarily, even a reference to what is contained in these reports are not made in the statement of allegations. It is not

necessary to give access to the CO to these reports. (It is necessary to strictly avoid any reference to such reports in the statement of allegations as, if any reference is made, it would not be possible to deny access to these reports; and giving of such access to these reports will not be in public interest for the reasons stated above).

- (8) The only remaining point is, whether access should be given to the statements of witnesses recorded in the course of a preliminary inquiry conducted by the department or investigation made by the Police and if so, whether the access should be given to the statements of all witnesses or to the statements of only those witnesses who are proposed to be examined in proof of the charges or of the facts stated in the statement of allegations. These statements can be used only for the purposes of cross-examination and the CO is called upon to discredit only those witnesses whose statements are proposed to be relied upon in proof of the charges or of the facts stated in the statement of allegations. As such, the CO need not be given access to the statements of all witnesses examined in the preliminary enquiry or investigation made by the Police and access should be given to the statements of only those witnesses who are proposed to be examined in proof of the charges or the facts stated in the statement of allegations. In some cases, the CO may require copies of the statements of some witnesses on which no reliance is proposed to be placed by the Disciplinary Authority on the grounds that he proposes to examine such witnesses on his side and that he requires the previous statement to corroborate the testimony of such witnesses before the inquiring authority. Previous statements made by a person examined as a witness is not admissible for the purposes of corroboration and access to such statements can safely be denied. However, the law recognises that if the former statement was made at or about the time when the fact took place and the person is called to give evidence about such fact in any proceedings, the previous statement can be used for purposes of corroboration. In such cases, it will be necessary to give access to the previous statements.
- (9) The further point is the stage at which the CO should be permitted to have access to the statements of witnesses proposed to be relied upon in proof of the charges or of the facts stated in the statement of allegations. As stated earlier, the copies of the statements of the witnesses can be used only for the purpose of cross-examination and, therefore, the demand for copies must be made when witnesses are called for examination during the oral inquiry. If such a request is not made, the inference would be that the copies were not needed for that purpose. The copies cannot be used at any subsequent stage as those statements are not to be taken into consideration by the Disciplinary Authority also. Copies should be made available within a reasonable time before the witnesses are examined. It would be strictly legal to refuse access to the copies of the statements prior to the evidence stage in the departmental inquiry. However, if the CO makes a request for supply of copies of statements referred at point No. (iii) of para 2(H)(4) above before he files a written statement, the request shall be acceded to.
- (10) It is not ordinarily necessary to supply copies of various documents and it would be sufficient if the CO is given such access as is permitted under the rules referred to above. When CO is permitted to have access to official records sometimes seek permission to take photostat copies thereof. Such permission should not normally be

acceded to, especially if the officer proposes to make the photostat copies through a private photographer as thereby third parties would be allowed to have access to official records which is not desirable. If, however, the documents of which photostat copies are sought for are so vitally relevant to the case (e.g., where the proof of the change depends upon the proof of the hand-writing or a document the authenticity of which is disputed), the Government should itself make photostat copies and supply the same to the CO. In cases which are not of this or similar type (the example given above is only illustrative and not exhaustive), it would be sufficient if the CO is permitted to inspect the official records and take extracts therefrom as is provided for in the provision of the Central Civil Services (Classification Control and Appeal) Rules.

- (I) Settling the issue of disputed documents.
- (J) Taking the documents on record.
- (K) Issue of certificates of attendance to the parties. This will be done during regular hearing stage also.
- (L) Deciding on the requests for adjournment. The parties are not allowed to dominate the proceedings by seeking frequent adjournments except in case of illness supported by medical certificates or any unavoidable circumstance.

The Daily Order Sheet (DOS) for Preliminary hearing may be as per *SPECIMEN-VI*

3) REGULAR HEARING STAGE

The Notice of Regular Hearing may be as per *SPECIMEN-VII*. During regular hearing stage, IO will continue to prepare and issue Daily Order Sheets (DOS) as per *SPECIMEN-VIII* and certificate of attendance as was being done earlier. In addition, IO will be performing the following activities :

- (a) Summoning witnesses
- (b) Monitoring the conduct of the examination of witnesses
- (c) Recording the statements of the witnesses
- (d) Recording the demeanour of the witnesses
- (e) Deciding objections about the questions raised during examination of witnesses.
- (f) Deciding requests for introducing additional witnesses.
- (g) Deciding requests for recalling witnesses
- (h) Asking the CO to state his defence on conclusion of the case of the Disciplinary Authority.
- (i) Putting the mandatory questions on conclusion of the case of the defence
- (j) Checking up from the CO as to whether he got sufficient opportunity for his defence.
- (k) Giving directions for the submission of the written briefs by the PO and the CO.

In case, a Government official who has been named as a witness in a departmental proceeding fails to turn up, the matter may be reported to the higher authorities of the witnesses.

4) POST HEARING STAGE

- During the last hearing, CO is examined in general about the circumstances appearing against him before closing the Inquiry.
- Rule 14(18) of CCS (CCA) Rules, 1965, provides that, the IO may, after the CO closes his case, and shall, if the CO has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the CO to explain any circumstances appearing in the evidence against him.
- This is a formal action and important stage of the inquiry proceedings required to be taken by the IO before closing the inquiry. It provides valuable opportunity to CO to explain the circumstances going against him in the evidence which has been recorded. Hence, IO should ensure that the stage is not omitted except where charged officer had offered himself to be his own witness and subjected to cross examination. It has been seen that many a times this is not formally recorded and the inquiry gets vitiated.
- It is imperative that the inquiry is conducted strictly in accordance with the procedures prescribed. The inquiry conclusion is logical and it should not appear as if mind has already been made up.
- As per Rule 14(19), IO has to hear arguments that may be advanced by the parties after their evidence has been closed. But he can, on his own or on the desire of the parties, take written briefs. In case he exercises the discretion of taking written briefs, it will be but fair that he should first take the brief from the PO, supply a copy of the same to the CO. In case the copy of the brief of the PO is not given to the CO, it will be like hearing arguments of the PO at the back of the CO.
- The IO will fix time limit for the PO and the CO to submit their respective written briefs.
- Thereafter, the IO prepares his report and submits the same to the Disciplinary Authority together with the records of the case.

5) PRODUCTION OF FRESH EVIDENCES

Rule 14(15) of CCS (CCA) Rules, 1965, provides that, if it shall appear necessary before the close of the case on behalf of the Disciplinary Authority, the IO may, in its discretion, allow PO to produce evidence not included in the list given to the CO or may itself call for new evidence or recall and re-examine any witness and in such case the CO shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for 3 clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The IO shall give the CO an opportunity of inspecting such documents before they are taken on the record. IO may also allow CO to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice.

Note : New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

❖ **Tackling some unusual circumstances which may arise**

IO cannot stay the proceedings except under one of the under mentioned two circumstances:

(i) When there is a stay order from the court of competent jurisdiction :

Under the above stated situation, the Disciplinary Authority must be promptly informed of the development, to enable the Disciplinary Authority to seek legal advice regarding scope of the order and to explore the possibility of filing appeal against the stay order. IO should not proceed with the inquiry unless the stay order is vacated by the court or the Disciplinary Authority informs, based on legal advice that the stay order does not apply to the case in question.

(ii) When the Charged Officer has expressed lack of faith in the IO :

The IO shall stay the proceedings forthwith and inform the CO that he is at liberty to seek a change of IO as per Rules. IO should also inform the CO that the proceedings cannot be stayed indefinitely to facilitate the CO making application for change of IO and that the CO must submit the application within a prescribed time (say one week) and submit proof thereof; else the IO is at liberty to proceed with the inquiry.

Simultaneously, the IO should apprise the Disciplinary Authority about the development and await further instructions.

❖ **Format of Inquiry Report to be prepared and submitted by Inquiry Officer :**

Rule 14(23) of the CCS (CCA) Rules broadly indicates the content of the Inquiry Report as under :

(a) After the conclusion of the inquiry, a report shall be prepared and it shall contain -

- The articles of charge and the statement of the imputations of misconduct or misbehaviour;
- The defence of the Government servant in respect of each article of charge;
- An assessment of the evidence in respect of each article of charge;
- The findings on each article of charge and the reasons therefor.

(b) Apart from the above, there is no statutory format for the Inquiry Report. However, the following format may be suggested :

- (i) An introductory paragraph in which reference will be made to the appointment of the Inquiring Authority and the dates on which and the places where the hearings were held;
- (ii) Charges that were framed;
- (iii) Charges which were admitted or dropped or not pressed, if any;
- (iv) Charges that were actually enquired into;
- (v) Brief statement of facts and documents which have been admitted;
- (vi) Brief statement of the case of the disciplinary authority in respect of the charges enquired into;
- (vii) Brief statement of the defence;

- (viii) Points for determination;
 - (ix) Assessment of the evidence in respect of each point set out for determination and finding thereon;
 - (x) Finding on each article of charge;
- (c) IO shall forward to the Disciplinary Authority the records of inquiry which shall include:
- (i) The Inquiry Report prepared by IO.
 - (ii) The written statement of defence, if any, submitted by the CO;
 - (iii) The oral and documentary evidence produced in the course of the inquiry;
 - (iv) Written briefs, if any, filed by the PO or the CO or both during the course of the inquiry; and
 - (v) The orders, if any, made by the disciplinary authority and the IO in regard to the inquiry.
- (d) The above mandatory requirement may be elaborated as under :
- Separate folders containing each of the following are required to be sent along with the Inquiry Report :
- (i) Documents produced in the course of inquiry
 - (ii) Documents produced on behalf of the Disciplinary Authority
 - (iii) Documents produced on behalf of the Charged Officer
 - (iv) Statements of witnesses by way Examination in Chief, Cross Examination and Re-examination in the order in which the witnesses were examined
 - (v) Daily Order Sheets relating to the Inquiry
 - (vi) Written Statements of defence made under Rule 14(4) and 14(16) of the CCA Rules or corresponding rule under which the inquiry was held
 - (vii) Submissions by the PO and the CO including written brief, if any, under Rule 14(19) of the CCA Rules or corresponding rule under which the inquiry was held.
 - (viii) Orders passed by the inquiry Authority and the Disciplinary Authority in the course of inquiry; the following, for example:
 - Order relating to allowing or rejecting the request by charged officer seeking additional documents for defence.
 - Order relating to request for appointment of a Legal Practitioner as defence Assistant.
 - Order on the request of the Charged Officer for change of Inquiring Authority, etc.
 - (ix) Correspondence entered into during the inquiry.

Role and Functions of Presenting Officer

❖ **Basic responsibility of the Presenting Officer (PO)**

Presenting Officer (PO) is appointed for the purpose of presenting the case of the Disciplinary Authority and to help IO to find truth in the charge(s).

❖ **Frequency of interaction between the PO and the Disciplinary Authority**

The PO presents the case on behalf of the Disciplinary Authority. Therefore, all the actions of the PO should have the approval of the Disciplinary Authority. PO should regularly be apprising the Disciplinary Authority about the proceedings of each hearing. The disciplinary authorities should be kept posted with the progress of oral enquiries. The Presenting Officer should send brief reports of the work done at the end of each hearing to the disciplinary authority.

PO should seek permission of IO before dropping any evidence or seeking permission of IO for introduction of any new evidence.

❖ **Various activities performed by the Presenting Officer (PO)**

The PO is required to lead the evidence of the Disciplinary Authority and satisfactorily answer the contentions raised by the CO. Thus, the explicit functions of the PO are:

- Presenting the documentary evidence
- Leading the oral evidence on behalf of the disciplinary authority
- Cross examining the defence witness
- Preparation and presentation of the written brief

Some of the actions such as liaison with the Disciplinary Authority has to be performed by the PO throughout the course of his assignment. Notwithstanding this, various actions to be taken by the PO in the course of his assignment can be conveniently categorised into the following four Stages :

- 1) Preparatory stage
- 2) Preliminary Hearing stage
- 3) Regular Hearing stage
- 4) Post hearing stage

Details of activities to be performed by the PO during each phase are as follows :

1) PREPARATORY STAGE

Following are the activities performed by the PO during the preparatory stage -

(a) Examine Appointment order and the documents received along with it :

PO receives the following documents along with the Appointment Order -

- (i) Charge Sheet along with the enclosures.
- (ii) Written Statement of defence submitted by the CO.
- (iii) In case the CO has not filed any Statement of Defence, a confirmation to the above effect and a confirmation to the effect that the Charge Sheet has been served on the CO.
- (iv) A copy of the order of appointment in respect of the IO.

(b) Establishing rapport with the Inquiry Officer :

PO is the agent of the Disciplinary Authority and his endeavor is to prove the charge. On the other hand, the IO is an impartial authority who is required to decide the case on the basis of the evidence led before him. Notwithstanding this position, the PO should consider himself as one assisting the IO in ascertaining the truth. Often it is said that the relationship between the Disciplinary Authority and the PO is similar to that between the client and an advocate. PO is compared to the Government Counsel. Every counsel is an officer of the court and owes a responsibility towards the court in helping the court to ascertain the truth. On the same analogy, the PO should consider himself as an officer under the IO assisting the latter to ascertain the truth. Immediately on receipt of the appointment order, the PO should get in touch with the IO and assure him of his co-operation. It is also desirable that the PO informs the IO of his address and phone number to facilitate easy communication. Needless to add, it will be unethical for a PO to influence the IO regarding the hearing and its outcome.

(c) Understanding the charge :

PO can present the case effectively only if he understands the case of the Disciplinary Authority thoroughly. Often the charge is that a person has done something which should not have been done or has failed to do something which should have been done. That someone has used abusive language, which should not have been done) is a charge. That a person has failed to keep the cash book up to date, (failed to do something, which should have been done) can be a charge. While charges like unauthorised absence, insubordination, etc. can easily be understood, there may be situations wherein the omission or commission of the CO may not be easily understandable.

The clue for understanding the charge is asking the following questions -

- (i) What has the CO done or failed to do?
- (ii) What was required to be done or not to have been done?
- (iii) Which rule or instruction prescribes what is required to be done or not to be done?

(d) Analysing the charge

The PO has to perceive the Charge-Fact-Evidence co-relation in the Charge Sheet.

For example, if there is a charge that an officer (working in a stores department) has procured certain items without any demand for the same from the sub-depots and thereby violated certain departmental instructions, the charge involves the following facts -

- (i) That there are some instructions relating to the manner of procurement of items.
- (ii) That the instructions require that the items can be procured only after the receipt of the demands from the sub-depots.
- (iii) That the officer purchased the specified items.
- (iv) That there was no demand from any sub-depot for these items.

(e) Link the facts to evidence :

Every fact that is required for establishing the charge must be presented through some evidence. PO must locate evidence at his disposal for establishing various facts. This can be done by listing out the facts to be proved in the inquiry and examining which piece of evidence (in Annexure-III and IV of Charge Sheet) will help in establishing the fact.

(f) Anticipate possible line of defence :

At the preparatory stage, the PO should also anticipate the line of defence, the CO will be taking.

(g) Visualise the transaction

2) PRELIMINARY HEARING STAGE

Following are the activities performed by the PO during the preliminary hearing stage -

(a) Collection of original documents :

Originals of the documents listed in Annexure-III of the charge sheet are generally held by the Disciplinary Authority. Normally they are retained by the Vigilance Section or the Administrative section which has processed the case for issue of Charge Sheet. The same will have to be obtained by the PO and kept in safe custody till it is got inspected by the CO and finally presented to the IO. Depending upon the nature of the documents and convenience of the parties, these documents may be taken over by the PO at an appropriate time. At any rate, the documents must be with the PO before the inspection of the same by the CO. It is advisable for the PO to critically examine the originals of the listed documents so that the disputes which the CO is likely to raise may be anticipated and proper remedial action can be planned.

(b) Finalising the schedule for the Inspection of the listed documents :

During the Preliminary Hearing, it is to be decided for the Inspection of the Documents. Inspection of the documents is required to be done within 5 days of the order or within such further time not exceeding 5 days as the IO may allow. The PO will have to indicate to the IO, his preference for the venue, date and time of the inspection of the listed documents. Depending upon the mutual convenience of the parties, the IO will fix the schedule for the inspection of the listed documents.

(c) Conducting the inspection of the listed documents :

Inspection of listed documents by the CO is a sensitive event in the disciplinary proceedings. IO is at liberty to leave it to the PO and CO. Under such a situation, it is for the PO to get the Inspection of listed documents completed. PO has to exercise great care and caution during the inspection of original documents by the CO. There have been occasions wherein the originals were destroyed during the inspection. At the same time, Inspection of originals is a valuable right of the CO and the same cannot be curtailed by unwarranted and unreasonable restrictions.

The following suggestions are worth considering at the time of inspection of documents-

- (i) The CO may not be allowed to hold a pen while carrying out the inspection of the originals. A small dot or bar or a comma or a colon may change the contents of the originals enormously. As CO is entitled to take notes at the time of inspection, he may be advised to take notes with a pencil.
- (ii) Preferably give one document at a time. There may be a number of documents which will be inspected by the CO. Simultaneously handing over all the documents to the CO will have many disadvantages. It is appropriate to give the documents one after another. Once a document has been inspected, the same must be taken back and then another document may be handed over for inspection. As the CO has been supplied with the copies of the documents, he may not require to compare the contents of the originals. However, if the CO requires to simultaneously peruse two documents, the same may be allowed ensuring the safety of the documents.
- (iii) Keep the document equidistant between the CO and the PO. This will enable the PO to have physical control of the original document if the CO tries to destroy.
- (iv) Never leave the documents in the custody of the CO. It is advisable that the PO is always present in the room throughout the inspection. In case there is an extreme emergency, the PO may temporarily suspend the inspection, keep the documents under lock and key and request the CO to wait for a few minutes. Alternatively, depending upon the nature of the document being inspected, some reliable person may be asked to take charge of the situation temporarily.
- (v) The CO and the Defence Assistant must be treated with utmost courtesy, when they visit the PO for the inspection of the documents. In case there is any difference of opinion about the rights of the CO or the limitations which the PO may impose, the matter may be referred to the IO rather than entering into an unpleasant debate.

(d) Additional documents required by the CO :

CO is entitled to ask for the documents which may be of help in his defence. In fact, the IO is required to ask for the details of the documents and witnesses required for the purpose of defence. Although it is for the IO to decide on the relevance of the documents and witnesses cited by the CO, PO need not be a mute spectator at this stage. Being a party to the proceedings, he has a right to express his opinion. Besides, he also has a role to assist the IO by way of bringing to the notice of the latter the rule position and the custodian of the document which has been cited by the CO.

(e) Collection of additional documents demanded by the CO :

Often, the IO requests the PO to collect the documents required by the CO for the purpose of his defence. This practice is likely to vitiate the inquiry and must be strictly avoided. The documents required by the CO must reach the IO direct from the custodian of the documents. Collection of the documents by the PO may result in allegations being leveled by the Charge Officer that the documents were tampered with while under the custody of the PO. If the IO requests the PO to collect these documents, the PO should politely apprise the IO of the problems involved. However, there can be no objection to the PO transiting these documents in sealed covers from the custodian of the documents to the IO.

(f) Handing over the listed documents to the IO after the inspection :

After the Inspection of the documents by the CO, in the next hearing, the PO is required to hand over the listed documents to the IO, who will be taking over the documents and marking them as SE-1, SE-2, etc.

At this stage, the PO should pay special attention to following aspects -

- (i) The facts regarding the admission and dispute over the listed documents should be correctly brought out in the Daily Order Sheet.
- (ii) The documents taken over by the IO are to be signed by the PO and the CO.
- (iii) PO should ensure that the details of the documents taken over are correctly reflected in the daily Order Sheet. This alone will serve as a receipt for the documents handed over by the PO.

(g) Obtaining the copies of the documents required by the CO :

As the CO is entitled for the copies of the listed documents, the PO is also entitled for the copies of the documents relied upon by the CO. He is also entitled to peruse the originals of these documents. These documents will be collected by the IO and will not be under the custody of the CO. Hence, the PO will have to request the IO for the copies of these documents and the perusal of the originals.

The PO has to carefully go through the documents cited by the CO and try to anticipate as to how the CO will draw support from the same. As the CO will submit his written brief only after the submission of brief by the PO, there is no way for the PO to understand as to how the CO relies upon the documents for the purpose of his defence. PO can only anticipate this and accordingly do the needful in his written brief.

3) REGULAR HEARING STAGE

During Regular Hearing, witnesses of both sides are examined.

(a) Examination of the witnesses of the Disciplinary Authority :

- (i) Deciding the witnesses who may be dropped. At times Annexure-IV of the Charge Sheet may contain witnesses only for the purpose of introducing the disputed documents. In case the CO did not dispute the authenticity of the documents, it may not be necessary to call such witnesses. IO may accordingly be informed. This has to be done with the approval of the Disciplinary Authority.
- (ii) Deciding as to whether any additional witness is required. This also has to be done with the approval of the Disciplinary Authority. Thereafter a request will have to be made to the IO.
- (iii) Contacting and briefing the witnesses. There is nothing unethical in contacting the witnesses in advance and informing of the proposed hearing. If the pre-recorded statement of the witnesses is available, the same may be shown to the witness also. The witness may also be informed of the likely questions during cross examinations and be advised to be ready with answers.

- (iv) Needless to add that it would be highly unethical to request or persuade or pressurise the witness to depose in any particular manner.
- (v) Arranging the attendance of the above witnesses.
- (vi) Conducting the examination of the witness :

Normally, examination in chief may not be in the question answer form. If a pre-recorded statement is available, the same may be read over to the witness and he/she may be asked to confirm the same. The witness may also be asked if he/she would like to add, subtract, or modify the contents of the pre-recorded statement. Otherwise, the witnesses may be asked to introduce themselves and then state the facts relevant to the case. PO, however, is expected to be ready with the details which are to be stated by the Witness. In case any particular information was not covered by the witness in his/her narration of the events, PO should specifically ask for the same.

- (vii) Conducting re-examination of the witnesses where necessary :

PO should carefully watch and note down the likely confusions created through the cross-examination. Appropriate questions must be put during re-examination, to clear the misconceptions created through cross-examination.

- (b) Cross examination of Defence Witnesses :

The task of cross examining the defence witnesses involves the following activities:

- (i) Gathering the background information about the defence witnesses.
- (ii) Anticipating the deposition of the defence witnesses.
- (iii) Observing the examination in chief of the defence witnesses so as to judge the veracity of the statements, involvement/interest of the witnesses and also to object to leading questions.
- (iv) Cross examining the defence witnesses.

- (c) Precautions required to be taken on the part of the PO during the Regular Hearing stage:

Efficient examination-in-chief, comprises in asking questions in such a way that the witness understands what answer is required. In addition to the general skill of questioning during examination of witnesses, the PO should take the following precautions:

- (i) Ensure that no leading questions are asked during examination in chief and re-examination of the State witnesses.
- (ii) Object to the Leading questions raised by the CO or the Defence Assistant during examination or re-examination of the defence witnesses.
- (iii) Raise objections, where necessary, during cross examination of State witnesses.
- (iv) Ensure that recorded statement of witness is true to the depositions and free from errors.

4) POST HEARING STAGE

After the hearing is over, PO is required to submit the Written brief. The purpose of the brief is to establish, by relying on the evidence produced in the inquiry that the charge stands proved. Inquiry Report is written and submitted in a fortnight after receipt of written brief by PO and CO/Defence Assistant.

There is no prescribed format for the brief of the PO. However, the following format is suggested for the purpose :

- (a) Introduction
- (b) Details of the charges levelled
- (c) Proceedings during the Preliminary Hearing: How was inspection of documents conducted; how many documents were disputed by the CO; how many documents were taken on record by the IO and how many were to be introduced through oral evidence; what were the documents and witnesses demanded by the CO for the purpose of his/her defence.
- (d) Proceedings during the regular hearings; how many witnesses were led from each side; whether any new evidence was introduced during the hearing;
- (e) Opportunities given to the CO: appointment of Defence Assistant; adjournments demanded and granted; documents and oral witnesses demanded and allowed, etc.
- (f) Case of the Disciplinary Authority : the Charge-facts-evidence co-relation
- (g) Evidence on behalf of the Disciplinary Authority
- (h) Evidence on behalf of the CO
- (i) Analysis of the Evidence presented by the parties.
- (j) Conclusion

References :

- (1) Handbook for Inquiry Officers and Disciplinary Authorities 2013 issued by Institute of Secretariat Training and Management, DoPT.
- (2) OM No. DOPT-1680068417507 dated 29.03.2023 issued by DoPT, regarding handling of disciplinary proceedings in respect of Central Civilian Employees.
- (3) Circulars issued by Central Vigilance Commission.
- (4) Specimens from G.B. Singh's Handbook for Inquiry Officers, Presenting Officers and Defence Assistants.

SPECIMEN-I (Monthly report to be submitted by IO)

Name of Organisation

Name of Inquiry Officer Report for the month of

Sl. No.	Name and Designation of CO	Date of appointment of IO	Date of Preliminary Hearing	Whether Brief Hearing required. If yes, date of Brief Hearing	No. of Regular Hearing held till the end of the month	Dates of Regular Hearing	Date of submission of PO's Brief	Date of submission of Defence Brief	Date of submission of IO's Brief	Time taken since appointment as IO (upto the stage inquiry has progressed so far)	Whether time limit given in Commission's Circular No. 21/12/2021 dated 03.12.2021 is being adhered to. If not, reasons thereof
1	2	3	4	5	6	7	8	9	10	11	12

Signature of Inquiry Officer

To,
Disciplinary Authority

Copy to : Chief Vigilance Officer

SPECIMEN-II (When IO receives appointment order)

Daily Order Sheet No. 1

Dated

Parties present : None

Received Order No. dated from appointing me as the Inquiry Authority to look into charges framed against vide Memorandum No. dated

The following papers were also received along with the Charge Sheet :

- (a) Copy of the Charge Sheet
- (b) Copy of the written statement of defence
- (c) Copy of order No. dated appointing as Presenting Officer in the case.

An acknowledgement was sent to the Disciplinary Authority.

Sd/-
Name
Designation

SPECIMEN-III (Notice of Preliminary Hearing)

No.

(Name of Department/Office)

To

.....

(Name and address of CO)

Subject : Departmental inquiry into the charges framed against

Sir,

I have been appointed as inquiring authority to conduct inquiry in the case above cited, vide Order No..... dated issued by....., a copy of which has been endorsed to you.

2. Accordingly, a preliminary hearing of the case will be held by me on..... *(date and time)* at..... *(place)*. You are required to attend the hearing along with your Defence Assistant, if any, and wait until further directions. In case you fail to appear at the appointed date and time, proceedings will be taken ex-parte.

3. It may be noted that no witnesses will be examined on the said date. The purpose of the preliminary hearing is to sort out the preliminaries and to lay down a time schedule for inspection of the listed documents and submission of the lists of additional documents and defence witnesses.

4. Receipt of this notice may please be acknowledged.

Yours faithfully,

(Inquiring authority)

Copy to : *(name and address of presenting officer)*

- With a request to attend the Preliminary hearing at the appointed date and time along with all listed documents, in original.

(Inquiring authority)

SPECIMEN-IV (Intimation to the Controlling Authority of the Defence Assistant)

No.

(Name of Department/Office)

To

.....

(Name and address of Authority)

Subject : Departmental inquiry into the charges framed against

Sir,

I have been appointed as inquiring authority to conduct inquiry in the case above cited, vide Order No..... dated issued by.....

2. The charged employee in the said case has nominated *(Name of Defence Assistant)*, who is working as under your control, to assist him to present the case on his behalf, in terms of Rule *(here quote the enabling rule)*.

3. The oral inquiry in the case shall commence on *(date and time)* at *(place)* and shall continue, from time to time, on the dates and time to be fixed later, till completion.

4. It is requested that said *(Name of Defence Assistant)* may please be directed to attend the inquiry proceedings on the date and time as mentioned above and also as may be fixed hereinafter.

Yours faithfully,

(Inquiring authority)

Copy to :

1. *(Name and address of Defence Assistant)*2. *(Name and address of Charged Officer)*

(Inquiring authority)

SPECIMEN-V (Requisition for Documents)

No.

(Name of Department/Office)

To

.....

(Name and address of Authority)

Subject : Departmental inquiry into the charges framed against

Sir,

I have been appointed as inquiring authority to conduct inquiry in the case above cited, vide Order No..... dated issued by.....

2. I am enclosing a copy of an extract from notice of discovery or production of documents received from the charged employee, above named, for the purpose of preparing his defence. It is certified that I have scrutinised the list and am satisfied that the documents mentioned therein are relevant to the case.

3. It is requested that arrangements may please be made to produce the same before the undersigned on *(date and time)* at *(place)*.

Yours faithfully,

(Inquiring authority)

SPECIMEN-VI (DOS for Preliminary Hearing)

Daily Order Sheet No.

Disciplinary proceedings against
(Proceedings on)

Parties present :

(1)

(2)

(3)

(4)

The Charged Officer has received the Chargesheet. He pleads not guilty.

2. The Presenting Officer is directed to offer inspection of documents listed in Annexure III to the Chargesheet, to the Charged Officer (with his Defence Assistant, if any) in his office at(*time*) on(*date*). He should also supply to the Charged Officer the copies of the earlier statements, if any, made by the witnesses during the preliminary inquiry.

3. The Charged Officer should thereafter, by.....(*date*) submit a list of additional documents he wishes to inspect and a list of witnesses, he would like to examine, in his defence. Full particulars of the documents showing the custody and relevance to the charges must be furnished. In the case of witnesses, the complete postal addresses, the name and designation of their controlling authorities, if they are in public employment, and their relevance to the charges has to be furnished.

4. The charged officer should also intimate name, designation and address of the employee, if any, who will assist him during the inquiry. In case, he has been allowed the assistance of a legal practitioner by the disciplinary authority, the name and address of such legal practitioner should be intimated together with a copy of the letter of permission.

5. The next date of hearing will be intimated in due course.

Sd/- (with date)
Presenting Officer

Sd/- (with date)
Charged Employee

Sd/- (with date)
Inquiry Officer

SPECIMEN-VII (Notice of Regular Hearing)

No.

(Name of Department/Office)

To

.....

(Name and address of CO)

Subject : Departmental inquiry into the charges framed against

Sir,

I have been appointed as inquiring authority to conduct inquiry in the case above cited, vide Order No..... dated issued by....., a copy of which has been endorsed to you.

2. A preliminary hearing of the case was held on..... *(date)* at*(Place)* by me.

3. Notice is hereby given to you that the regular hearings in the case shall commence on *(date and time)* at *(place)*. In these hearings, full opportunity will be given to you to examine the evidence in support of the charges and to adduce evidence in your defence.

4. You should present yourself in time to attend the aforesaid oral inquiry on the dates specified above and on the date/dates as may hereinafter be fixed and intimated to you. In case you fail to appear on the appointed date and time, the proceedings will be taken ex-parte.

5. Receipt of this notice may please be acknowledged.

Yours faithfully,

(Inquiring authority)

Copy to : *(name and address of presenting officer)*

- With a request to attend the Regular Hearing at the appointed date and time.

(Inquiring authority)

SPECIMEN-VIII (DOS for Other Hearings)

Daily Order Sheet No.

Disciplinary proceedings against
(Proceedings on)

Parties present :

(1)

(2)

(3)

(4)

The hearing began at (*time*). (*No. of witnesses*) prosecution witnesses, namely, S/Shri..... , and were examined, and cross-examined by the charged employee/his Defence Assistant. Copies of their depositions have been supplied to the Presenting Officer and the Charged employee.

2. The Presenting Officer has requested for an adjournment for three days, as the last Prosecution witness, Shri could not reach in time due to a train accident. His request is granted. Next hearing will be held on..... (*date*) at (*time*). No change in venue.

Sd/- (with date)
Presenting Officer

Sd/- (with date)
Charged employee

Sd/- (with date)
Inquiry Officer

SPECIMEN-IX (Notice to Witnesses)

No.

(Name of Department/Office)

To

.....

(Name and address of Witness)

Subject : Departmental inquiry into the charges framed against

Sir,

I have been appointed as inquiring authority to conduct inquiry in the case above cited, vide Order No..... dated issued by.....

2. You have been cited as a witness in the said case. Since I consider your evidence to be relevant and material to the matter under inquiry, you are requested to appear before me on *(date and time)* at *(place)* to give evidence.

3. You are also requested to produce the documents mentioned below, before me, on the said date and time.

1.

2.

3.

4. Receipt of this letter may please be acknowledged.

Yours faithfully,
(Inquiring authority)

SPECIMEN-X (Notice to Witnesses through his Controlling Authority)

No.

(Name of Department/Office)

To

.....

(Name and address of Authority)

Subject : Departmental inquiry into the charges framed against

Sir,

I have been appointed as inquiring authority to conduct inquiry in the case above cited, vide Order No..... dated issued by.....

2. *(Name of Witness)*, who is working in the capacity of under your control, has been cited as a witness in the said case. Since I consider his/her evidence to be relevant and material to the matter under inquiry, I am to request that the said *(Name of Witness)* may be directed to appear before me on *(date and time)* at *(place)* to tender his/her evidence.

3. Kindly acknowledge receipt.

Yours faithfully,

(Inquiring authority)

Copy to : *(Name of Witness)* - for information

(Inquiring authority)