

PART I – RULES

THE ORISSA CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1962

GOVERNMENT OF ORISSA POLITICAL & SERVICES DEPARTMENT NOTIFICATION

The 7th May 1962

No. 5906-Gen. – In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Orissa hereby makes the following rules, namely :-

The Orissa Civil Services (Classification, Control and Appeal) Rules, 1962

PART I – GENERAL

1. Short Title And Commencement – (a) These rules may be called the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962.

(b) They shall come into force at once.

2. Definition – In these rules, unless the context otherwise requires –

(a) “Appointing Authority” in relation to a Government means –

(i) the authority empowered to make appointments to the service of which the Government servant is, for the time being, a member or to the grade of the service in which the Government servant is, for the time being, included, or

(ii) the authority empowered to make appointments to the post which the Government servant, for the time being, holds, or

(iii) the authority which appointed the Government servant to such service, grade or post as the case may be, or

(iv) where the Government servant having been a permanent member of any other service or having substantively held any other permanent post, has been in continuous employment of Government, the authority which appointed him to that service or to any grade in that service or to that post;

(b) “Commission” means the Orissa Public Service Commission;

(c) “Disciplinary authority” in relation to the imposition of a penalty on a Government servant, means the authority competent under these rules to impose on him that penalty;

(d) “Government” means the Government of Orissa;

(e) “Department of Government” means the Departments prescribed under the Rules of Business and includes Orissa Legislative Assembly till separate rules are framed by the Governor;

(f) “Government servant” means a person who is a member of a service or who holds a civil post under the State and includes any such person on foreign service or whose services are temporarily placed at the disposal of the Union Government or any other State Government or a local or other authority and also any person in the service of the Union Government or any other State Government or a local or other authority whose services are temporarily placed at the disposal of the State Government;

(g) “Schedule” means the schedule to these rules;

(h) “Secretary” means a Secretary to the Government of Orissa in any Department and includes-

(i) a Special Secretary, or an Additional Secretary; and

¹[(ii) a Joint Secretary placed in independent charge of a Department]

(i) “Service” means a civil service of the State

[1. Substituted by P. & S. Department notification No. 15421-Gen., dated the 12 September 1974]

3. Application – (1) These rules apply to all Government servants except-

- (a) persons in casual employment;
- (b) persons subject to discharge from service on less than one month’s notice;
- (c) persons for whose appointment and other matters covered by these rules special provision is made by or under any law for the time being in force in regard to the matter covered by such law; and
- (d) members of the All India Services.

(2) Notwithstanding anything contained in sub-rule (1), these rules shall apply to every Government Servant temporarily transferred to a service or post coming within exception (c) in sub-rule (1) to whom, but for such transfer, these rules would apply.

(3) Notwithstanding anything contained in sub-rule (1), the Governor may, by order, exclude from the operation of all or any of these rules any Government servant or class of Government servants.

(4) If any doubt arises –

- (a) whether these rules or any of them apply to any person, or
- (b) whether any person to whom these rules apply belongs to a particular service, the matter shall be referred to Governor whose decision thereon shall be final.

4. Special provision by agreement - where it is considered necessary to make special provision in respect of a Government servant inconsistent with any of these rules, the authority making the appointment may, by agreement with such Government servant, make such special provisions and thereof on these rules shall not apply to such Government servant to the extent to which the special provisions so made are inconsistent therewith :

Provided that, if the appointing authority is other than the Governor, the previous approval of the Governor shall be obtained by such authority.

5. Protection of right and privileges conferred by any law or agreement – Nothing in these rules shall operate to deprive any Government servant of any right or privilege to which he is entitled –

- (a) by or under any law for the time being in force, or
- (b) by the terms of any agreements subsisting between such person and the Governor at the commencement of these rules.

PART II - CLASSIFICATION

¹[6. Classification of services – The Civil Services of the State shall be classified as follows -

- (i) State Civil Services, Group-A
- (ii) State Civil Services, Group-B
- (iii) State Civil Services, Group-C

If a service consists of more than one grade, the different grades may be included in different Groups.]

²[7. Constitution of State Civil Services – The State Civil Services, Group-A, Group-B or Group-C shall consist of such Services as specified by a general or special order of the Governor in this behalf and shall consist of such grades and such posts as may be created in each such Service from time to time :

Provided that if, after the issue of the order of the Governor, any new State Civil Service is constituted it shall, till it is classified by another order of the Governor, be deemed to be a State

Civil Service of the Class to which another classified State Civil Service carrying a comparable scale of pay belongs],

8. Classification of post – ³[(1) Civil Posts under the State other than those ordinarily held by persons to whom these rules do not apply or included in any State Civil Service shall by a general or special order of the Governor, issued in this behalf, be classified as follows :-

(i) State Civil Posts, Group-A

(ii) State Civil Posts, Group-B

1, 2 & 3 – Substituted by G. A. Department notification No. 17902-Gen., dated the 23rd May 2000 – Published in *Orissa Gazette* and given effect to from the 9th June 2000.

(iii) State Civil Posts, Group-C

(iv) State Civil Posts, Group-D]

(2) Any order made by the competent authority and in force immediately before the commencement of these rules relating to classification of civil posts under the State shall continue to be in force until altered, rescinded or amended by an order of Governor under sub-rule (1).

¹[(3) If any Civil post under the State has not been classified by an order of the Governor and a question as to its classification arises, the decision thereon of the appropriate department of Government after taking into account the class to which another Civil Post carrying a comparable scale of pay belongs, shall be final.]

²[8-A. Reference to State Civil Services and State Civil Posts – All references to State Civil Services/State Civil Posts, Class-I, Class-II, Class-III and Class-IV in all Rules, Orders, Schedules, Notifications, Regulations, Instructions in force immediately before the commencement of these rules shall be construed as references to State Civil Services/State Civil Posts, Group-A, Group-B, Group-C and Group-D as the case may be and any reference to “class or classes” therein in this context shall be construed as reference to “Group or Groups” as the case may be.]

9. General State Service – State Civil Posts of any class, not included in any other State Civil Service, shall be deemed to be included in the General State Service of the corresponding class and a Government servant appointed to any such post shall be deemed to be a member of that service unless he is already a member of any other State Civil Service of the same class.

PART III – APPOINTING AUTHORITIES

10. Appointment to Group-A Services and Posts – All appointments to State Civil Services, Group-A and State Civil Post, Group-A, shall be made by the Governor :

Provided that the Governor may, by a general or special order and subject to such conditions as he may specify, delegate to any other authority the power to make such appointment.

11. Appointments to other service and posts – [(1) All appointments to State Civil Services (other than State Civil Services, Group-A and General State Services) shall be made by the authorities specified in this behalf in the Schedule].

(2) All appointments to State Civil Posts, Group-B, Group-C and Group-D included in the General State Services shall be made by the authorities specified in that behalf by a general or special order of the Governor or, where no such order has been made by the authorities specified in the Schedule in this behalf.

PART IV-SUSPENSION

12. Suspension – (1) The appointing authority or any authority to which it is subordinate or any authority empowered by the Governor or the appointing authority in that behalf may place a Government servant under suspension –

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) where a case against him in respect of any criminal offence is under investigation or trial.

(2) A Government servant who is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention by an order of the appointing authority and shall remain under suspension until further orders.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

1. – Inserted vide G. A. Department Notification No. 6278-Gen., dated the 23rd February, 1989 – Published in the *Orissa Gazette* and given effect to from the 17th March 1989.

2. Inserted vide G. A. Department Notification No. 17902-Gen., dated the 23rd May 2000.

(4) Where penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by decision of a court of law and disciplinary authority, on a consideration of the circumstances of the case decides to hold a further inquiry against him on the allegation on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original orders of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5) An order of suspension made or deemed to have been made under this rules may, at any time, be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

(6) The disciplinary authority, while passing the final order of punishment or of release in the disciplinary proceedings against the Government servant, shall give directions about the treatment of the period of suspension, which is passed not as a measure of substantive punishment but as suspension pending inquiry, and indicate whether the suspension would be a punishment or not.

PART – V

DISCIPLINE

13. Nature of penalties – The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant, namely :-

- (i) Fine;
- (ii) Censure;
- ¹[(iii) Withholding of increments (without cumulative effect)]
- (iii)-A. Withholding of promotion
- (iv) Recovery from pay of the whole, or part of any pecuniary loss caused to Government, or to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by Government, or to a local authority set up by an Act of Parliament or of the Legislature of State, by negligence or breach of orders :
- (v) Suspension;
- (vi) Reduction to a lower service, grade or post or to a lower time-scale or to a lower stage in a time-scale.
- ²[(vi) A. Withholding of increments (with cumulative effect)]
- (vii) Compulsory retirement;
- (viii) Removal from service which shall not be disqualification for future employment, and
- (ix) Dismissal from service which shall ordinarily be a disqualification for future employment :

Provided that the penalty of fine shall be imposed only on Group-D Government servants.

Explanation – The following shall not amount to a penalty within the meaning of this rule :-

- (a) Withholding of increments of a Government servant for failure to pass a departmental examination in accordance with the rules or orders governing the service or post of the terms of his appointment;
- (b) Stoppage of a Government servant at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar;
- (c) Non-promotion, whether in a substantive or officiating capacity, of a Government servant after consideration of his case, to a service, grade or post for promotion to which he is eligible;
- (d) Reversion to a lower service, grade or post of a Government servant officiating in a higher service, grade or post on the ground that he is considered, after trial, to be unsuitable for such higher service, grade or post, or on administrative grounds unconnected with his conduct;

1, – Substituted vide G. A. Department Notification No. 35070-Gen., dated the 20-11-1998 – Published in the *Orissa Gazette* and given effect to from 20-11-1998.

2. Inserted vide G. A. Department Notification No. 35070-Gen., dated 20-11-1998.

- (e) Reversion to his permanent service, grade or post of a Government servant appointed on probation to another service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and order governing probation;
- (f) Replacement of the service of a Government servant whose services have been borrowed from the Central or a State Government or an authority under the control of the Central or a State Government at the disposal of the authority which had lent his services;
- (g) Compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement;
- (h) Termination of the services –
 - (i) of a Government servant appointed on probation during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation; or
 - (ii) of temporary Government servant in accordance with the terms of his appointment; or
 - (iii) of a Government servant employed under an agreement in accordance with the terms of such agreement.

14. Disciplinary Authorities – (1) The Governor may impose any of the penalties specified in rule 13 on any Government servant.

(2) Without prejudice to the provisions of sub-rule(4), any of the penalties specified in rule 13 may be imposed on a member of a Civil Service or a person appointed to a Civil post by the appointing authority or the authority specified in Schedule or by any other authority empowered in this behalf by a general or special order of the Governor.

(3) Subject to the provisions of sub-rule (4), the power to impose any of the penalties specified in rule 13 may also be exercised in the case of a member of a Civil Service, Class III or Civil Service, Class IV –

- (a) if he is Serving in a Department of the Government, by the Secretary to the Government of Orissa in that Department;

- (b) if he is serving in any other office, by the head of that office, except where the head of that office is lower in rank than the authority competent to impose the penalty under sub-rule (2).
- (4) Notwithstanding anything contained in this rule –
 - (a) no penalty specified in Clauses (vi) to (ix) of rule 13 shall be imposed by any authority lower than the appointing authority;
 - (b) where a Government servant, who is a member of a Service or is substantively appointed to any Civil Post, is temporarily appointed to any other service or post and the authority which would have been competent under sub-rule (2) to impose upon him any of the penalties specified in Clauses (vi) to (ix) of rule 13 had he not been so appointed to such other service or post is not subordinate to the authority competent to impose any of the said penalties after such appointment, the latter authority shall not impose any such penalty except after consultation with the former authority.

15. Procedure for imposing Major Penalties – (1) Without prejudice to the provisions of the Public Servants(Inquiry) Act, 1850, no order imposing on a Government servant any of the penalties specified in Clauses (vi) to (ix) of rule 13 shall be passed except after an inquiry held as far as may be in the manner hereinafter provided.

(2) The disciplinary authority shall frame definite charges on the basis of the allegations on which the inquiry is to be held. Such charges, together with a statement of the allegations on which they are based, shall be communicated in writing to the Government servant and he shall be required to submit, within such time as may be specified by the disciplinary authority, not ordinarily exceeding one month, a written statement of his defence and also to state whether he desires to be heard in person.

Explanation – In this sub-rule and in sub-rule (3), the expression, ‘disciplinary authority’ shall include the authority competent under these rules to impose upon the Government servant any of the penalties specified in Clauses (i) to (v) of rule 13.

(3) The Government servant shall, for the purpose of preparing his defence, be supplied with all the records on which the allegations are based. He shall also be permitted to inspect and take extracts from such other official records as he may specify, provided that such permission may be refused if, for reasons to be recorded in writing, in the opinion of the disciplinary authority such records are not relevant for the purpose or it is against public interest to allow him access thereto.

(4) On receipt of the written statement of defence or, if no such statement is received within the time specified, the disciplinary authority may itself inquire into such of the charges as are not admitted or, if it considers it necessary so to do, appoint a Board of Inquiry or an inquiring officer for the purpose.

Provided that if, after considering the written statement of defence, the disciplinary authority is of the view that the facts of the case do not justify the award of a major penalty, it shall determine, after recording reasons thereof, what other penalty or penalties, if any, as specified in Clauses (i) to (v) of rule 13 should be imposed and shall after consulting the Commission where such consultation is necessary, pass appropriate order.

(5) The disciplinary authority may nominate any person to present the case in support of the charges before the authority inquiring into the charges (hereinafter referred to as the ‘inquiring authority’). The Government servant shall have the right to engage a legal practitioner to present his case if the person nominated by the disciplinary authority, as aforesaid, is a legal practitioner. The inquiring authority may also, having regard to the circumstances of the case, permit the Government servant to be represented by a legal practitioner.

(6) The inquiring authority, shall, in the course of the inquiry consider such documentary evidence, and take such oral evidence as may be relevant or material in regard to the charges. The Government servant shall be entitled to cross-examine witness examined in support of the charges and to give evidence in person. The person presenting the case in support of the charges shall be

entitled to cross-examine the Government servant and the witness examined in his defence. If the inquiring authority declines to examine any witness on the ground that his evidence is not relevant or material, it shall record its reasons in writing.

(7) At the conclusion of the inquiry, the inquiring authority shall prepare a report of the inquiry, recording its findings on each of the charges together with reasons therefore. If in the opinion of such authority, the proceedings of the inquiry establish charges different from those originally framed, it may record its findings on such charges, provided that findings on such charges shall not be recorded, unless the Government servant has admitted the facts constituting them or has had an opportunity of defending himself against them. The inquiring authority may recommend the punishment to be inflicted when the charges are established on the findings.

(8) The record of the inquiry shall include –

- (i) the charges framed against the Government servant and the statement of allegations furnished to him under sub-rule(2);
- (ii) his written statement of defence, if any;
- (iii) the oral evidence taken in the course of the inquiry;
- (iv) the documentary evidence considered in the course of the inquiry;
- (v) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry;
- (vi) a report setting out the findings on each charge and the reasons therefore; and
- (vii) the recommendations of the inquiring authority, if any, regarding the punishment to be inflicted.

(9) The disciplinary authority shall, if it is not the inquiring authority, consider the record of the inquiry and record its findings on each charge.

¹[(10) (i) (a) If the inquiring officer is not the disciplinary authority, the disciplinary authority shall furnish to the delinquent Government servant a copy of the report of the inquiring officer and give him a notice by registered post or otherwise calling upon him to submit within a period of fifteen days such representation as he may wish to make against the findings of the Inquiring Authority.

(b) On receipt of the representation referred to in sub-clause (a) if the disciplinary authority having regard to the findings on the charges, is of the opinion that any of the penalties specified in clauses (vi) to (ix) of rule 13 should be imposed, he shall furnish to the delinquent Government servant a statement of its findings along with brief reasons for disagreement, if any, with the findings of the inquiring officer and give him a notice by registered post or otherwise stating the penalty proposed to be imposed on him and calling upon him to submit within a specified time such representation as he may wish to make against the proposed penalty :

²[Provided that in every case in which it is necessary to consult the Commission under the provision of the Constitution of India and the Orissa Public Service Commission (Limitation of Functions) Regulation, 1989, the record of inquiry together with copies of the notices given under sub-clauses (a) and (b) and the representations, if any, received in response thereto within the specified time shall be forwarded by the disciplinary authority to the Commission for its advice.]

(c) On receipt of the advice from the Commission the disciplinary authority shall consider the representation, if any, made by the Government servant and the advice given by the Commission and shall pass appropriate orders in the case.

(d) In any case in which it is not necessary to consult the Orissa Public Service Commission, the disciplinary authority shall consider the representation, if any, made by the

Government servant in response to the notice under sub-clause (b) and pass appropriate orders in the case.

(ii) The orders passed by the disciplinary authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of the inquiring authority and where the disciplinary authority is not the inquiring authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority, as well as a copy of the advice of the Commission, where the Commission has been consulted, and brief statement of reasons for non-acceptance of the advice of the Commission, if the disciplinary authority has not accepted such advice.

(11) ³[**]

(12) ⁴[**]

16. Procedure for Imposing Minor penalties – (1) No order imposing any of the penalties specified in clauses (i) to (v) of rule 13 shall be passed except after –

- (a) the Government servant is informed in writing of the proposal to take action against him and of the allegation on which it is proposed to be taken and given an opportunity to make any representation he may wish to make;
- (b) such representation, if any, is taken into consideration by the disciplinary authority; and
- (c) the Commission is consulted in cases where such consultation is necessary.

(2) The record of proceedings in such cases shall include –

- (i) a copy of the intimation to the Government servant of the proposal to take action against him;
- (ii) a copy of the statement of allegations communicated to him;

1. – Substituted by the G. A. Department Notification No. 17902-Gen., dated 23-5-2000.

2. Substituted by the G. A. Department Notification No. 6013-Gen., dated 15-2-2001. Published in *Orissa Gazette* and given effect to from 17-2-2001.

3. & 4. – Deleted vide G. A. Department Notification No. 13644-Gen., dated 16-6-1982. Published in *Orissa Gazette* and given effect to from 25-6-1982.

(iii) his representation, if any;

(iv) the advice of the Commission, if any; and

(v) the orders on the case together with the reasons therefor.

17. Joint Inquiry – (1) Where two or more Government servants are concerned in any case, the Governor or any other authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

(2) Subject to the provision of sub-rule (4) of rule 14 any such order shall specify –

- (i) the authority which may function as the disciplinary authority for the purpose of such common proceedings;
- (ii) the penalties specified in rule 13 which such disciplinary authority shall be competent to impose; and
- (iii) whether the procedure prescribed in rule 16; may be followed in the proceedings.

18. Special procedure in certain cases – Notwithstanding anything contained in rules 15, 16 and 17 –

- (i) where a penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge; or

- (ii) where the disciplinary authority is satisfied for reasons to be recorded in writing by that authority, that it is not reasonably practicable to follow the procedure prescribed in the said rule; or
- (iii) where the Governor is satisfied that in the interest of the security of the State it is not expedient to follow such procedure.

The disciplinary authority may consider the circumstances of the case and pass such orders thereon as it deems fit ;

Provided that the Commission shall be consulted before passing such orders in any case in which consultation is necessary.

19. Provision regarding Officers lent to the Union or other State Governments, etc. – (1) Where the services of a Government servant are lent to the Union or another State Government or an authority subordinate thereto or to a local or other authority [hereinafter, in this rule referred to as the “borrowing authority”] the borrowing authority shall have the powers of the appointing authority for the purpose of placing him under suspension in accordance with rule 12 and of the disciplinary authority for the purpose of taking disciplinary action against him :

Provided that the borrowing authority shall forthwith inform the authority which lent his services (hereinafter, in this rule referred to as the “lending authority”) of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceedings, as the case may be :

Provided further that if the borrowing authority is other than the Union or a State Government, the concurrence of the lending authority shall be taken before such action is taken except that in the event of the Government servant being implicated in a criminal case such action can be taken by such borrowing authority against him in anticipation of such concurrence. In the event of disagreement between the borrowing and the lending authority, the services of the Government servant shall be replaced at the disposal of the later.

(2) In the light of the findings in the disciplinary proceedings taken against the Government servant –

- (i) if the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (v) of rule 13 should be imposed on him, it may, in consultation with the lending authority, pass such orders on the case as it deems necessary :

Provided that, in the event of a difference of opinion between the borrowing authority and the lending authority, the services of the Government servant shall be replaced at the disposal of the lending authority.

- (ii) if the borrowing authority is of the opinion that any of the penalties specified in clauses (vi) to (ix) of rule 13 should be imposed on him, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry and, thereupon, the lending authority may, if it is the disciplinary authority, pass such orders thereon as it deems necessary or, if it is not the disciplinary authority, submit the case to the disciplinary authority which shall pass such orders on the case as it deems necessary :

Provided that in passing any such order the disciplinary authority shall comply with the provision of sub-rules (10) and (11) of rule 15.

Explanation – The disciplinary authority may make an order under this clause on the record of the inquiry transmitted by the borrowing authority or after holding such further inquiry as it may deem necessary.

20. Provision regarding officers borrowed from Union or other State Government, etc. – (1) Where an order of suspension is made or a disciplinary proceeding is drawn against a Government servant whose services have been borrowed from the union or any other state government or an authority subordinate thereto or a local or other authority, the authority lending his services (“hereinafter, in this rule referred to as the lending authority”) shall forthwith be informed of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceedings, as the case may be :

Provided that in the case of the lending authority being other than the Union or a State Government, action on the basis of the second proviso to rule 19 shall be taken.

(2) In the light of the findings in the disciplinary proceedings drawn against the Government servant –

- (i) if the disciplinary authority is of the opinion that any of the penalties specified in clauses (i) to (v) of rule 13 should be imposed on him, it may, subject to the provisions of sub-rule (10) of rule 15, after consultation with the lending authority pass such orders on the case as it deems necessary:

Provided that, in the event of a difference of opinion between the borrowing authority and the lending authority the services of the Government servant shall be replaced at the disposal of the lending authority.

- (ii) if the disciplinary authority is of the opinion that any of the penalties specified in clauses (vi) to (ix) of rule 13 should be imposed on him, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such action as it deems necessary.

PART VI - APPEALS

21. Orders made by Governor not Appealable – Notwithstanding anything contained in this Part, no appeal shall lie against any order made by the Governor.

22. Appeal against orders imposing penalties – (1) A member of an Orissa Civil Service, Group “C” or an Orissa Civil Service, Group “D” may appeal against an order imposing upon him any of the penalties specified in rule 13 to the authority specially empowered by an order made by the Governor in that behalf or in the absence of any such order to the authority specified in the schedule or where no such authority is specified to the authority to which the authority imposing the penalty, is immediately subordinate.

(2) A member of an Orissa Civil Service, Group “A” or an Orissa Civil Service, Group “B”, against whom an order imposing any of the penalties specified in rule 13 is made by an authority other than the Governor may appeal against such order to the Governor.

(3) Notwithstanding anything contained in sub-rules (1) and (2), an appeal against an order in a common proceeding held under Rule 17 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate.

Explanation – In this rule the expression ‘member of an Orissa Civil Service’ includes a person who has ceased to be a member of that Service.

23. Appeal against other orders – (1) A Government servant may appeal against an order which –

- (a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by any rules or by agreement, or
- (b) interprets to his disadvantage the provision of any such rules or agreement, to the Governor if the order is passed by the authority which made the rules or agreement, as the case may be, or by any authority to which such authority is subordinate, and to the authority which made rules or agreement, if the order is passed by any other authority.

(2) An appeal against an order –

- (a) stopping a Government servant at the efficiency bar in time-scale on the ground of his unfitness to cross the bar;
- (b) reverting to a lower service, grade or post, a Government servant officiating in a higher service, grade or post, otherwise than as a penalty;
- (c) reducing or withholding the pension or denying the maximum pension admissible under the rules; and

- (d) determining the pay and allowances for the period of suspension to be paid to a Government servant on his reinstatement or determining whether or not such period shall be treated as a period spent on duty for any purpose, shall lie –
 - (i) in the case of an order made in respect of a Government servant on whom the penalty of dismissal from service can be imposed only by the Governor, to the Governor; and
 - (ii) in the case of an order made in respect of any other Government servant, to the authority to whom an appeal against an order imposing upon him the penalty of dismissal from service would lie.

Explanation – In this rule –

- (i) the expression of “Government servant” includes a person who has ceased to be in Government service;
- (ii) the expression “pension” includes additional pension, gratuity and any other retirement benefit.

24. Period of limitation for Appeals – No appeals under these rules shall be entertained unless it is submitted within a period of three months from the date on which the appellant receives a copy of the order appealed against :

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.

25. Form and contents of Appeal – (1) Every person submitting an appeal shall do so separately and in his own name.

(2) The appeal shall be addressed to the authority to whom the appeal lies, shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language and shall be complete in itself.

26. Submission of Appeal – Every appeal shall be submitted to the authority which made the order appealed against :

Provided that, if such authority is not the head of the office in which the appellant may be serving or if he is not subordinate to the head of such office, the appeal shall be submitted to the head of such office who shall forward it forthwith to the said authority :

Provided further that a copy of the appeal may be submitted direct to the appellate authority.

27. Withholding of Appeals – (1) The authority which made the order appealed against may withhold the appeal if –

- (i) it is an appeal against an order from which no appeal lies; or
- (ii) it does not comply with any of the provisions of rule 25; or
- (iii) it is not submitted within the period specified in rule 24 and no of reasonable cause is shown for the delay; or
- (iv) it is a repetition of an appeal already decided and no new facts or circumstances are adduced:

Provided that, an appeal withheld on the ground only that it does not comply with the provisions of rule 25 shall be returned to the appellant and, if resubmitted within one month thereof after compliance with the said provisions, shall not be withheld.

(2) Where an appeal is withheld the appellant shall be informed of the fact and the reasons therefor.

(3) At the commencement of each quarter a list of the appeals withheld by any authority during the previous quarter together with the reasons for withholding them shall be furnished by that authority to the appellate authority.

28. Transmission of Appeals – (1) The authority which made the order appealed against shall, without any avoidable delay, transmit to the appellate authority every appeal which is not withheld under rule 27 together with its comments thereon and the relevant records.

(2) The authority to which the appeal lies may direct transmission to it of any appeal withheld under rule 27 and thereupon such appeal shall be transmitted to that authority together with the comments of the authority withholding the appeal and the relevant records.

29. Consideration of Appeals – (1) In the case of an appeal against an order imposing any of the penalties specified in rule 13, the appellate authority shall consider –

- (a) whether the procedure prescribed in these rules has been complied with and, if not, whether such non-compliance has resulted in violation of any provisions of the constitution or in failure of justice;
- (b) whether the findings are justified; and
- (c) whether the penalty imposed is excessive, adequate or inadequate;

and, after consultation with the commission if such consultation is necessary in the case, pass orders –

- (i) setting aside, reducing, confirming or enhancing the penalty; or
- (ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that –

- (i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose;
- (ii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty; and
- (iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (vi) to (ix) of rule 13 an inquiry under rule 15 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 18, itself hold such inquiry or direct that such inquiry be held and, thereafter, on consideration of the proceedings of such inquiry and after giving the appellant an opportunity of making any representation which he may wish to make against such penalty, pass such orders as it may deem fit.

(2) In the case of an appeal against any order specified in rule 23 the appellate authority shall consider all the circumstances of the case and pass such orders as it deems just and equitable.

(3) Copies of orders passed by the appellate authority shall be supplied to the appellant free of cost.

30. Implementation of orders in Appeal – The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

PART VII - REVIEW

31. Governor's power to review – Notwithstanding anything contained in these rules, the Governor may, on his own motion or otherwise, after calling for the records of the case, review any order which is made or is appealable under these rules or the rules repealed by rule 33 and, after consultation with the Commission where such consultation is necessary :-

- (a) confirm, modify or set aside the orders;
- (b) impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;
- (c) remit the case to the authority which made the order or any other authority directing such further action or inquiry as he considers proper in the circumstances of the case; or

(d) pass such other orders as he deems fit :

Provided that –

- (i) an order imposing or enhancing a penalty shall not be passed unless the person concerned has been given an opportunity of making any representation which he may wish to make against such enhanced penalty;
- (ii) if the Governor proposes to impose any of the penalties specified in clauses (vi) to (ix) or rule 13 in a case where an inquiry under rule 15 has not been held, he shall, subject to the provisions of rule 18, direct that such inquiry be held, and thereafter, on consideration of the proceedings of such inquiry and after giving the person concerned an opportunity of making any representation which he may wish to make against such penalty, pass such orders as he may deem fit.

32. Review of orders in Disciplinary Cases – The authority to which an appeal against an order imposing any of the penalties specified in rule 13 lies may, of its own motion or otherwise, call for the records of the case in a disciplinary proceedings, review any order passed in such a case and after consultation with the Commission, where such consultation is necessary, pass such orders as it deems fit as if the Government servant had preferred an appeal against such order :

Provided that no action under this rule shall be initiated more than six months after the date of the order to be reviewed.

PART VIII - MISCELLANEOUS

33. Repeal and Savings – (1) The Civil Services (classification, control and Appeal) Rules, 1930 and the Bihar and Orissa subordinate Services (Discipline and Appeal) Rules, 1935, and any notifications issued and orders made under any such rules to the extent to which they apply to persons to whom these rules apply and in so far as they relate to classification of Orissa Civil Services specified in the schedule or confer powers to make appointments, impose penalties or entertain appeals are hereby repealed :

Provided that –

- (a) such repeal shall not affect the previous operation of the said rules, notifications and orders or anything done or any action taken thereunder,
- (b) any proceedings under the said rules, notifications or orders pending at the commencement of these rules shall be continued and disposed of as far as may be in accordance with the provisions of these rules.

(2) Nothing in these rules shall operate to deprive any person to whom these rules apply of any right of appeals which had accrued to him under the rules, notifications or orders repealed by sub-rule (1) in respect of any order passed before the commencement of these rules.

(3) An appeal, pending at or preferred after the commencement of these rules against an order made before such commencement shall be considered and orders thereon shall be passed in accordance with these rules.

34. Removal of Doubts – Where a doubt arises as to who is the head of any office or as to whether any authority is subordinate to or higher than any other authority or as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Governor whose decision thereon shall be final.

By order of the Governor

B. SIVARAMAN

Chief Secretary to Government

¹[**SCHEDULE** ²(**)]

Sl No.	Description of the Services/Post	Appointing Authority	Authorities competent to impose penalties		Appellate Authority
			Authority	Penalties which may be imposed with reference to item number in rule 13	
(1)	(2)	(3)	(4)	(5)	(6)
1.	State Civil Services, Class II and State Civil posts, Class II.	Government	In respect of Officer Serving-	(ii) to (v)	Government
			(i) in any Department of the Secretariat – Secretary of the Department and		
			(ii) under any Heads of the Department – Head of the Department.	(ii) to (v)	Government
2.	Specially declared gazetted service/posts.	(a) For employees serving in any department of the Secretariat except those belonging to the Orissa Secretariat Service – Secretary of the Department	Secretary of the Department concerned.	All excluding (i)	Government
		(b) For employees belonging to the Orissa Secretariat Service – Secretary, Home Department.	(i) Secretary of the Department concerned.	(ii) to (v)	Government
			(ii) Secretary of the Home Department.	(vi) to (ix)	Government
	(c) For employees serving in any other Office – Head of the Department.	Head of the Department	All excluding (i)	Secretary of the concerned Department	
3.	State Civil Service, Class-III and State Civil Posts, Class-III.	(a) For employees serving in any Department of the Secretariat – Secretary of the Department.	(i) Secretary of the Department	All excluding (i)	Government

(ii) An officer of the rank of Under-Secretary or above in charge of the Establishment. (ii) to (v) Secretary of the Department.

1. Substituted by G. A. Department Notification No. 14094-Gen., dated the 5th May 1988.

2. Deleted by G. A. Department Notification No. 6278-Gen., dated the 23rd February 1989.

(1)	(2)	(3)	(4)	(5)	(6)
		(b) For employees serving in the Office of any Head of the Department.	(i) Head of the Department	All excluding (i)	Secretary of the concerned Department.
			(ii) Establishment Officer or any other officer of equivalent or higher rank nominated by the Head of the Department.	(ii) to (v)	Head of the Department.
		In respect of Extension Officer (including the Junior Engineer; Additional Junior Engineer, Social Education Organiser, Progress Assistant; Industries Promotion Officer; and Sub-Inspector of Schools) – Head of the Department	(i) Collector	(ii) to (v)	Secretary of the concerned Department.
			(ii) Head of the Department	All excluding (i)	Secretary of the concerned Department.
		(d) For employees serving in any other office – Head of the Department or Head of the office, as the case may be.	(A) In respect of employees appointed by the Head of the Department -		
			(i) Head of the Department	All excluding (i)	Secretary of the concerned Department.
			(ii) Head of the office	(ii) to (v)	Head of the Department.

			(B) In respect of the employees appointed by the Head of Office – Head of the office.	All excluding (i)	Head of the Department.
4.	State Civil Posts Class-IV.	(a) For employees serving in any Department of the Secretariat – Secretary of the Department	(i) An officer of the rank of Under-Secretary or above in-charge of the establishment.	(i) to (v)	Secretary of the Department.
			(ii) Secretary of the Department	All	Government
(1)	(2)	(3)	(4)	(5)	(6)
		(b) For employees serving in the office of any Head of the Department – Head of the Department.	(i) Establishment officer or any other officer nominated by Head of the Department.	(i) to (v)	Head of the Department.
			(ii) Head of the Department.	All	Government
		(c) For employees attached to respective Departments of a Medical college – Superintendent of the College.	(i) Professor and Head of the Department.	(i) to (v)	Superintendent of the Medical College.
			(ii) Superintendent of the College.	All	Director of Medical Education and Training.
		(d) For employees serving in any other office – Head of the office.	Head of the office	All	Head of the Department.

PART – II

[(A) SUSPENSION]

[No. 12429-SC/3-4/92-Gen.]

GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

The 27th May 1993

To

All the Departments of Government

Subject - Suspension of Government Servants, Circulation forms under Rule 2 of O.C.S. (C.C. & A.) Rules, 1962.

The undersigned is directed to send herewith three draft forms, i.e., Form No. 1 under Clause (a), Form No. II under Clause (b) both under sub-rule (1) or Rule 12 and Form No. III under sub-rule 2 of Rule 12 of O.C.S. (C. C. & A.) Rules, 1962 for their information and guidance.

M. B. K. RAO

Deputy Secretary to

Government

FORM No. I

Office Order

WHEREAS a disciplinary proceeding against Shri (Name and designation of the Government servant) is contemplated/pending. NOW, THEREFORE, the Governor of Orissa/the Appointing Authority/the Competent Authority, in exercise of the powers conferred by clause (a) of sub-rule (1) of Rule 12 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962, hereby places the said Shri under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri..... (name and designation of the Government servant shall be (name of the place) and the said Shri shall not leave the Headquarters without obtaining the previous permission of the undersigned/Competent Authority and he shall be entitled to the payment of subsistence allowance in accordance with Rule 90 of the Orissa Service Code.

By order of the Governor

Secretary to Government

OR

**Name and designation of
The Suspending Authority.**

FORM No. II
Office Order

WHEREAS a case against Shri (name and designation of the Government servant) in respect of any criminal offence is under investigation/inquiry/trial;

NOW, THEREFORE, the Governor of Orissa/the Appointing Authority/the Competent Authority, in exercise of the powers conferred by clause (b) of sub-rule (1) or Rule 12 of the Orissa Civil Service (Classification, Control and Appeal) Rules, 1962, hereby places the said Shri under suspension with immediate effect.

It is further order that during the period that this order shall remain in force the Headquarters of Shri..... (name and designation of the Government servant) shall be (name of the place) and the said Shri shall not leave the headquarters without obtaining the previous permission of the undersigned/Competent Authority and he shall be entitled to the payment of subsistence allowance in accordance with Rule 90 of the Orissa Service Code.

Governor

By order of the
Secretary to Government
OR
Name and designation of
the Suspending Authority.

FORM No. III
Office Order

WHEREAS a case against Shri (name and designation of the Government servant) in respect of a criminal offence is under investigation, and WHEREAS the said Shri was detained in custody on for a period exceeding forty-eight hours.

NOW, THEREFORE, the said Shri is deemed to have been suspended with effect from the date of detention, i.e. the in terms of sub-rule (2) of Rule 12 of the Orissa Civil Services (Classification, control and Appeal) Rules, 1962 and shall remain under suspension until further orders.

Designation of the
Suspending Authority

No. 16552-SC/3-1/94-Gen.

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

To

All Departments of Government/
All Heads of Departments/
All Collectors.

The 4th August 1994

Subject – Retirement of Government servant on superannuation while under suspension.

References are being received from various quarters seeking clarification as to whether a Government employee can superannuate during suspension period or it is necessary that he should be reinstated before superannuation.

2. After careful consideration, it is clarified that Rule 91 (1) of the Orissa Service Code clearly envisages retirement on superannuation of a Government servant while under suspension, Reinstatement of the suspended employee solely for the purpose of retirement and determination of pensionary benefits is not warranted by the service and pension rules in force.

Rule 7 (2) (a) and rule 66 (1) of the Orissa Civil Services (Pension) Rules, 1992 provide for payment as also the mode of calculation of provisional pension to a Government servant against whom any departmental or judicial proceedings is pending on the date of his retirement. Further, a departmental proceeding initiated while the Government servant was in service may be continued even after his retirement on superannuation, as provided by Rule 7 (2) (a) of Orissa Civil Services (Pension) Rules, 1992.

The Subordinate offices may be informed accordingly.

PRITIMAN SARKAR
Special Secretary to

Government

From

Shri R. N. DAS, I. A. S.

Chief Secretary and Chief Development Commissioner, Orissa

To

The Director-*cum*-Director-General & Inspector-General of Police and *ex officio* Special Secretary to Government, General Administration (Vig.) Department, Orissa, Cuttack.

Bhubaneswar, dated the 28th/29th September 1995

Subject – Suspension of Government Servant and their reinstatement.

Sir,

A large number of Government servants are placed under suspension, pending institution of Criminal cases or when such cases are *sub judice*. Prolongation of suspension of a Government servant not only causes hardship to him but also financial loss to Government. The question whether a Government servant under suspension against whom a Criminal case is proposed to be instituted or *sub judice* in a Court of Law could be reinstated was under consideration of Government.

2. Detailed guidelines for dealing with suspension cases have been issued in G. A. Department D. O. letter No. 24042, dated 13-9-1991 (Copy enclosed). In spite of such guidelines, it has come to the notice of Government that more than 2 years elapse before filing charge-sheets against Government servants disproportionate assets cases. During this period incumbents are placed under suspension which continues for long periods. It is noticed that charge-sheets are filed against delinquent officers in some cases, while in some other cases final reports are submitted in the absence of sufficient evidence.

3. In order to minimise hardship to Government servants it is desirable that Vigilance should endeavour complete investigation within a period of six months from the date of house search where for inescapable reasons, it is not possible to complete investigation within the aforesaid period of six months, reason for non-completion of investigation should be communicated to Government in detail and also indicating the period within which investigation is expected to be completed, If investigation is not completed within the extended period, Government servant under suspension should be reinstated.

4. You may like to review the position and take suitable and appropriate steps to complete investigation within the aforesaid reasonable period of time.

Thanking you,

Yours faithfully,

R. N. DAS

Chief Secretary to

Government

Memo No. 21934-Gen., dated the 29th September 1995

Copy forwarded to all Departments of Government/all Heads of Departments/ all District Magistrates.

Sd/-

O.S.D. to Chief Secretary and *ex officio* Deputy Secretary to
Government

D. O. No. 24042

SHRI R. K. RATH, I. A. S.

Chief Secretary and Chief Development
Commissioner, Orissa

To

All Secretaries to Government

All Head of Departments.

Bhubaneswar, Dated the 13th September 1991

Subject – Guidelines for dealing with cases of suspension of officers.

Sir,

I am directed to say that the growing habit of dealing routinely with case in which an officer has been placed under suspension has been viewed with concern and unhappiness by government. An officer is placed under suspension when there is *prima facie* evidence of gross misconduct or serious dereliction in duty, especially in financial matters on his part and there is a reasonable presumption that the proceedings are likely to culminate in the award of major penalty. It is therefore necessary that the charges against him should be enquired into and disposed of with the utmost expedition. It has, however, been noticed that, after an officer is placed under suspension, the urgency with which the suspension was processed is lost and the proceedings against him are dealt with like other proceedings where charges are far less serious and where it has not been considered necessary to suspend the officer. In the result, the officer suffers continued inconvenience and humiliation and Government have to pay him the subsistence allowance without getting any work from him. The less, in financial terms, to Government will be higher if the officer is ultimately absolved of the charges against him.

2. It has accordingly been considered necessary that departmental or criminal proceedings against an officer who has been placed under suspension should be governed by the following principles :

- (a) Where an officer is placed under suspension, charges against him should be served on him within three months of the date of suspension.
- (b) Since the order of suspension is based on *prima facie* evidence of gross misconduct or serious dereliction in duty there should ordinarily be no difficulty in initiating departmental proceedings during three months of suspension. If it has not been possible to complete investigation into all the allegations, an effort should be made to prepare the charge-sheet on the basis of the major allegations and serve it on the officer. This may be followed by a supplementary charge-sheet.
- (c) The period of suspension should not ordinarily extend beyond six months from the date of framing of charges, Where, for inevitable reasons, it is not possible to dispose of the proceedings within the aforesaid period of six months, the reasons for continuing the suspension should be explained in details, and approval for continued suspension should be sought from –
 - (i) the Chief Minister, in cases where the officer is a Class II officer or an officer of higher rank; and

- (ii) the Appellate Authority, as specified in the Orissa Civil Service (Classification, control & Appeal) Rules, 1962, in the case of other officers.
- (d) The aforesaid time limits should be kept in view where criminal proceedings are contemplated or are in progress. In the larger number of cases, criminal proceedings originate from allegations of acquisition of disproportionate assets, defalcation of public fund and misconduct resulting in conferment or appropriation of undue financial benefits. Investigation in such cases naturally requires more time since evidence has to be collected from several sources including, sometimes, sources outside the State. If the charges cannot be filed within three months of the date of suspension or the proceedings are unlikely to be concluded within six months of the date of suspension or the submission of the charge-sheet, extension of the time limit should be sought from the appointing authority in the case of officers other than those in Class II or higher rank and from the Chief Minister in the case of officers of Class II or higher rank.
- (e) Departmental proceedings where an officer has been placed under suspension should be reviewed atleast quarterly. This review should be conducted by the Head of the department for non-Gazetted Officers under his control, and by the Secretary of the Department for all Gazetted Officers and for non-Gazetted Officers in the Department. Such reviews are essential in order that cases of the nature under reference are processed with the utmost expedition and suspension does not continue for an inordinately long period.

3. I am to request you to keep the aforesaid guidelines in vies in dealing with cases involving suspension of officer. I would also like to impress on you that suspension should be ordered only where it is found necessary in public interest that the officer concerned should not be allowed to continue in office, even at a different station. It should not be resorted to lightly and without serious reflection on the gravity of the allegations.

Yours faithfully,

R. K. RATH

Chief Secretary to

Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 11943-SC/3-4/99-Gen.

From

SHRI PRIYABRATA PATTNAIK, I. A. S.,
Special Secretary to Government

To

All Departments of Government/
All Heads of Departments/
All Collectors.

Bhubaneswar, dated the 22nd April 1999

Subject – Guidelines for dealing with cases of suspension of Officers.

Sir,

I am directed to say that in Chief Secretary's D. O. letter No. 24042/Gen., dated the 13th September 1991, guidelines have been issued for dealing with the cases of suspension of Officers. In the introductory Paragraph of the said letter it has been pointed out that – "An Officer is placed under suspension when there is *Prima facie* evidence of Gross misconduct or serious dereliction in duty, especially in financial matters, on his part and there is a reasonable presumption that the proceedings are likely to culminate in the award of a major penalty. It is, therefore, necessary that the charges against him should be enquired into and disposed of with the utmost expedition. It has, however, been noticed that, after an Officer is placed under suspension the urgency with which the suspension was processed is lost and the proceedings against him are dealt with like other proceedings where the charges are far less serious and where it has not been considered necessary to suspend the Officer. In the result, the Officer suffers continued inconvenience and humiliation and Government have to pay him the subsistence allowance without getting any work from him".

It has been observed by the Hon'ble O. A. T. in O. A. No. 910 of 1997 that in spite of the above instructions, the Appointing Authorities/Disciplinary Authorities are suspending employees in a routine manner without taking into consideration the gravity of misconduct sought to be enquired into or investigated. Consequently, when the affected employees approach the Hon'ble Orissa Administrative Tribunal, orders are passed by the Tribunal setting aside the suspension where it is unwarranted and mechanically ordered without proper application of mind and paying heed to the above cited instructions and the employees are re-instated in service forthwith.

It is, therefore, impressed on all concerned that in future suspension should not be taken recourse to as a routine. For placing an employee under suspension, there must be materials available suggesting commission of grave offence justifying suspension. Each case has to be considered carefully depending on the nature of allegation, gravity of the situation and the impact it creates on the service for the continuance of the delinquent employee in service, when disciplinary proceedings against him are contemplated or when disciplinary proceedings are pending against him or when a case against him in respect of criminal offence is under investigation or when a case against him in respect of criminal offence is under trial.

It is, therefore, requested that these instructions may be brought to the notice of all Appointing Authorities and Disciplinary Authorities for their future guidance.

Yours faithfully,

PRIYABRATA PATTNAIK
Special Secretary to Government

No. 35691-SC/-3/99

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT
OFFICE MEMORANDUM

The 3rd December 1999

No. 35691-SC/3-3/99 – In the erstwhile Political and Services Department Order No. 1000, dated the 27th October, 1962, (Copy enclosed) Instructions were issued to the effect that before placing a Government Servant under suspension on Vigilance report, an opportunity should be given to him to explain his conduct within a reasonable period and, on receipt of such explanation, decision to place the officer under suspension will be taken.

2. But Sub-rules (i) & (ii), of Rule 12 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962, clearly envisage the circumstances in which a Government servant can be placed under suspension. In view of the provisions contained in these rules, there is no special justification for calling for the explanation of an officer before consideration to place him under suspension on the basis of vigilance report.

Accordingly, government after careful consideration, do hereby withdraw the afore mentioned Political and Services Department Order No. 1000, dated the 27th October, 1962.

S. B. AGNIHOTRI

Special Secretary to

Government

GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT
VIGILANCE BRANCH
ORDER

The 27 October 1962

No. 1000 – Government had under consideration for sometime past, the question of affording to an Officer to be placed under suspension on Vigilance report, an opportunity to explain his conduct before passing the order of suspension. After a careful consideration of the question, Government have been pleased to order that henceforward, when Government in the Political & Services (Vigilance) Department consider that an Officer be Placed under suspension on Vigilance report, they may call for the explanation of the Officer concerned. The gist of the Vigilance report shall be communicated to the delinquent officer and a reasonable time allowed to him for offering the explanation. If the explanation is not received within the time so fixed by Government or if the explanation on being received is considered to be unsatisfactory, Government in the Political & Services (Vigilance) Department may take a decision to place the Officer under suspension. This calling for an explanation from the delinquent officer is meant to afford an opportunity to the delinquent officer for offering his say in the matter before his suspension is ordered.

Government have further been pleased to order that, in cases where certain points remain obscure during vigilance enquiry, the Political & Services (Vigilance) Department may seek clarifications of such points from the delinquent officer at the stage of the enquiry.

This order will come into force with immediate effect.

B. SIVARAMAN

Chief Secretary to Government

(B) PROCEDURE OF DISPOSAL OF DEPARTMENTAL PROCEEDINGS

GOVERNMENT OF ORISSA

POLITICAL & SERVICES DEPARTMENT

No. 13787 (126) – 2R/1-25/68-Gen.

To

All Departments of Government (including all branches of P. & S. Department)/

All Heads of Departments/All District Offices.

Bhubaneswar, dated the 24th July 1968

Subject - Procedure for conducting Departmental proceeding against a Government servant who avoids to accept charges framed against him or whose whereabouts are not known.

The nature of penalties which can be imposed on a Government servant for good and sufficient reasons has been laid down in rule 13 of the Orissa Civil Services (Clarification, Control and Appeal) Rules, 1962. Procedure for imposition of major and minor penalties has been prescribed in rule 15 and 16 respectively of the said Rules. No major penalty can be imposed on a Government servant without holding an enquiry as envisaged in the Classification, Control and Appeal Rules and as indicated in Art. 311 (2) of the Constitution. Art. 311 (2) envisages two opportunities to be given to a delinquent and it is only after compliance with the procedures laid down therein that any of the penalties can be imposed on him. No minor penalty shall be imposed without giving an opportunity to the Government servant concerned to make any representation he may wish to make. The Classification, Control and Appeal Rules do not however, indicate the procedure to be followed which the delinquent avoids to receive charges framed against him or where his whereabouts are not known. After careful consideration Government have been pleased to decide that in such circumstances the following procedures should be followed.

Major penalties – If the whereabouts of the delinquent are not known or he avoids to accept a copy of the charges, etc., the only alternative left is to publish in a newspaper the fact that charges had been framed against him for his acts and omissions which may be specified briefly, stating therein that charges could not be communicated to him as his whereabouts are not known and calling upon him to appear before the concerned authority on any particular day to receive a copy of the charges and to submit a written statement of his defence if in pursuance of this notice the delinquent submits a written statement of his defence, the enquiry may be conducted in the prescribed manner and further action taken as per the Rules. If in spite of this notice the delinquent does not appear before the concerned authority or does not submit written statement of his defence, the enquiry may be conducted in his absence and a decision taken on merits whether he is guilty. If in such a case the concerned authority comes to a tentative decision that the delinquent is either to be dismissed, removed, compulsorily retired or reduced in rank, a second show-cause notice has to be served upon the delinquent either by serving it upon him or if his whereabouts are not known by publishing the same in the newspaper directing him to show-cause by a fixed date why the penalty, proposed should not be imposed upon him. If in response to this notice he appears or show-cause the authority concerned should take that into consideration and pass appropriate orders. If in response to that notice the delinquent does not show any cause final orders have to be passed. The final order passed in case has to be communicated to the delinquent in the manner indicated above.

Minor penalties – Where charges framed against the delinquent could not be communicated to him for the reasons mentioned earlier a notice in the manner as mentioned earlier should be published in the newspaper. If in response to this notice no written statement of defence is submitted within the stipulated date, the competent authority in consideration of the case on its merit may pass final orders and communicate the same to him in his address available with him.

[ILLEGIBLE]

Additional Secretary to Government

GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT

No. 5406 (27) – 2R/1-5/73

To

All Secretaries to Government (By name)

Dated the 12th April 1973

Subject – Delay in disposal of departmental proceedings.

Reference - No. 3559 (76) – O & M- 139/57 dated 15th March 1958, No. 13912-Vig.-26/59 (81)-Gen., dated 10th November 1959, No. 160 (95)-AT., dated the 17th April 1964 and No. 2009 (28)-Gen., dated the 8th September 1966.

Sir,

I am directed to say that in spite of issue of instructions from time to time on the subject referred to above, Government have observed that proper attention is not being paid by the concerned authorities for expeditious disposal of departmental proceedings started against Government servants. As a result, those departmental proceedings are unduly protracted causing hardship to the delinquent Government servant as well as loss to Government by way of payment of subsistence allowance for a long period. This can be avoided if the suspending authorities exercise proper discretion while suspending the Government servant and take Prompt action in disposing of cases pending against the suspended officers.

2. All Departments of Government, Heads of Departments and District Offices were requested to maintain a statement of persons placed under suspension in the *pro forma* prescribed in Political & Services Department Memo No. 3559 – OM-139/57-Gen., dated the 15th March 1958 It is noticed that these instructions have not been systematically followed. The quarterly return prescribed in Chief Secretary's D. O. No. 20094 (29)-Gen., dated the 8th September 1966 addressed to all Secretaries is also not being regularly submitted to the Political & Services Department.

3. This was recently reviewed by the Governor in a meeting of Secretaries. He desired that all concerned should attach the highest priority to this item of work, It is therefore requested that information may be furnished in the following *pro forma* so as to reach this Department by the 20th April 1973 for the information of Governor.

PRO FORMA

(1)	(2)	(3)	(4)	(5)	(6)
Sl No.	Name & designation of the officer suspended	Date of suspension	Reasons for delay in finalisation of the Proceedings	Steps taken for expeditious disposal of the proceedings	Remarks

Yours faithfully,

S. K. PALIT

Additional Secretary to Government

GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT

Memo No. 9547 (173) – 2R/1-9/73-Gen.

To

All Departments

All Heads of Departments.

Bhubaneswar, dated the 28th June 1973

Dated the 7th Ashadha, 1895

Subject – Disposal of Appeal and Review Petitions submitted by Government servants.

It has been observed that sometimes cases of memorials, representations, reviews or appeals from the Government servants are delayed inordinately in the various Departments or Heads of Departments. It causes frustration and also defeats the purpose for which an employee submits a memorial or appeal against the orders of the disciplinary authority. In the Political & Services Department Memo No. 5103 (73), dated 19-4-1959 a time limit of 3 months has been prescribed for the disposal of memorial and representations. It has now been decided that in future all appeal petitions submitted by Government servants shall be disposed of ordinarily within a period of 6 months from the date of their receipt by the appointing authorities.

Petitions for review against the decisions of the lower authorities in all matters affecting the service conditions of Government employees may also be dealt with expeditiously and all possible steps should be taken to ensure that they are finally disposed of within a period not exceeding 6 months.

Petitions for appeals and reviews so far as disciplinary matters are concerned should be disposed of keeping in view the provisions contained in the Orissa Civil Services (Classification, Control & Appeal) Rules, 1962.

The above instructions may be brought to the notice of subordinate offices for their guidance. Government will view with displeasure any deviation from these instructions.

[ILLEGIBLE]

Deputy Secretary to Government

P. & S. (VIG.) DEPARTMENT No. 2515 (70)-VIG., DATED 2-4-1975 TO

ALL SECRETARIES TO GOVERNMENT AND OTHERS

Subject - Regarding Disciplinary authority of Government servants on Deputation Rules 19 and 20 of the O. C. S. (C. C. & A.) Rules, 1962.

According to Rules 19 and 20 of the O. C. S. (C. C. & A.) Rules, 1962 the borrowing Department of a Government servant can frame charges against a borrowed officer for his lapses/irregularities committed, while serving under he borrowing authority and while inflicting any of the major penalties indicated in Rule 13 of the said Rules he may refer the matter to the lending authority. Of late a doubt has arisen if the borrowing authority can frame charges in a disciplinary proceedings, after a borrowed officer is reverted to his parent department, for his lapse while serving under the borrowing authority inquire into the same and inflict any of the minor penalties indicated in Rule 13 of the said Rules. So the matter was referred to Law Department for their views.

The Law Department are of the opinion that the power conferred on the borrowing authority can only be exercised so long the Government servant on deputation continues to remain under its administrative control. Once the employee is reverted back to his parent service under the Government he ceases to be amenable to the administrative and disciplinary jurisdiction of the borrowing authority. Therefore, after such replacement, the borrowing authority cannot frame charges, enquire into it and inflict punishment on the employee for his lapses committed while serving under it. In such cases, it will be proper for the borrowing authority to request the lending authority to take suitable disciplinary action.

GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT

No. 19850-SC-6-168/77-Gen.

To

All Departments of Government.

Bhubaneswar, dated the 11th November 1977

Subject – Review of orders in disciplinary cases.

The undersigned is directed to say that a question as to whether the punishing authority, who is not the appellate authority, can review his order, was under consideration in this Department. After careful consideration, it has been decided that since there is no provision in C. C. A. Rules authorising the disciplinary authority to review his own orders the said authority is not competent to review his decision once taken in the matter. The appellate authority can however, either on his own motion or otherwise, review the orders passed by the disciplinary authority.

[ILLEGIBLE]

Under-Secretary to Government

GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT

No. 712-SC-6-9/78-Gen.

To

All Departments of Government/

All Heads of Departments/

All Collectors.

Bhubaneswar, dated the 12th January 1978

Subject – Procedure regarding disposal of disciplinary proceedings.

I am directed to say that it has come to the notice of Government that in a number of Departmental proceedings drawn up against Government employees, Enquiring Officers are being appointed along with the framing of charges and the delinquent employee is directed to submit his explanation to the Enquiring Officer direct. Such a procedure is not in accordance with the provisions contained in Rule 15 (2), read with Rule 15 (4) of the Orissa Civil Services (C. C. & A.) Rules, 1962. Rule 15 (2) of the aforesaid Rules provides that the disciplinary authority shall frame definite charges on the basis of allegations on which the enquiry is to be held. Such charges together with a statement of the allegations on which they are based shall be communicated in writing to the Government servant who shall be required to submit a written statement of his defence. According to Rule 15 (4) of the aforesaid Rules, on receipt of the written statement of defence or if such statement is not received within the time specified, the disciplinary authority may itself enquire into such of the charges as are not admitted or it consider if necessary so to do, appoint a Board of Enquiry or an Enquiring Officer for the purpose.

In view of the clear provisions of law indicated above, appointment of Enquiring Officer along with framing of charges is premature and the direction given to the delinquent Government servant to furnish his explanation direct to the Enquiring Officer is irregular.

As adoption of incorrect procedure for conducting disciplinary proceedings may give rise to legal complications, the undersigned is directed to request that in future while framing charges in Departmental proceedings, no Enquiring Officer need be appointed along with framing of charges nor the delinquent Government servant be directed to furnish his explanation to the Enquiring Officer. The question of appointing an Enquiring Officer should be taken up only when the disciplinary authority after going through the written statement of defence of the employee concerned feels the necessity of appointing such an Enquiring Officer or a Board of Enquiry.

This may please be brought to the notice of all disciplinary authorities working under you for guidance.

K. RAMAMURTHY
Chief Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 516-SC-3/20/85-Gen.

To

All Departments of Government/

All Heads of Departments/

All Collectors.

Dated the 16th January 1987

Subject – Issue of warning and placing of copies thereof in the C. C. R. Folders.

Clarification is often sought from this Department whether a warning by the disciplinary authority issued to an Officer upon the results of disciplinary proceedings, should be entered in the confidential character roll or a copy of it should be kept in the C. C. R. dossier. “Warning” is not one of punishments listed in C. C. & A. Rules, but if it is entered in the C. C. R., it would tent-amount to censure.

It is hereby clarified that if the disciplinary authority, at the conclusion of a disciplinary proceedings, wishes to award the punishment of “warning” to be recorded in the C. C. R. or placed in the C. C. R. dossier, it should appropriately be termed as “censure”.

This supersedes this Department circular No. 1593-SE, dated the 12th February 1985.

M. P. MODI

Special Secretary to

Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 25922-SC-6/11/88-Gen.

To

All Departments of Government.

Dated the 8th September 1988

Subject – Amendment to Orissa Civil Services (C. C. & A.) Rules, 1962.

In his D. O. letter No. 25935, dated 17th/18th August 1988 the Additional Chief Secretary had impressed upon the Secretaries the need for revision of the Schedule ‘B’ appended to the Orissa Civil Services (C. C. & A.), Rule 1962.

The undersigned is directed to say that in course of discussion with departmental officers it is found that the distinction, between the State Civil Services and Civil Posts are not well understood. In view of this, it is clarified that a post belonging to any Classification when included in a Cadre Rule framed by Governor under Article 309 of the Constitution of India comes within the meaning of the State Civil Services and the post for which no cadre rule has been framed will be known as State Civil Posts.

All Departments are requested to prepare the revised list accordingly and furnish the same to this Department for inclusion in the Schedule to be published under Rule 7 of O. C. S. (C. C. & A.), Rules. Departments which have already submitted the information earlier are also requested to give a relook to the matter and prepare the information according to guidelines given above. While sending the information copies of the concerned cadre rules may also be sent.

[ILLEGIBLE]

Joint Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT
OFFICE MEMORANDUM No. 34289

The 10th December 1990

Subject – Functional and effective control over Orissa Administrative Service, Class-I (Senior Branch) Officers by Revenue Department.

The question of ensuring effective control over the Officers of Orissa Administrative Service, Class-I (Senior Branch) working under the administrative of Revenue Department was under consideration of the State Government for sometime past. It has been decided that the Revenue Department are empowered to call for the explanation of Addl. District Magistrate (Revenue), Addl. District Magistrate (Land Reforms), Deputy Director, Consolidation and Settlement Officer for the lapses, if any, committed by them and submit draft charges against those Officers to G. A. Department. The Revenue Department will ensure that the charges conform to the requirements of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962. The G. A. Department shall Process the draft charges, obtain Government orders and take subsequent follow up action.

C. NARAYANASWAMY
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT
No. 41121-S.C.-3-2/92-Gen.

To

All Departments of Government
All Heads of Department
All Collectors.

The 30th November 1992

Subject – Imposition of Major Penalty on Government servant dispensing with the enquiry as prescribed in the Orissa Civil Services (Clarification, Control and Appeal) Rules, 1962.

The undersigned is directed to say that procedure for imposition of any of the Major penalties as specified in Rule-13 (IV) to (IX) of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 on Government servants by the disciplinary authority has been prescribed under Rule 15 of the same Rules and in the normal circumstances, before a Major penalty is imposed, an enquiry has to be conducted invariably.

2. It has come to the notice of Government that in some cases the disciplinary authority had imposed the major penalty of dismissal from service on Government servants following the proviso (b) to Article 311 (2) of the constitution of India and thereby dispensing with the enquiry as provided in Rule 15 of the said rules though there are no such compelling reasons to dispense with the enquiry. The aggrieved Government servants had filed writ petitions against the dismissal orders under Article 226 of the Constitution of India and obtained orders of the Administrative Tribunal quashing the dismissal orders and for their reinstatement in service from the date of their dismissal and for payment of back wages on account of dismissal. This verdict of the Court compelled the Government to pay for the periods they had not really worked.

3. It is therefore clarified that the extraordinary power conferred on the disciplinary authority under proviso (b) to Article 311 (2) of the Constitution to impose major penalties on Government servants by dispensing with the procedure laid down in Rule 15 of the O. C. S. (Classification, Control and Appeal) Rules, 1962 has to be exercised with proper care and caution as such action of the disciplinary authority is subject to judicial review. Two essential conditions have to be satisfied to dispense with the enquiry. They are that the offences committed would lead to dismissal, removal, compulsory retirement or reduction in rank of the employee, and it is not reasonably practicable to hold such enquiry. Each time the above said extraordinary power is exercised, legal consultation at the proper level should invariably be made to ensure that such orders will be maintainable in the eye of law.

It is further requested that of suitable instructions to the subordinate officers under your control are to be issued accordingly explaining the above provisions of law. It may be impressed on them that while resorting to action under Rule 18 of the Orissa civil Services (Classification, Control and Appeal) Rules, 1962 it should be clearly recorded that it is not reasonably practicable to follow the procedure prescribed in the said Rule.

T. K. MISHRA
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 11994-S.C.-3-4/92-Gen.

To

All Departments
All Heads of Departments.

Dated the 22nd May 1993

Subject – Clarification on Rule 31 of the O. C. S. (C. C. & A.) Rules, 1962.

Doubts have been expressed in different quarters on the followings points :-

- (1) Whether the power of review under Rule 31 can be exercised only once or more than once
- (2) Whether the power of review under the above Rule is conferred only on the Governor or whether the Minister or Ministers concerned can exercise powers.

The points were examined and Government have been advised by Law Department that the Reviewing authority having once exercised the powers of review becomes functio officio and the said Power cannot be exercised from time to time because (a) there is no scope to review a order already passed in a review and (b) Rule 31 itself provides that the Governor may review any order which is made or is appealable under these rules.

2. Government have further been advised by Law Department that the expression “Governor” under Rule 31 means the Minister in charge of the Administrative Department. The above interpretation is based on the decision of the Hon’ble Supreme Court in *Samsar Singh Vrs. State of Punjab* (AIR 1974, Supreme Court 2192) which was again reiterated in *Union of India Vrs. Sripati Ranjan Biswas* (AIS 1975, Supreme Court 1755). This view is also supported by the fact that a case under Rule 31 is not required to be submitted either to the Chief Minister or the Governor under instruction 14 of the instructions issued under Rules of Business.

It is, therefore, requested that all concerned may be informed accordingly.

S. M. PATNAIK
Special Secretary to

Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 18470-S.C.-3-3/93 (Pt.-VI)-Gen.

To

All Departments of Government/
All Heads of Departments/
All Collectors.

Bhubaneswar, dated the 26th August 1993

Subject – Appointment of Inquiring Officer under O. C. S. (C. C. & A.) Rules, 1962 by the concerned appointing authority – issue of clarification thereof.

Doubts have arisen in certain quarters as to who should be the authority competent to sign the orders appointing the Inquiring Officer as per the provisions of the O. C. S. (C. C. & A.) Rules 1962 ? Rule 15 (4) of the above rules provide that the disciplinary authority may appoint an Inquiring Officer. In the proceedings relating to Gazetted Officers, Government is the disciplinary authority. For the purpose of the statute, Government is usual, by represented its Secretary and hence, the order appointing the Inquiring Officer should be signed by the Secretary. The provisions of the Orissa Government’s Rules of Business provide that every order or Instruction of the Government shall be signed either by Secretary, Special Secretary, Joint Secretary, Deputy Secretary or an Under-Secretary who are mainly meant for the convenient transaction of the day-to-day executive action of the Government of the State. Since appointment of an Inquiring Officer is not an executive act, but a statutory power to be exercised through exercise of discretion the meaning of Secretary in the Rules of Business should not apply to matters involving statutory powers. This may be brought to the notice of all concerned.

R. C. MISHRA Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 5501-S.C./3-1/94(Pt-III)-Gen.

To

All Departments of Government
All Heads of Departments
All Collectors.

Bhubaneswar, dated the 15th March 1994

Subject – Clarification in respect of *de novo* enquiry or fresh enquiry under Orissa Civil Services (C. C. & A.) Rules, 1962.

I am directed to say that Collector of a district appointed an Officer of the District Office to enquire into charges framed against one Revenue Inspector in the Departmental proceedings and when the enquiry report was received, he did not accept the enquiry report, but passed orders for re-enquiry by appointing another Enquiry Officer, as he was of view that the Officer, who had been earlier appointed as Enquiry Officer, had not applied his mind to the case. Hence, the question arose about appointment of a fresh Enquiry Officer on this same set of charges. The Law Department of the Government were consulted in the matter and they are of view that as per judicial pronouncements, both of Orissa Administrative Tribunal as well as Supreme Court. Rule 15 of the O.C.S. (C. C. & A.) Rules, 1952 does not provide for re-enquiry or fresh enquiry on the self-same charges if the Disciplinary Authority disagrees with the findings of the Enquiry Officer. Even if there is no specific provision in the Rules, the Disciplinary Authority can remit/remand the proceedings to the Enquiry Officer if he finds that the enquiry report suffers from some material irregularity. In all such cases, the proceedings have to be remitted back to the very same Enquiry Officer who conducted the enquiry with direction to record further evidence and given findings on each charge. The only exception is that another Enquiry Officer can be appointed where the previous Enquiry Officer is dead or has retired from Government service or is not available.

These instructions may be brought to the notice of all concerned.

PRITIMAN SARKAR
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT
No. 5175-S.C./4-12/1994-Gen.

From

Pritiman Sarkar
Special Secretary to Government.

To

All Secretaries to Government/
All Heads of Departments/
All Collectors.

Bhubaneswar dated the 20th March 1995

Subject – Delay in disposal of Departmental Proceedings.

Sir,

I am directed to say that, it has come to the notice of the Government that adequate attention is not being paid by the concerned authorities for expeditious disposal of Departmental proceedings start against Government servants. Sometime due to such delay, the Government servants under suspension, remain as such for a considerably long time and thereby undergo considerable difficulties.

and heavy loss is also caused to Government for paying them Subsistence Allowance. Suitable instructions were issued to all Departments of Government in the erstwhile P. & S. Department Memo No. 3559 (76)-Gen., dated 15-3-1958 for expeditious disposal of Departmental proceedings. It was indicated therein that monthly review would be made of all undisposed cases and a form was prescribed for the purpose. It appears no follow up action has been taken on the instructions issued in the said memo. It now appears that such Departmental proceedings are pending at various levels and are not attended to so that they are mounting up every month.

2. The matter has been carefully examined by Government who feel that the existing machinery of administration should keep an effective check on the progress of disposal of Departmental proceedings. All Departmental proceedings pending for more than 2 months should therefore be reviewed every month. The object of such review is not only to keep an effective check on the progress of the Departmental proceedings, but to issue correctives to subordinate authorities wherever irregularities are detected as well.

3. An Office Memorandum prescribing time limit for each stage of the Departmental proceedings for expeditious disposal of the Departmental proceedings is under issue. The time limit prescribed in the said Office Memorandum should be meticulously followed so that the delinquent officers are not put to unnecessary harassment.

You are requested to communicate these instructions to offices subordinate to you and to acknowledge the receipt of this letter.

Yours faithfully,

PRITIMAN SARKAR
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 28813-SC-3-6/96-Gen.

To

All Departments of Government/

All Heads of Departments/

All Collectors.

Dated the 7th November 1996

Subject – Delay in disposal of Departmental proceedings due to non-production of relevant records before the Disciplinary Authority/Inquiring Officers.

Of late it has come to the notice of the Government that finalisation of a large number of Departmental proceedings instituted against Government servants are delayed for a long period of time due to non-production of the relevant records before the Disciplinary Authority/Inquiring Officer. Further, Departmental proceedings drawn up against officials responsible for misappropriation defalcation of Government money are inordinately delayed because the records on which the charges are framed are often seized by the Vigilance Authorities for investigation into the criminal cases and, therefore, not made available readily to the Inquiring Officer/Disciplinary Authority. The Public Accounts Committee in their 11th Report on the Appropriation Accounts and the report of the Comptroller and Auditor-General of India for the year 1988-89 relating to the Health and Family Welfare Department have expressed their grave concern in the matter of delay in disposal of Disciplinary proceedings for long period of time due to non-availability of records.

2. In order to over-come such difficulties, it has been decided to proceed in the matter as given below :-

- (i) The Vigilance Organisation, who have seized the relevant records, may supply as far as possible xerox copy of the relevant records in their custody to the concerned Disciplinary Authority and the Inquiring Officer on receipt of their request in respect of cases where criminal and departmental action are taken simultaneously for the same set of charges.
- (ii) The Vigilance Organisation and other concerned authorities may on request hand over all the relevant original records in their custody to the Disciplinary Authority/Inquiring Officer in respect of cases, where departmental action has been initiated under the provisions of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962.
- (iii) The Vigilance Organisation and other concerned authorities may also permit the delinquent officers to peruse the seized records and take notes therefrom in order to enable them to prepare their defence properly. This may, however, be done only on the request of the Disciplinary Authority/Inquiring Officer, who shall submit the list of the relevant documents to the Vigilance Organisation and other concerned authorities for the purpose, so that only relevant records are allowed to be perused by the delinquent officer.
- (iv) While sending their requests for supply of xerox copies or for handing over the original records, the Disciplinary Authority and Inquiring Officer may scrutinise carefully their requirement and send a list of those records only, which are really considered relevant for the purpose.

3. The Disciplinary proceedings pending due to non-availability of seized records may now be disposed of accordingly.

R. K. BHUJABAL
Chief Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 7361-CDI-Misc.-2/98-Gen.

From

Shri S. B. Mishra, I.A.S.,
Chief Secretary, Orissa.

To

All Principal Secretaries/Secretaries to Government.

Dated the 25th March 1998

Subject – Timely initiation for disposal of Disciplinary proceedings.

Sir,

Rule 15 of the Orissa Civil Services (C. C. & A.) Rules, 1962, clearly delineates the procedure for initiation of Disciplinary proceedings for major penalties, appointment of Enquiring Officer and enquiry into the charges. It has been clearly provided in sub-rule (2) of Rule 15 that the charges drawn up against the delinquent officer should be definite and such charges together with a statement of allegations on which they are based shall be communicated in writing to the Government servant and he shall be required to submit within such time as may be specified by the disciplinary authority, not ordinarily exceeding one month, a written statement of his defence. Sub-rule (4) of the said rule further provides that on receipt of the written statement of the defence or, if no such statement is received within the time specified, the disciplinary authority may itself enquire into such of the charges as are not admitted or if it considers it necessary so to do, appoint a Board of enquiry or an Enquiring Officer for the purpose.

2. In spite of the clear provisions enunciated above it has been brought to my notice that Disciplinary proceedings are initiated against delinquent officers long after commission of any misconduct or irregularity and again an unusually long period is taken by the disciplinary authorities in taking a decision to appoint an Enquiring Officer to enquire into the allegations. Recently the Commissioner, Departmental Enquires has been appointed as the Enquiring Officer in some proceedings after 15 to 20 years of the date of commission of misconduct or irregularity, out of which delay at the Department level to appoint Inquiring Officer was 6-7 years. Such delay invariably does not help in achieving the purpose for which the proceedings are initiated, because the evidence becomes weak due to such long delays and at times records are not available at the time of enquiry. Recently in some cases also the State Administrative Tribunal has taken adverse view on the delay in initiation and disposal of the proceeding and have ordered for exoneration of the delinquent officers on this ground. Such unusual delay is therefore neither in the interest of the Government to punish the real delinquents nor in the interest of justice.

3. I would, therefore, request you to ensure that Disciplinary proceedings, wherever necessary should be initiated with promptitude. The delinquent officers should normally not be given more time than the prescribed 30 days in submission of their statement of defence. If no such statement of defence is submitted within the prescribed time, the disciplinary authority should straight away take steps to enquire himself or appoint an Enquiring Officer to enquire into the charges. This process should in no case take more than a months time. After the appointment of the Enquiring Officer, the disciplinary authority should make periodical review of the pending proceeding with the Enquiring Officers and ensure that the proceedings do not take more than 3 month's by the Enquiring Officer to submit his enquiry report.

4. This should be strictly adhered to so that Disciplinary proceedings contemplated against any officer/employee are disposed of quickly to punish the real delinquents.

5. This may also be brought to the notice of all Heads of Departments and subordinate offices under your control.

Yours faithfully,
S. B. MISHRA
Chief Secretary

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 19489-SC-3-1/97 (Pt. VIII)-Gen.

To

All Departments of Government/
All Heads of Departments/
All Collectors.

Bhubaneswar dated the 25th July 1998

Subject – Disposal of Appeals under Rule 29 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962.

The undersigned is directed to say that Rule 29 of the Orissa Civil Services (Classification Control and Appeal) Rules, 1962 envisages the procedure for consideration and disposal of appeals submitted by the concerned Government servants against the penalty imposed on them in Disciplinary proceedings. Rules 90 and 91 of the Orissa Service Code lay down the principles for entitlement of pay/allowances by the Government servant during the period of suspension.

It has come to the notice of Government that the principles laid down under the aforesaid rules are not being followed strictly by the Appellate Authorities. It is therefore requested that Appellate Authorities in dealing with appeals have to apply their mind and considered all the different aspects enumerated in clauses (a), (b) and (c) of Rule 29 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 and pass a speaking order indicating therein that appeal was disposed of on consideration of all the different aspects required under Rule 29 (1) of the above said Rules, Similarly, orders passed under Rules 90 and 91 of the Orissa Service Code are not supported by reasons.

It is therefore, impressed upon all concerned that the provisions contained in Rule 29 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 should be strictly adhered to while disposing of Appeal Petitions and steps should be taken to give reasons Invariably while passing orders under Rules 90 and 91 of the Orissa Service Code in order to ensure proper disposal of the appeal petitions and to determine properly the admissibility of pay and allowances for the period of suspension.

PRIYABRATA PATNAIK
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 26992-SC-3-8/99-Gen.

To

All Departments of Government/

All Heads of Departments/

All Collectors.

Bhubaneswar, dated the 16th September 1999

Subject – Non-reference of administrative actions for advice of the Orissa Public Service Commission.

The undersigned is directed to say that in pursuance of provisions contained under the Orissa Public Service Commission (Limitations of Functions) Regulations, 1989, read with provisions of Rules 15 and 16 of O.C.S. (C. C. & A.) Rules, 1962, the Orissa Public Service Commission shall be consulted (wherever necessary) before imposition of any of the penalties specified under Rule 13 of Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 on a Government Servant.

2. But it is reported by the Orissa Public Service Commission that a good number of proposals are being referred to them for advice/concurrence relating to disciplinary proceeding cases and imposition of the following punishments on the concerned Government servants :-

- (1) Treating the period of unauthorised absence from duty as extraordinary leave not to be counted as service.
- (2) Warning to be careful in future
- (3) Warning to be recorded in C. C. Rolls
- (4) Treating the period of absence from a particular date till resumption of duty as leave without pay.

3. The above penalties are not the prescribed punishments as specified under Rule 13 of the O. C. S. (C.C. & A.) Rules, 1962.

These are the administrative action to be taken by the concerned authority after completion of procedural formalities in which Orissa Public Service Commission is not required to offer their advice/concurrence.

4. It is, therefore, clarified that the disciplinary proceedings in which the concerned authority propose to take administrative actions on a Government servant, they need not refer the same to Orissa Public Service Commission for advice/concurrence since the Orissa Public Service Commission confine their advice on the punishments specified in Rule 13 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962. It is further clarified that administrative actions as suggested at serials 1 and 4 referred to in Para. 2 above cannot be imposed as a measure of penalty if leave is available in the leave accounts of the concerned Government servant.

S. B. AGNIHOTRI
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

Memo No. 14596-IM-18-2000-Gen.

From

Shri U. N. Behera, I.A.S.,
Special Secretary to Government

To

All Departments of Government/
All Heads of Departments/
All Collectors.

Bhubaneswar, dated the 3rd May 2001

Subject – Starting of Departmental Proceedings concurrently with the Criminal case on the same set of facts in cases where recovery of financial loss to Government is to be made.

Instructions were issued in the erstwhile Political & Services (A.T.) Department letter No. 298-A.T.P. 23/62, dated the 28th August 1962 to the effect that in the absence of any legal bar, a departmental enquiry can be started or continued when a criminal case is *sub judice*, on the same set of facts, provided no scope is allowed, to cause any embarrassment to the Court trying the criminal case, as a result of the departmental proceedings. But, it is observed that these instructions are not strictly being followed. Consequently recovery of financial loss caused to the Government by the delinquent Officers cannot be made due to non-initiation of departmental proceedings. The Hon'ble Supreme Court of India in Civil Appeal No. 3129 of 1988 (Arising out of S.L.P. (C) No. 10467 of 1987), dated the 6th September 1988 reported in A.I.R. 1988, Supreme Court 2118 has clarified that there is no legal bar for taking criminal action and disciplinary proceedings simultaneously against the delinquent employee upon the same set of facts with regard to the particulars of individual situation.

Government, therefore, wish to bring to the notice of all concerned that in future while sanctioning prosecution either under Section 197 (1) of the Code of Criminal Procedure, 1973 (Act 2 of 1974) for the criminal offences relating to Indian Penal Code and causing financial loss to the Government or under Section 19(i) (b) of the Prevention of Corruption Act, 1988 (Act 49 of 1988) for the offence of criminal misconduct committed as outlined in Section 13 (i) (c) of Prevention of Corruption Act, 1988 and causing financial loss to the Government, the prosecuting authorities have to invariably send draft charges alongwith articles of charge, statement of allegations and memo of evidence to the concerned disciplinary authorities under whom the delinquent employee is working for initiating proceedings under rule 15 of the Orissa Civil Services (Classification, Control & Appeal) Rules, 1962 and for serving a copy of the charge-memo on the concerned delinquent employee immediately in order to safeguard the interest of the Government. It is further clarified that acquittal of delinquent employee in a criminal case does not '*ipso facto*' put a stop to any disciplinary proceeding initiated against him. An Officer acquitted in a criminal case may be found guilty in a departmental enquiry as in the later, a less rigorous standard of evidence is insisted upon.

U N. BEHERA
Special Secretary to Government

**(C) COMMISSIONER FOR
DEPARTMENTAL INQUIRIES
GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT**

No. 124-A. T.

To

All Departments of Government.

Bhubaneswar, dated the 2nd May 1984

Subject – Reference of departmental inquiries in major penalty proceedings to the Commissioner for Departmental Inquiries.

A post of Commissioner for Departmental Inquiries (C. D. I.) has been created in the G. A. Department for conducting inquiries in major penalty proceedings against officers and employees of the Secretariat up to the rank of Deputy Secretary. A post of State Representative (S. R.) has also been created for presenting the evidence in support of the charges in all such inquiries before the C. D. I. It has been decided that reference of inquiries to the C. D. I. will be governed by the following principles :-

- (i) The present practice of the Administrative Tribunal conducting inquiries in cases which are investigated by Vigilance will continue. All cases which are investigated by the Vigilance Department and which come within the purview of the Disciplinary Proceedings (A. T.) Rules, 1961 should be referred to the A. T. All other inquiries should be referred to the C. D. I.
- (ii) Only cases in which the misconduct was committed by the charged officer while working in the Secretariat should be referred to the C. D. I. Cases where the charged officers are now working in the Secretariat, but had committed the misconduct in some other office should not be referred to the C. D. I.
- (iii) Only cases in which the inquiring authority has not yet been appointed should be entrusted to the C. D. I. No attempt should be made to transfer a case in which an enquiring authority has already been appointed, to the C. D. I. Such cases are expected to be disposed of by the inquiring officers already appointed.
- (iv) It goes without saying that only inquiries where action was initiated by the departments under Rule 15 of the Orissa Civil Services (C. C. & A.) Rules, 1962 will be entrusted to the C. D. I. Minor penalty proceedings initiated under Rule 16 of the C. C. & A. rules in which no inquiry is called for will not be referred to the C. D. I.
- (v) The C. D. I. conducts the inquiry as the representative of the department which initiated the proceedings. He does not frame the charges. The department will frame charges and obtain the written statement of defence of the officer. If the charges were not admitted in the written statement of defence or if no written statement of defence is submitted by the stipulated date then the disciplinary authority may issue orders appointing the C. D. I. as the inquiring authority under Rule 15 (4) and the S. R. as the Presenting Officer under Rule 15 (5) of the C. C. & A. Rules. Sample forms of the orders appointing the C. D. I. as the Inquiring Authority and the S. R. as the Presenting Officer are given at Annexures I and II.

- (vi) The following documents should be sent to the C. D. I. alongwith the appointment order :-
- (a) Copy of the order initiating the proceedings, charges and statement of imputations
 - (b) List of documents to be produced in support of the charges
 - (c) List of witnesses with their present addresses who are to be examined in support of the charges.
 - (d) Copy of the written statement of defence, if any, submitted by the charged officer
 - (e) Copy of the order appointing the S. R. as the P. O.
- (vii) The following documents should be furnished to the S. R. alongwith the order appointing him as the Presenting Officer :-
- (a) Copy of the order initiating the proceedings, charges and statement of imputations
 - (b) Documents to be produced in support of the charges
 - (c) List of witnesses to be examined in support of the charges
 - (d) Copy of the written statement of defence, if any, submitted by the charged officer
 - (e) Copy of the order appointing the C. D. I. as the Inquiring Authority.
- (viii) Orders appointing the C. D. I. as the Inquiring Authority and the S. R. as the Presenting Officer should issue only after the written statement of defence has been received and considered by the disciplinary authority or when no written statement of defence is submitted and the disciplinary authority is satisfied that it is not necessary to wait for it any longer. The departments will strait refrain from appointing the C. D. I. simultaneously with the initiation of the proceedings. In this connection, their attention is drawn to the erstwhile P. & S. Department Circular No. 712-SC/6-9/78-Gen., dated the 12th January 1978.
- (ix) The State Representative, who will be presenting the case in support of the charges before the C.D.I. should be properly briefed and given necessary assistance by the department initiating the proceedings. In all matters relating to interpretation of departmental rules and procedures and other technical matters, he will take the assistance of the department who will furnish him with the required information and clarification. The Secretary of the Department should specially designate an officer of his Department who is conversant with the case for this purpose.
- (x) On completion of the inquiry, the C. D. I. will furnish his report together with the oral and documentary evidence adduced during the inquiry to the disciplinary authority. The disciplinary authority will examine the report and pass final orders on the findings and recommendation of the C. D. I.
- (xi) Though the C. D. I. is under the administrative control of the G. A. Department, the G. A. Department will not interfere in any way with the conduct of the inquiry. In all matters relating to a particular inquiry, the C. D. I. will correspond with the departments direct. However, the G. A. Department will review the disposal of cases by the C. D. I. and take appropriate steps to ensure, that disposal is up-to-date. To facilitate this review, the department while appointing the C. D. I. as the Inquiring Authority should endorse a copy of the appointment order to the G. A. Department.

C. NARAYANASWAMY
Special Secretary to Government

ANNEXURE I
GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION (A. T.) DEPARTMENT
OFFICE ORDER

Whereas disciplinary proceedings under Rule 15 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 have been initiated against Shri Vide this Department Office Order No. dated

* And Whereas, Shri in his written statement of defence dated did not admit the charges which he was called upon to explain;

* And whereas, no written statement of defence was submitted by Shri by the specified date as directed;

And whereas, it is considered necessary to appoint an Inquiring Officer to enquire into the charges.

Now, the * State Government/undersigned do/does hereby appoint the Commissioner for Departmental Inquiries, G. A. Department as the Inquiring Officer under Rule 15 (4) of the Orissa Civil Services (Classification, control and Appeal) rules, 1962 for the purpose of inquiring into the charges and submitting his report containing his findings to the * State Government/undersigned.

Governor
Government

*** By order of the**
Secretary to

* Strike off what is not applicable.

ANNEXURE II
GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT
OFFICE ORDER

Whereas disciplinary proceedings under Rule 15 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 have been initiated against Shri vide this Department Office Order No., dated

And whereas, it has been considered necessary to enquire into the charges through an Inquiring Officer and accordingly the Commissioner for Departmental Inquiries, G. A. Department has been appointed as the Inquiring Officer;

Now, the * State Government/undersigned do/does hereby appoint the State Representative, G. A. Department as the presenting officer under Rule 15 (5) of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 for adducing evidence and presenting the case in support of the charges before the Commissioner for Departmental Inquiries.

*** By order of the Governor**

Secretary to Government
Dated

* Strike off what is not applicable.

Copy to the State Representative, G. A. Department for information and necessary action.
The following documents are enclosed :-

- (a) Copy of the order initiating the proceedings, charges and statement of imputations
 - (b) Documents to be produced in support of the charges
 - (c) List of witnesses to be examined in support of the charges
 - (d) Copy of the written statement of defence, submitted by the charged officer
 - (e) A copy of this Department Order No, dated appointing the Commissioner for Departmental Inquiries, G. A. Department as the Inquiring Authority.
2. Copy to Shri (Charged Officer) for information.
3. Copy to Special Secretary , G. A. Department for information and record.

Secretary to Government

Memo No Dated

Copy to the Commissioner for Departmental Inquiries for information and necessary action. The following documents are enclosed :-

- (a) A copy of the order initiating the proceedings, charges and statement of imputations
 - (b) List of documents to be produced in support of the charges
 - (c) List of witnesses with their present addresses who are to be examined in support of the charges.
 - (d) A copy of the written statement of defence submitted by the charged officer
 - (e) A copy of this Department Order No. Dated appointing the State Representative as the Presenting Officer.
- (2) Copy to Shri (Charged Officer) for information and necessary action. He is hereby directed to appear before the C. D. I. on such dates and places as may be indicated by him.
- (3) Copy to Special Secretary, G. A. Department for information and record.

Secretary to Government

**GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION (A. T.) DEPARTMENT**

Memo No. 300-A. T.

To

All Secretaries to Government

Bhubaneswar, dated the 31st August 1984

Subject – Reference of departmental proceedings to the Commissioner for Departmental Inquiries.

I am directed to say that in partial modification of the guidelines issued in this department letter No. 124(35)/80, dated 2-5-1984 regarding transfer of inquiries in major penalty proceedings to the Commissioner for Departmental Inquiries, it has now been decided that proceedings against Class-IV employees should not be transferred to him and may be enquired into by the officers of the Department concerned.

**C. NARAYANASWAMY
Special Secretary to Government**

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION (A. T.) DEPARTMENT

No. 21-A. T.

To

All Departments of Government

Bhubaneswar, dated the 9th January 1985

Subject – Reference of departmental enquiries in major penalty proceedings to the Commissioner for Departmental Inquiries.

Instructions were issued in this Department letter No. 124 (35), dated the 2nd May 1984 that only cases in which the misconduct was committed by the charged officers while working in the Secretariat should be referred to the Commissioner for Departmental Inquiries. It was made clear therein that cases where the charged officers are now working in the Secretariat but had committed misconduct in some other offices should not be referred to the C. D. I. But it has come to light that a number of disciplinary proceedings for the misconduct committed by the Gazetted Officers in other offices are also pending in different Departments for enquiry. Extension of the jurisdiction of the Commissioner for Departmental Inquiries has therefore been felt necessary for speedy disposal of such cases.

2. It has now been decided that inquiries against Gazetted Officers where the lapses were committed in other offices are also to be entrusted to the C. D. I. provided the disciplinary authority of the charged officer is of the rank of Secretary to Government and above. In all such cases, the Proceedings will be initiated by the disciplinary authorities under the C. C. & A. Rules and the C. D. I. will be appointed as the enquiring authority. The procedure laid down in this Department circular referred to above will also be followed in these cases. The Departments of Government will obtain the orders of the Disciplinary authority concerned for entrusting the cases to the C. D. I.

In the cases investigated by the Vigilance which are not considered serious enough to be sent to the A. T., the Vigilance Department will suggest action to be taken with the orders of the Chief Secretary and if it is decided to initiate major penalty proceedings, the case will be entrusted to the C. D. I. for enquiry. On receipt of intimation from the Vigilance Department, the Administrative Department will frame charges in such cases and take further appropriate action. If charges are not admitted by the impugned officer, the C. D. I. should be appointed as the enquiring authority following the procedure prescribed in this Department circular referred to above.

C. NARAYANA SWAMY
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION (D. P. T.) DEPARTMENT

No. 142-DPT.

OFFICE MEMORANDUM

To

All Departments of Government

Bhubaneswar, dated the 10th August 1987

Subject – Reference of departmental Inquiries to the Commissioner for Departmental Inquiries.

It has come to notice that disciplinary proceedings against Government employees are being referred to the Commissioner for Departmental Inquiries notwithstanding whether Government are the disciplinary authority or not. The intention of the Government is not to entrust the Commissioner for Departmental Inquiries with the disciplinary proceedings for all of employees. The jurisdiction of the Commissioner has been defined by this Department from time to time.

Instructions were issued in this Department letter No. 124 (35), dated 2-5-1984 to the effect that disciplinary proceedings in respect of employees serving in the Secretariat only should be referred to the Commissioner for Departmental Inquiries. Subsequently the jurisdiction of the Commissioner has been extended in General Administration Department Circular No. 21, dated 9-1-1985 in respect of Gazetted Officers in whose cases Government are the disciplinary authority. In view of the circulars referred to above disciplinary proceedings against employees in whose respect Government are not disciplinary authority are to be referred to the Commissioner for Departmental Inquiries.

It has also come to the notice of Government that certain composite cases where several employees are involved in one individual proceeding are being referred to the Commissioner for Departmental Inquiries even though all of them are not under the disciplinary authority of the Government. In one case, a proceeding against a Tahasildar and a Revenue Inspector has been referred to the C. D. I. Obviously within the meaning of this Department circulars mentioned above the case of the Revenue Inspector is not to be referred to the C. D. I. In such cases of composite proceeding which cannot be split, reference for inquiries should not be made to the Commissioner for Departmental Inquiries.

It is requested that this may be followed by all concerned.

M. P. MODI
Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION (D. P. T.) DEPARTMENT

No. 18 (30)-D. P. T.

To

All Departments of Government

Bhubaneswar, dated the 8th January 1988

Subject – Reference to departmental Inquiries in major penalty proceedings to the Commissioner for Departmental Inquiries.

The undersigned is directed to invite reference to this Department letter No. 124 (30), dated the 2nd May 1984 on the subject indicated above and to say that instructions have been given in the circular that the State Representative (S. R.) should be properly briefed and given necessary assistance by the Department in all matters relating to interpretation of departmental rules and procedures and other technical matters and the Secretaries of the Departments should specifically designate an Officer of their department to assist the State Representative (S.R.) who is conversant with the case for this purpose. In this connection it is pointed out that the officer who is so designated by the Department to assist the State Representative can be appointed as Additional Presenting Officer henceforth and can also appear along with the State Representative before the Commissioner for Departmental Inquiries or whenever the State Representative is not available. It is requested that the above instruction may be followed while referring the case to the Commissioner for Departmental Inquiries henceforward.

B. B. MISHRA

Joint Secretary to Government

No. 117-DPT.

**GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT**

RESOLUTION

The 16th May 1988

Subject – Travelling Allowance and Diet Allowance admissible to non-official witnesses appearing in the proceeding before the Commissioner for Departmental Inquiries.

A Post of Commissioner for Departmental Inquiries has been created in G. A. Department Circular No. 124 (30)-At., dated the 2nd May 1984 for conducting inquiries in major penalty proceedings against officers and employees up to the rank of Deputy Secretary. In the process of conducting these proceedings the C. D. I. examines witnesses, both official and non-official. These witnesses will be required to be paid Travelling Allowance and Daily Allowance for appearing before the C. D. I. The Government have had under consideration the rates at which Travelling Allowance and Daily Allowance should be paid to the witnesses appearing before the C. D. I.

2. After Careful consideration of the matter, the Governor has been pleased to decide that the Travelling Allowance and Diet Allowance for the non-official witnesses appearing in the proceedings before the C. D. I. should be brought at par with those admissible to the non-official witnesses attending the Disciplinary Proceedings Tribunal, Orissa as detailed in the Schedule below :-

SCHEDULE

Class of witness	Maximum diet allowance per diet	By road or boat	By rail or steamer	For coming on foot where no conveyance is available	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
(a) Wage earning type.	Rs. 10	Actual conveyance charges of Bus, Rickshaw, Bullock-cart or boat.	Second Class fare with conveyance charges from station to attending place.	Not exceeding Rs. 1.50 for every 16 K.Ms. of distance traveled as the CDI may fix.	
(b) Skilled type.	Rs. 15	- do -	- do -	- do -	
(c) Superior Class.	Rs. 20	- do -	First Class fare with conveyance charges from station to attending place.	- do -	

3. These rates shall come into force with effect from the date of issue of this Resolution.

ORDER – Ordered that the Resolution be published in *Orissa Gazette* for general information.

Ordered also that copies of the Resolution be forwarded to the Commissioner, Departmental Inquiries / Accountant-General/All Departments of Government/All Heads of Departments/All District Magistrates / Secretary to Governor/Special Secretary, G. A. (Vigilance) Department/ All Branches of G. A. Department for information.

By order of the Governor
BINOY B. MISRA
Joint Secretary to Government

Copy of Letter No. 448 (30)-DPT., dated the 29th November 1991 from Government of Orissa, General Administration (DPT) Department, addressed to all Departments of Government.

Subject – Reference of departmental inquiries in major penalty proceedings to the Commissioner for Departmental Inquiries.

The undersigned is directed to invite a reference to this Department Letter No. 124 (3)-A.T., dated 2-5-1984 on the subject indicated above and to say it has been reported by the C. D. I. that although it was clearly mentioned that the Administrative Departments while referring Departmental Inquiries in major penalty proceedings to Commissioner for Departmental Inquiries should also furnish list of witnesses to be examined with their present address they hardly attend to the same and that only the charge-sheet and the explanations with annexures which are often voluminous in nature are received. It becomes difficult on the part of the C. D. I. to find out the list of witnesses to be examined with their present address, they hardly do to the same and that only the charge-sheet and the explanation with annexures which are often voluminous in nature are received. It becomes difficult on the part of the C. D. I. to find-out the list of document to be exhibited and list of witnesses to be examined from said records. Consequently enquiry into the proceedings is prolonged unnecessarily.

It is therefore, requested that Administrative Departments of Government while entrusting C. D. I. with enquiry in to Departmental proceedings, should furnish the documents as stated in the memo referred above failing which C. D. I. may not accept these cases. It is further requested that there are deficiencies as regards submission of documents in the cases which are now pending with the C. D. I., the Departmental will promptly make good the same after receipt of request from the Enquiring Authority henceforward.

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 27556 – C. D. I. (Misc.) 1-1/97 G. A.

From

Shri H. S. CHAHAR, I.A.S.,
Special Secretary to Government

To

All Principal Secretaries to Government/
All Commissioner-*cum*-Secretaries to Government/
All Secretaries to Government.

Dated, the 17th October 1997

Subject – Appointment of State Representative (Vigilance) in place of State Representative (General) as Presenting Officer for the Disciplinary Proceedings initiated on the basis of vigilance report referred to the Commissioner for Departmental Inquiries, General Administration Department for inquiry.

Sir,

I am directed to say that after abolition of Departmental Proceedings Tribunal, the General Administration (Vigilance) Department have posted one Deputy Superintendent of Police (Vigilance) as State Representative in the office of the Commissioner for Departmental Inquiries to Present the case before the Departmental Proceedings in which Commissioner for Departmental Inquiries is appointed as Inquiring Officer. The State Representative attached to office of the Commissioner for Departmental Inquiries is invariably being appointed as Presenting Officer.

Now, it has been decided to appoint State Representative (Vigilance) in place of State Representative (General) in those cases which have been initiated on the basis of Vigilance report.

It is therefore, requested that all the Departments may appoint the State Representative (Vigilance) as Presenting Officer in those Departmental Proceedings which have been initiated on the basis of Vigilance report in order of smooth progress of the inquiry.

Yours faithfully,

H. S. CHAHAR

Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 40085 – C. D. I. (Misc.) 1/97-Gen.

From

Shri H. S. CHAHAR, I.A.S.,
Special Secretary to Government

To

All Principal Secretaries to Government/
All Commissioner-*cum*-Secretaries to Government/
All Secretaries to Government.

Dated, the 31st December 1997

Subject – Appointment of Additional Presenting Officer for the Disciplinary Proceedings referred to the Commissioner for Departmental Inquiries of General Administration Department for inquiry.

Ref : This Department letter No. 172-Gen., dated 5-4-1997 and No. 27556-CDI., dated 17-10-1997.

Sir,

I am directed to say that in some of the departmental proceedings which have been initiated on the basis of the Vigilance enquiry reports, the concerned Investigating Officers of the G. A. (Vigilance) Department are being appointed as the Additional Presenting Officers to assist the Presenting Officer in the inquiries conducted by the Commissioner for Departmental Inquiries of G. A. Department. Since in such cases the State Representative (Vigilance), who is an Officer of O. P. S. Cadre and belonging to G. A. (Vigilance) Department is appointed as Presenting Officer and the concerned Investigating Officer is cited as a witness to give his oral evidence, the latter's appointment as Additional Presenting Officer will not be in the interest of proper presentation of the case before the Inquiring Officer.

Now, it has been decided by the Government that in such cases a departmental officer of the appropriate rank who is conversant with the facts of the case as well as departmental policy, rules and instructions may be appointed as the Additional Presenting Officer.

Yours faithfully,

H. S. CHAHAR

Special Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 4375 – C. D. I.- (Misc.) 3-97-CDI.

From

Shri H. S. CHAHAR, I.A.S.,
Special Secretary to Government

To

All Principal Secretaries to Government/
All Commissioner-*cum*-Secretaries to Government/
All Secretaries to Government.

Dated, the 23rd February 1998

Subject – Abolition of Disciplinary Proceedings Tribunal and transfer of pending D. P. T. cases to the C.D.I. for inquiry.

Sir,

I am directed to invite a reference to the G. A. Department Office Memo No. 92 (150), dated the 21st February 1997 and No. 242 (150), dated the 23rd June 1997 on the subject cited above. It is decided by the Government that on the abolition of Disciplinary Proceeding Tribunal and transfer of pending D. P. T. cases to the C. D. I. for inquiry in cases where the charges have not been framed by the D. P. T. before the transfer of the case, the Disciplinary Authority should frame the specific charges against the Delinquent Officer in accordance with the Rule 15 (4) of the O. C. S. (C. C. & A.) Rules, 1962 and the procedure prescribed in the same Rules should be followed. But in cases where charges have been framed against the D.Os. by the Departmental Proceedings Tribunal before the D. P. T. cases were transferred to the C. D. I. no specific appointment in favour of the C. D. I. as Inquiring Officer need be made. The Disciplinary Authority should have to appoint a Presenting Officer and an Additional Presenting Officer in each case as per Government instruction issued from time to time. Since all the cases have been initiated on the basis of Vigilance Inquiry Reports, the State Representative (Vigilance) should be appointed as Presenting Officer and a suitable Officer of the Department may be appointed as the Additional Presenting Officer.

Yours faithfully,

H. S. CHAHAR

Special Secretary to Government

(D) VIGILANCE INQUIRIES
GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT
(VIGILANCE BRANCH)

No. 3224 (205) – VL.

To

All Secretaries to Government

All Heads of Departments

All District Offices

Cuttack, dated the 6th October 1967

Subject – Departmental procedure for reference to Vigilance Organisation.

In Home Department's Notification No. 19872-Ref., dated the 13th August 1962, Government specified the nature of offences that are to be investigated by the Vigilance Organisation. It has been brought to my notice that the Vigilance Organisation has been receiving a large number of references from Departments for enquiry although those are not within their scope as specified in the above notification. Matters calling for disciplinary proceedings by appropriate authority appear to have been referred to Vigilance Department for enquiry. Offences of the nature of Criminal misappropriation, breach of trust cheating and the like, which are to be normally referred to the local Police for investigation, are being referred to the Vigilance Organisation. In consequence of such references the workload of the Vigilance Organisation has considerably increased. I would like to impress upon you that it is the responsibility of the Secretaries and Heads of Departments to maintain the efficiency and integrity of the Government servants working under them and if they find in course of their inspections, tours, from Audit Reports and other sources that there has been any failure in the discharge of the duties properly on the part of any subordinate officer working under them, they should initiate disciplinary action immediately in accordance with the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 and if the lapses fall within the definition of any offence, these should promptly be referred to the local Police for investigation and due legal action. The tendency of shifting this responsibility to the Vigilance Organisation should cease forthwith.

If the Secretary/Head of the Department thinks that any case is of such a special nature as to be referred to the Vigilance Organisation, he should refer the matter to me or discuss with me indicating the reasons for such a course. If I consider that the reference deserves Investigation/Enquiry by Vigilance, I shall pass specific orders for such a course.

A. K. BARREN
Chief Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 24371 – IN-54/90-Gen.

From

Smt. C. Narayanaswamy, I.A.S.,
Special Secretary to Government

To

All Secretaries to Government/
All Heads of Departments
All Collectors.

Bhubaneswar, dated the 3rd September 1990

Subject – Strengthening Internal Vigilance in State Government Departments, Heads of Department Offices, Corporations and in District Offices (Collectorates).

Sir,

I am directed to refer to this Department Letter No. 5114-Gen., dated the 18th June 1984 according to which Internal Vigilance Officers were to be appointed in all Departments of Government and the offices of Heads of Department. It has now been decided that Internal Vigilance Officers should also be appointed in the Corporations (PSUS) and in the District Offices. The procedure for selection and appointment of Internal Vigilance Officers in the Secretariat and Offices of Heads of Department has been laid down in the letter under reference. The same procedure would be followed in the case of the Corporations (PSUS) and the District Offices. Proposals for appointment of Internal Vigilance Officer in corporation (PSU) should be submitted to the Chairman of the Corporation (PSU), while proposals for appointment of Internal Vigilance Officer in the District Offices should be submitted to the R. D. Cs. concerned.

2. It has further been decided that in addition to the duties allotted to them in the letter under reference the Internal Vigilance Officers will deal with all Vigilance reports, complaints having a vigilance angle and enquiries arising out of vigilance cases. They will keep track of defaulters in submission of property returns and to take steps so that the property returns are given up-to-date.

3. In order to enable them to discharge these duties efficiently Internal Vigilance Cells should be set up in all Departments of Government, Heads of Department, Corporations (PSUS) and in the District Offices. These will be full fledged Sections which will be formed by redeployment of the existing staff within the Offices.

4. This Internal vigilance Cells will function directly under the Internal Vigilance Officers and all vigilance reports, departmental enquiries arising out of vigilance cases, matters pertaining to defaults in property returns and complaints having a vigilance angle will be dealt with the Internal Vigilance Cells.

5. The Internal Vigilance Officers will prepare and furnish quarterly reports to the Secretary to Government/H.O.D./Managing Director/Collector as the case may be regarding disposal of Vigilance cases in the *pro forma* enclosed to this letter, by the 15th of the month following the Quarter.

6. Suitable instructions may please be issued to the Heads of Departments and corporations (PSUS) accordingly.

7. Action taken on these instructions may be reported by the Departments to the G. A. Department/and by others to their Administrative Departments within a month.

Yours faithfully,

Smt. C.

NARAYANASWAMY

Special Secretary to

Government

ANNEXURE

**QUARTERLY REPORT OF VIGILANCE CASES TO BE FURNISHED BY
INTERNAL VIGILANCE OFFICERS TO THE G. A. DEPARTMENT**

Name of the Department Report for the quarter ending
.....

Category of Vigilance cases	Pending at the beginning of the quarter	Received during the quarter	Total	Disposal during the quarter	Balance
Investigation reports					
Disciplinary proceeding arising out of vigilance reports					

- (1) No. of prosecution sanctioned.
- (2) No. of disciplinary proceedings started.
- (3) No. of suspect officials on whom major penalty was imposed.
- (4) No. of suspect officials on whom minor penalty was imposed.
- (5) No. of complaints referred to State Vigilance Department for investigation.

GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

ORDER

Bhubaneswar, dated the 17th October 1990

Subject – Submission of files to Government in matters of Sanction of prosecution on Vigilance Reports/Enquiry Reports of the Disciplinary Proceedings Tribunal, representations on service matters involving Class-II and other higher categories of officers.

No. 28578-2M.-61/90 – The question of submission of files to Government for orders on matters of sanction of prosecution on the reports of Vigilance Organisation, enquiry reports of the Disciplinary Proceedings Tribunal and representations on service matters involving Class-II and other higher categories of officers was under consideration. After careful consideration it has been decided that the cases may be processed for Government orders in the manner indicated below –

- (i) If they pertain to Secretaries, Heads of Department and Officers of equivalent rank and members of All-India Services, they will be submitted to Chief Minister through the Chief Secretary.
- (ii) If they pertain to other categories of Senior Class-I Officers, they will be submitted to Chief Minister through Additional Chief Secretary.
- (iii) If they involve, Class-II and Junior Class-I Officers they will be submitted to Chief Minister direct by the Special Secretary.

M. V. A. SUBARAO

Deputy Secretary to Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 19247 – 3M-47/93-Gen.

To

All Departments of Government
All Heads of Departments
All District Offices.

The 7th September 1993

Subject – Initiation of Departmental Disciplinary proceedings/Disciplinary action on Vigilance Report.

In the erstwhile P. & S. (Gen.) Department Letter No. 6634-Gen., dated the 27th May 1961 and Letter No. 2612-2R-I-8/63 (Gen.), dated the 20th February 1963 instructions were issued wherein it was emphasised that Government Departments/Heads of Departments should initiate action for drawal of disciplinary proceedings against delinquent officers on the report of the Vigilance Branch of the erstwhile P. & S. Department without unnecessary delay, treating the enquiry conducted by the Vigilance and its report as adequate basis for such departmental action, in terms of the provisions contained in the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962.

Several instances have come to the notice of Government where the above guidelines and orders of Government have not been followed properly by Departmental Authorities and initiation of departmental disciplinary action is being unnecessarily delayed, thereby defeating the purpose of such enquiry and at times, to the detriment of the delinquent officer (s). Instances are many where due to such delays the concerned delinquent officer is allowed to proceed on retirement without any action being initiated against him. It has also been brought to the notice of Government that some Departments do not promptly acknowledge receipt of the Vigilance Enquiry Report and after issue of reminders, at times covering three to four years, intimate about non-receipt of such reports even though the same have been delivered through messenger and receipt obtained in Peon Book.

It is reiterated that it shall be the responsibility of the concerned Disciplinary Authorities to acknowledge promptly the receipt of Vigilance Enquiry Reports and initiate immediate action for drawal of departmental disciplinary proceedings within three months from the date of receipt of such reports at the latest. This task should be entrusted to the Internal Vigilance Organisation of the concerned Department/Office so that responsibility for non-compliance can be fixed.

R. N. DAS

Chief Secretary to

Government

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

No. 22937

To

All Principal Secretaries to Government
All Secretaries to Government.

The 28th August 1997

Subject – Expeditious disposal of references made by the Vigilance Department for sanction of prosecution and taking Departmental action.

Sir,

During a recent review of the activities of the Vigilance Department, it is revealed that proposals for sanction of prosecution are not cleared promptly by the Departments and the Heads of Departments, Public Sector Undertakings and Subordinate Offices under their control. In some cases proposals are kept pending for several months resulting in delay in filing of charge sheet by the Vigilance Department. As you know the longer the delay, the less is the chance of success of the case in the Court of Law.

2. The experience in respect of proposals sent by the vigilance for taking Departmental action is still worse. These are not only delayed but also end up in many cases in exoneration of the delinquents as a consequence of improper enquiry. In most of the cases the Vigilance Department is also not kept informed of the outcome of such references.

3. In order to tide over such situation it is imperative that the Departments/Heads of Department/Public Sector Undertakings/Subordinate Offices should ensure that all proposals for sanction of prosecution should be cleared by them within 2 months. During this period any clarification required from the Vigilance should be obtained and there should in no case be a plea to delay the matter. Similarly the proposals or Departmental actions should be cleared within 6 months positively and the disciplinary authorities should take care to see that the enquiries are properly held before passing their final orders. The IVOs./CVOs. in the Departments/Heads of Departments/Public Sector Undertakings should be made responsible to monitor all these references on day to day basis.

4. The above instructions should be brought to the notice of the Heads Departments/Public Sector Undertakings and Sub ordinate Offices under your control. This should also be periodically reviewed by you to ensure that Vigilance cases/enquiries reach their logical end expeditiously.

5. Progress of sanction of prosecution and Departmental action arising out of Vigilance cases/enquiries would be reviewed once every 3 months in the fortnightly meeting of Secretaries and Special Secretaries to which Director, Vigilance would be invited to participate with a Department-wise pending list.

Yours faithfully,

S. B. MISHRA

Chief Secretary, Orissa

[Top](#)

Government of Orissa
General Administration Department

Memo No. 21884 / Gen., Date 06.08.2003
SC/6-18/2003

To

All Secretaries to Government
All Heads of Departments
All Collectors.

Sub: Defence of retired Government servants impleaded in contempt of court proceedings –
Instructions regarding.

Elaborate procedures have been laid in G.A.Department letter No. 14537/Gen., dated 26.05.1992 to regulate the defence of Government servants in legal proceedings. Paragraph 10 and 11 of the above cited letter prescribe detailed instruction to deal with the defence of Government servants against whom the contempt of court charges have been served. A set of revised procedure have also been inserted under Para – 11 of the letter vide G.A. Department Circular Letter No. 42863, dated 06.12.2000.

Instances have now come to the notice of Government that sometimes notice for contempt of court proceedings have also been served on Government servants even after their retirement from Government service basing upon their official work discharged during their service. Since the safeguards provided in para-11 of the above cited circular do not cover the retired Government servants, they are left to shoulder such responsibilities alone.

In order to provide reasonable assistance to the retired Government servants facing contempt of court proceedings, the State Government, after careful consideration, have decided that the retired Government servants served with contempt notice for anything done in their official capacity during their service tenure should also be entitled to the safeguards enshrined in the G.A. Department circular letter dated 6.12.2000 subject to the following conditions:

- (a) The retired Government servant shall engage a lawyer of his choice.
- (b) The legal expenses shall only be reimbursed in the event of his success or being exonerated in the contempt proceedings
- (c) The fee of the lawyer shall not exceed the fees admissible to the Government Advocate/Standing Counsels.
- (d) The concerned Administrative Departments/Heads of Departments/Office shall bear the legal expenses.
- (e) The Law Department, the Administrative Department, Heads of Department and Head of office as the case may be shall take up such matters seriously and extend all possible co-operation and assistance to the retired Government servants impleaded in Contempt proceedings.

The above instructions may be communicated to all the subordinate offices for their information and guidance. This is being issued in consultation with the Law Department vide their UOR No.402/L., dated 11.3.2003.

al Secretary to Government

Speci