North Block, New Delhi
Dated February 18, 2015

OFFICE MEMORANDUM

Subject: Importance of following the due process in disciplinary proceedings – regarding

This Department has been emphasising the necessity of conforming with the procedures prescribed in the Central Civil Services (Classification, Control & Appeal) Rules, 1965 [CCS(CCA) Rules, 1965] while dealing with the disciplinary proceedings conducted in Ministries/ Departments. Many a times the Hon'ble Administrative Tribunals and Courts have held the proceedings non-est for non-conformity of the procedure, without even going into the merits of the case. This issue was highlighted recently in the judgement of the Hon'ble Supreme Court in the B. V. Gopinath case in SLP No. 6348/2011.

2.   Procedural lapses have also been noticed in a few cases referred to this Department for advice. Two areas where procedural lapses are frequently noticed are: (i) not following the procedure prescribed in Rule 14(18) of CCS (CCA) Rules, 1965 while conducting the disciplinary inquiry; and (ii) not following the procedures laid down in Rule 9 of CCS(Pension) Rules, 1972 in the case of proceedings against retired Government servants.

3.   Rule 14(18) of CCS (CCA) Rules, 1965, provides that, "the inquiring authority may, after the Government servant closes his case, and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government servant to explain any circumstances appearing in the evidence against him.". This is a formal action required to be taken by the inquiry officer before closing the inquiry. It has been seen that many a times this is not formally recorded and the inquiry gets vitiated. It is imperative that the inquiry is conducted strictly in accordance with the procedures prescribed.

4.   Attention is also invited to Rule 9 of the Central Civil Services (Pension) Rules, 1972, while lays down that the departmental proceedings, if instituted while the Government servant was in service, whether before his/her retirement or during his re-employment, shall, after his/her final retirement, be deemed to be proceedings under the rule and shall be continued and concluded by the authority which commenced them, in the same manner as if the Government servant had continued in service. This rule also stipulates that where the departmental proceeding is instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

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5.   All Ministries / Departments are requested to please bring to the attention of all concerned the necessity of conforming to the procedures prescribed for conducting departmental proceedings.

6.   In this regard, attention is also invited to the ISTM publication 'Handbook for Inquiry Officers & Disciplinary Authorities, 2013', which can be used as a reference guide in such matters. The Handbook may be accessed under 'Publications/Reports' on this Department's website: http://persrnin.nic.in/DOPT.asp.
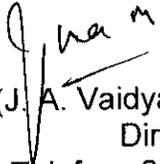
(J. A. Vaidyanathan)
Director (E)
Telefax : 23093179

To

The Secretaries of all Ministries / Departments
(as per standard list)

Copy to:-

1. Comptroller & Auditor General of India, New Delhi

2. Union Public Service Commission, New Delhi

3. Central Vigilance Commission, New Delhi

4. CVOs of all Ministries/ Departments

5. Central Bureau of Investigation, New Delhi.

6. All Union Territory Administrations.

7. Lok Sabha / Rajya Sabha Secretariat.

8. All attached and subordinate Offices of Ministry of Personnel, PG & Pensions.

9. All Offices and Sections of the Ministry of Personnel. Public Grievances & Pensions

10. NIC, Department of Personnel & Training, North Block, New Delhi with the request to upload the above O.M. at the website under OMs & Orders → Establishment → CCS(CCA) Rules

11. Hindi Section for translation in Hindi