

New Delhi-11, the

8<sup>th</sup> June, 1962  
18<sup>th</sup> Jyaishta, 1884

OFFICE MEMORANDUM

Subject:- C.C.S. (C.C. & A.) Rules, 1957 - Rule 15 -  
Clarification regarding submission of  
written statement of defence, approval of  
the assisting employee by the disciplinary  
authority, scope of functions of the  
assisting employees; and the authority  
competent to impose minor penalties.

The undersigned is directed to say that the Government  
have reached the following decisions:-

Recommendations of the Pay Commission.

Decisions

(1) While a federal employee in the United States is required to submit a written reply in his defence normally within five working days, an employee in Australia within seven days, and one in New Zealand within three to five days, the time allowed to a Central Govt. employee for submitting his reply to a charge, or even his explanation in minor cases is far longer. It is worth serious consideration whether, if disciplinary proceedings are not to drag on for months as they usually do at present - often to the detriment both of the employee and the public service - similar time-limits should not be fixed here also.

(1) The authority framing the charges for imposing major penalties should take steps to collect all records relevant for purposes of inquiry at the time of framing charges and keep them in custody so that access thereto may be given readily if such a request is made by the defendant official.

(1) The charge-sheet should be accompanied by a memorandum in the prescribed form. The dates by which the defendant official should, if he so desires, complete inspection of documents ask for additional documents, if any, and submit his written statement should be specified in the memorandum. The time to be allowed for each of these may be as follows:-

(a) Completing the inspection of the documents mentioned in the list supplied to the defendant official as per para 4 of M.H.A.'s O. I. No. 20/5/61-AVD, dated the 25th August, 1961:-  
Seven working days from the date on which the aforesaid list is supplied.

(b) A request for access to additional records:- Five

days from the date of completion of inspection;

- (c) Time by which additional records asked for should be made available:- Five days from the date of receipt of the request for additional records;
- (d) Time by which additional records made available should be inspected:- Five working days from the date on which such additional records are made available;
- (e) Submission of written statement:- Ten days from the date of completion of inspection referred to at items (a) or (d) above, whichever is later, or where the accused Government servant does not intend to inspect the documents, 10 days from the date of receipt of the charge-sheet.

(ii) Where the disciplinary proceedings are initiated under rule 16 of the CCS(CC&A) Rules 1957 or a corresponding rule for imposing a minor penalty, the accused Government servant may be allowed time for submission of his explanation etc. as follows:-

(a) Request for permission to inspect documents must be made within 5 days of the date on which the accused Govt. servant is informed of the allegations against him; and if the request is acceded to, the inspection should be completed within 7 working days of the date on which permission to inspect is communicated to him.

(b) As for item (b) in (i) above.

(c) As for item (c) in (i) above.

(d) As for item (d) in (i) above.

(e) Submission of representation/explanation:- Ten days from the completion of inspection referred to at items (a) or (d) above, whichever is later; or, where the accused Government servant does not request for inspection of documents, 10 days from the date of receipt of the intimation of the proposal to take action against him and of the allegations on which it is proposed to take action.

The time given under (i) or (ii) above should not be extended except for sufficient reason which should be recorded in writing.

2. A Central Government employee can engage a legal practitioner as a matter of right only if a legal practitioner is engaged to support the charge against

(2) The recommendation has been accepted and necessary amendment in rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957 has been issued vide the Ministry of Home Affairs notification No. F.7/3/62-Ests(A) dated the 28th April, 1962.

He is, however, free to present his case with the assistance of any other Government servant, provided the particular Govt. servant is approved by the disciplinary authority. While it is desirable that disciplinary enquiries should not assume the character of full-fledged judicial trials and the present restrictions on engaging legal practitioners may, therefore, continue, there is no good reason why an employee's choice of a colleague to assist him should require the approval of the disciplinary authorities. It is, therefore, recommended that this condition may be withdrawn.

Suggestions from other sources.

- (3) Where the disciplinary authority competent to impose all (i.e. major as well as minor) penalties (hereinafter referred to as "higher disciplinary authority") initiates disciplinary proceedings but after recording its findings or after considering the representation made in response to the notice to show cause why a major penalty should not be imposed is of the opinion that only a minor penalty should be imposed and therefore remits the case to a subordinate disciplinary authority competent to impose minor penalties only (hereinafter referred to as "lower disciplinary authority"), then if the order is passed by the lower disciplinary authority, the appeal against such order should lie to the authority superior to the higher disciplinary authority.
- (3) When proceedings are instituted by a "higher disciplinary authority", if orders should also be passed by such "higher disciplinary authority" and the case should not be remitted to lower disciplinary authority on the ground that on merits of the case it is sufficient to impose a minor penalty and such minor penalty could be imposed by a lower disciplinary authority. In such cases the appeal against the punishment order of the "higher disciplinary authority" shall lie to the authority prescribed under the CCS(CCA) Rules as the appellate authority in respect of such order.
- (4) Provision exists for allowing the accused Govt. servant to present his case with the assistance of another Govt. servant. A doubt has been raised whether the assisting Govt. servant could directly cross-examine and re-examine witnesses and make submissions before the Inquiry Officer and it has been suggested that the position might be clarified.
- (5) The Govt. servant who has been permitted to assist the accused official should be permitted to examine, cross-examine and re-examine witnesses and make submissions before the Inquiry Officer on behalf of the accused official, if the accused official makes a request in writing in this behalf.

2. This issues in continuation of this Ministry's Office Memorandum No.6/26/60-Ests.(A) dated the 16th February, 1961.

3. In so far as personnel serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India.

(B.D. Jayal)  
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

To All Ministries etc.

No. 6/26/60-Ests.(A) New Delhi-11, the 8<sup>th</sup> June, 1962  
18/11/1884

Copy to:-

1. All Union Territory Administrations.
2. All Zonal Councils.
3. All Attached and subordinate offices of Ministry of Home Affairs.
4. All Officers and Sections of M.H.A.
5. All Vigilance Officers.

(B.D. Jayal)  
DEPUTY SECRETARY TO THE GOVT. OF INDIA.

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5/6.