

No. 35014/1/76-Estt (A)
Government of India/Bharat Sarkar
Cabinet Secretariat, Mantramandal, Sachivalaya
Department of Personnel and Administrative Reforms
(Karmik Aur Prashasnik Sudhar Vibhag)

New Delhi, the 29th July, 1976.

OFFICE MEMORANDUM

Subject: Inquiry by the disciplinary authority -
Item raised in the meeting of the National
Council (JCM) held in Nov., 1975.

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The undersigned is directed to invite attention to the Department of Personnel and Administrative Reforms O.M. No. 39/40/70-Estt(A) dated the 9th November, 1972 which, inter alia, provides that only those Inquiry Officers who are free/bias should be appointed by the disciplinary authority to conduct departmental inquiries. It is, further been provided that wherever an application is moved by a Govt. servant, against whom disciplinary proceedings are initiated, against the Inquiry Officer on grounds of bias, the proceedings should be stayed and the application referred to the appropriate reviewing authority for considering the matter and passing appropriate orders thereon. In this connection, the Staff Side raised the following points, at the National Council (JCM) meeting held in Nov., 1975:

- (a) The orders contained in the Department of Personnel and Administrative Reforms O.M. dated 9th November, 1972 are not being implemented in some Departments; and
- (b) The O.M. dated 9.11.1972 did not contain instructions regarding disciplinary authority inquiring into the case itself.

2. Regarding (a) above, Ministry of Finance etc. are requested to observe and implement scrupulously the aforesaid instructions contained in this Department's O.M. of 9th November, 1972.

3. The second point raised by the Staff Side has been further examined in this Department. According to Rule 14(5) of the CCS(CCA) Rules, 1965, the disciplinary authority may itself inquire into the charges against the accused Government servant or appoint an Inquiry Officer for the purpose. However, it should be possible in a majority of cases,

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and the more serious ones at any rate, to ensure that the disciplinary authority himself does not conduct the inquiry. It may still be not practicable to ensure in all cases that the disciplinary authority himself would not be the Inquiry Officer. Such a course may be necessary under certain circumstances particularly in small field formations where the disciplinary authority as well as the Inquiry Officer may have to be one and the same person. It has accordingly been decided that unless it is unavoidable in certain cases as mentioned above, the disciplinary authority should refrain from being the Inquiry Officer and appoint another officer for the purpose. Ministry of Finance etc. are requested to note this for information and compliance.

R. Raghavachari
(R. RAGHAVACHARI)
DIRECTOR (Estts.)

To

All Ministries/Departments of the
Government of India (with usual
number of spare copies).

No. 35014/1/76-Estt(A) New Delhi, the 29 July, 76.

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New Delhi.
5. All Union Territory Administrations.
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R. Raghavachari
(R. RAGHAVACHARI)
DIRECTOR (Estts.)