

bb
Dte Gen Border Roads
Seema Sadak Bhawan
Ring Road, Delhi Cantt
New Delhi - 110010

17001/P/DGBR/66/E1E

10 May 2011

HQ CE (P).....
C/O 56 / 99 APO
(All Projects)


EBW (GREF), PIN-931701, C/O 99 APO
GREF Centre & Records

DEPARTMENTAL ENQUIRY AND REASONABLE OPPORTUNITY

1. Case studies reveal that the Inquiry Officers exhibits lack of knowledge or fails to afford adequate attention to vital aspects while conducting the Departmental Enquiry resulting into unnecessary criticism and delay in finalization. In certain cases, Inquiry Officers cast aspersions on the Presenting Officers to support their findings/opinion.
2. It is to reiterate that the IO is the delegate of the Disciplinary Authority although has to function independently and his duties are to document, analyse and submit report whether the charges are proved or not.
3. In terms of Government of India's Instructions No (31) below Rule 14 of CCS (CCA) Rules, 1965, it is for the Inquiry Officers to regulate the hearings and transactions of the Departmental Enquiry in order to ensure that the proceedings are done in a judicial manner.
4. Rule 14 (15) of CCS (CCA) Rules, 1965, which inter alia reads as "If it shall appear before the close of the case on behalf of the Disciplinary Authority, the Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government servant or may itself call for new evidence or recall and re-examine any witness and in such case the Government servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The Inquiring authority shall give the Government servant an opportunity of inspecting such documents before they are taken on the record. The Inquiring Authority may also allow the Government servant to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice".
5. Similarly, the text of Rule 14 (18) of ibid rules reads as "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".
6. The above provisions cast the onus heavily on the Inquiry Officers. In other words, it is mandatory for the Inquiring Authority to ask the PO and the CO of their intention to produce any additional evidence either oral or documentary as the case may be to enable them to clear any doubt in the evidence originally produced in respect of their cases. This is, therefore, a part and parcel of "reasonable opportunity" enshrined by the Constitution. The actual essence of said provisions should, therefore, specifically be brought to the notice of the Inquiring Authorities when situation warrants.

Contd....P/2

7. Further, it has been observed that the Inquiring Authorities at times incorporate and discuss things imported from their personal knowledge. Similarly, they make out findings based on presumption and conjectures. This is not a correct procedure as the proceedings of Departmental Enquiry are quasi-judicial in nature in which surmise and conjectures do not take the place of proof. It is undesirable to incorporate information and evidence which are not produced or discussed during the enquiry. In other words, the findings of the Inquiring Authority must be based on the evidence produced before him.
8. Please bring the above statutory provisions/requirements to the notice of all concerned with a direction to comply with them meticulously while dealing with the cases in order to arrive at a logical conclusion.


(Sandeep Yadav)
Col
Dir (D&V)
for DGBR

