

## **GUIDELINES FOR DISCIPLINARY PROCEDURE - CONTENTS**

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## CHAPTER-1

### DISCIPLINE AND INDISCIPLINE

**1.1 Discipline means orderly behaviour** - It means voluntary and willing compliance of rules and regulations and instructions and also development of right habits of conduct in work with others at the work-place.

**1.2 Why do we want Discipline?**

- (a) Discipline is essential in any organisation for improving the employee morale as well as to increase the productivity which is the ultimate goal of any organisation.
- (b) Discipline is of utmost importance for harmonious working with a view to achieve Company's objectives.
- (c) It is moral responsibility of the employer not to allow the minority of employees who are indisciplined to affect the life of majority.

**1.3 How does Indiscipline arise?**

In most of the cases, indiscipline of a worker is the expression of his reaction to his environment. Usually the causes of indiscipline are :

- (a) Lack of awareness of Company's rules and regulations;
- (b) False promises made by superiors;
- (c) Absence of any procedure to handle grievances;
- (d) No action taken when required;
- (e) Personal frustrations and misunderstandings.

There could be many other different reasons for indiscipline depending upon individual differences.

**1.4 Corrective and Punitive action**

Since any case of indiscipline is basically a behavioural problem, it is necessary that before taking any punitive action, all efforts should be made to improve the behaviour of the employee by correcting him through education, counselling, persuasion and cautioning. However, if all the efforts to improve the employee fail, the Supervisor/Manager should never hesitate to reprimand the employee and, if the misconduct is serious or has been repeated, to report the matter to the superiors for appropriate disciplinary action.



## CHAPTER-2

### ACTS OF MISCONDUCT

- 2.1 Misconduct means improper conduct or wrongful behaviour. However, while we are dealing with employees in an organisation, the term misconduct has to be seen with reference to the rules and regulations applicable to the various categories of employees working in the organisation.
- 2.2 In POWER GRID CORPORATION, to decide whether a particular act of misconduct or not, we have to keep in mind, the following three documents :
- (a) Conduct, Discipline & Appeal Rules
  - (b) Service Rules
  - (c) Contract/Agreement of Appointment or Appointment letter.
- 2.3 Conduct, Discipline & Appeal Rules
- These are the rules framed by POWERGRID which are applicable to all employees including deputationists. List of acts of misconduct as per Conduct, Discipline & Appeal Rules is as shown in Annexure 'A'.
- 2.4 Service Rules
- These are the rules framed by POWERGRID, defining the terms and conditions of employment and also prescribing the obligations of the employees. These are applicable to all the employees of POWERGRID except the deputationists unless the terms of deputation otherwise stipulate.
- Any act committed by an employee in breach of Service Rules to the extent they are applicable to him, will be considered an act of misconduct. Hence, referring to Service Rules is relevant in this context.
- 2.5 Contract of Appointment
- Basically the appointment letter issued to an employee governs his employment with the organisation. Hence, while taking a disciplinary action against any employee for an act of misconduct committed by him, the management has to keep in mind the terms and conditions stipulated in the offer of appointment given to the concerned employee, over and above which only the other rules and regulations will become applicable to the employee concerned.



## CHAPTER-3

### REPORT OF MISCONDUCT

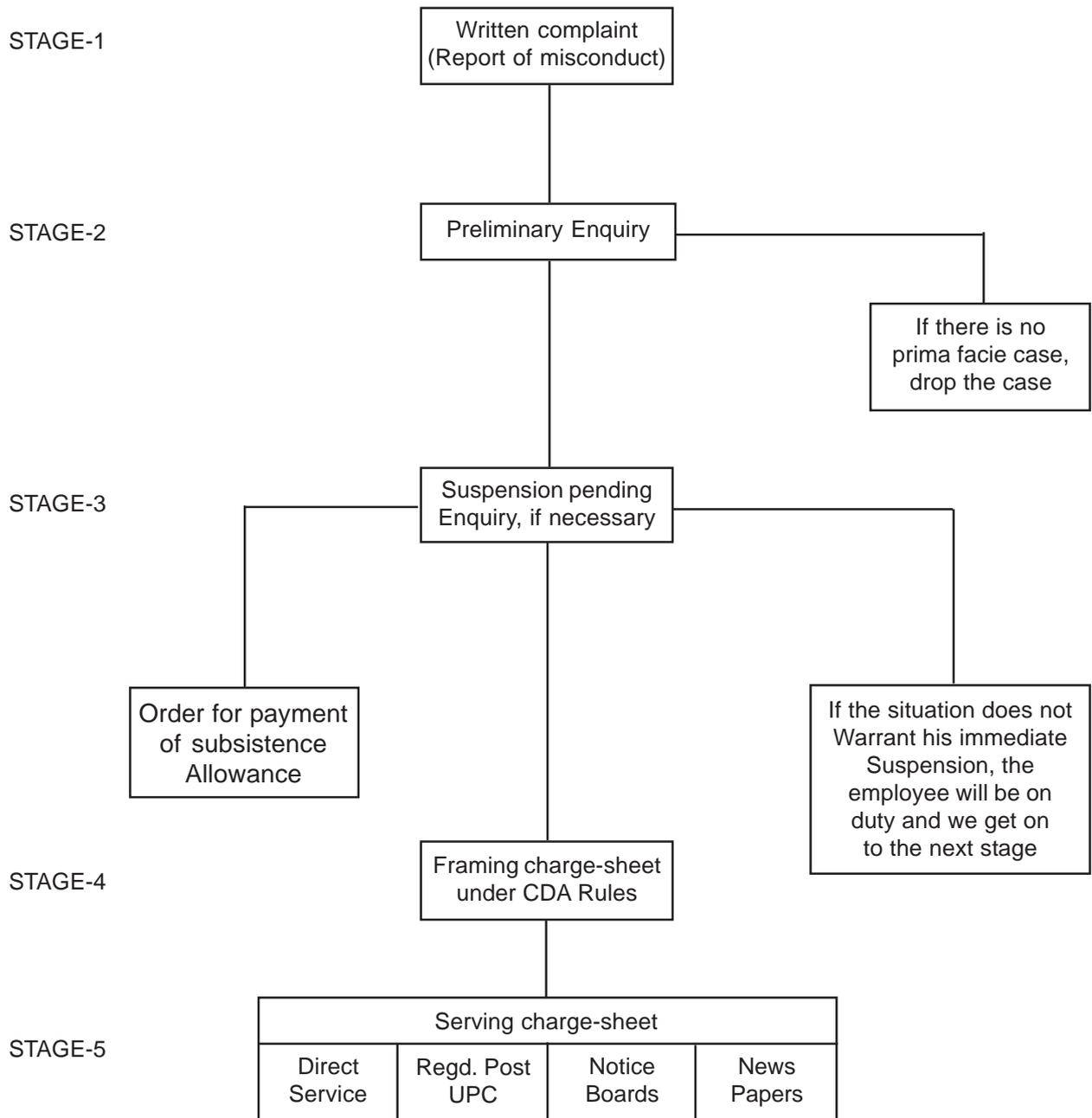
- 3.1 Complaint is the starting point of any disciplinary action. For taking disciplinary action against any employee for having committed an act of misconduct, the management should invariably get a specific written complaint. Complaint is nothing but a clear, sequential narration of the facts of incidence of indiscipline by the complainant, in the form of a report to his superior.
- 3.2 Since any disciplinary action may go hay-way if the complaint is not proper, every complainant should bear in mind the following :
- (a) Do not rely on memory. Reduce to writing whatever has happened, immediately.
  - (b) Submit your complaint in the shape of report of misconduct without any delay to superiors.
  - (c) Avoid dictating the complaint to somebody else.
  - (d) Avoid type-writing the complaint, if possible. It is advisable to send it in hand writing.
  - (e) Do not add your impressions or guesses but narrate the actual facts.
  - (f) Take written statements of all whoever has any facts relating to the complaint or witnessed the incident.
- 3.3 The Report of misconduct should invariably give the following details :
- (a) Full name of the person who committed the act of misconduct;
  - (b) Designation;
  - (c) Punch Card No./Employee No.;
  - (d) Section/Deptt./Region;
  - (e) Shift or Relay in which the employee was working;
  - (f) Date and time of incident;
  - (g) Place of occurrence;
  - (h) Details of misconduct;
  - (i) Names of witnesses, if any;
  - (j) Recorded Statements, if any.

For Report of misconduct, the guidelines suggested in Annexure-B might be followed.



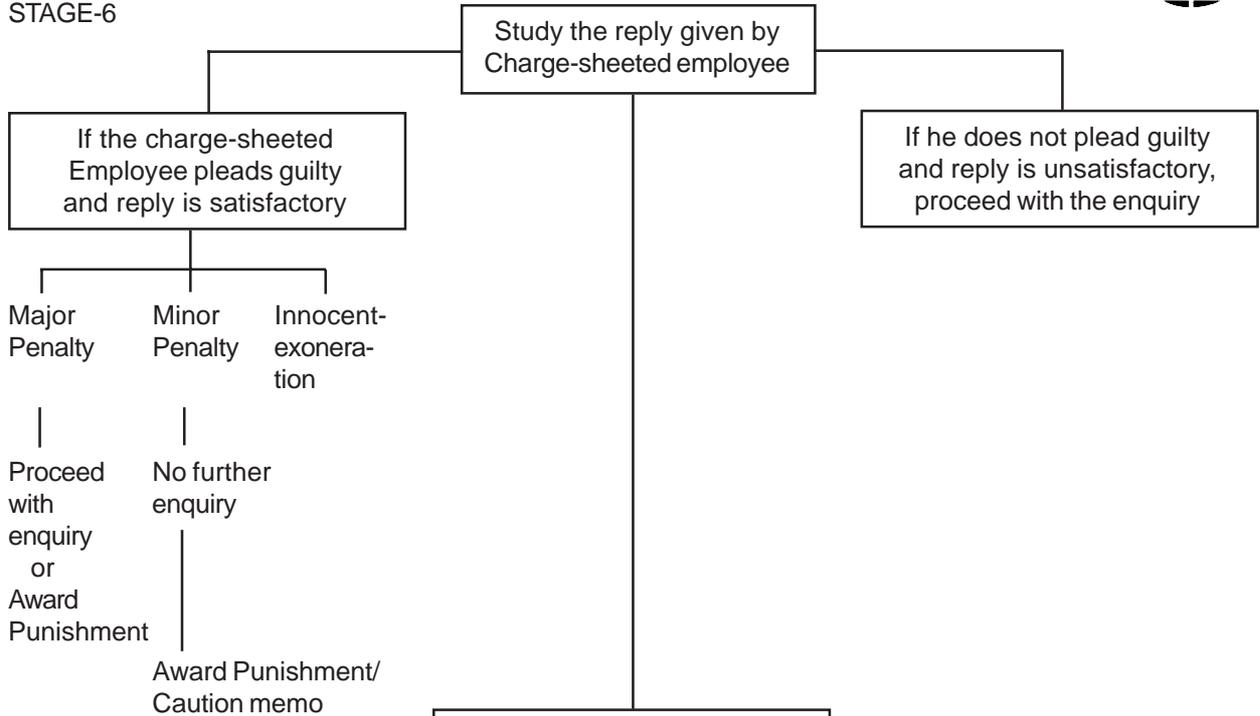
CHAPTER-4

FLOW-CHART OF DISCIPLINARY PROCEEDINGS





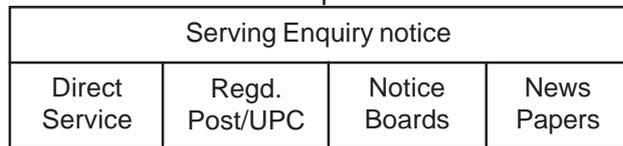
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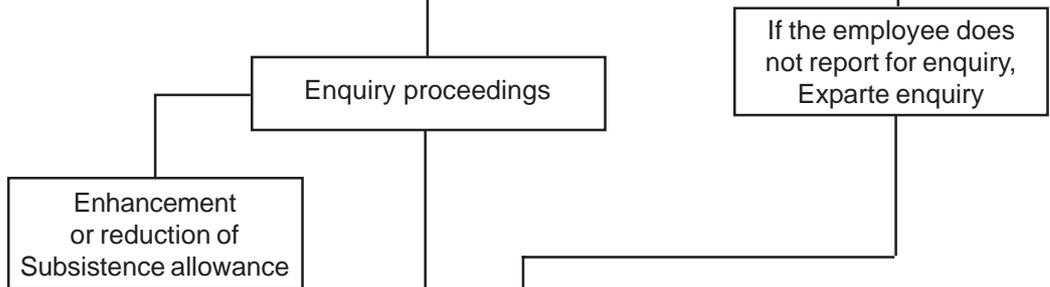
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Appointment of Enquiry Officer & Presenting Officer

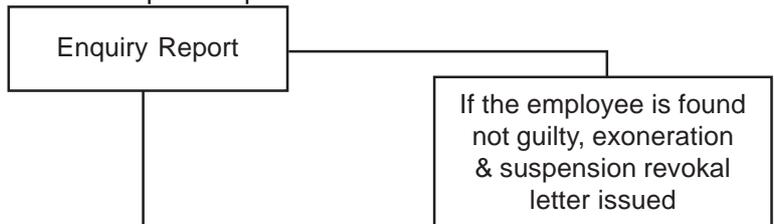
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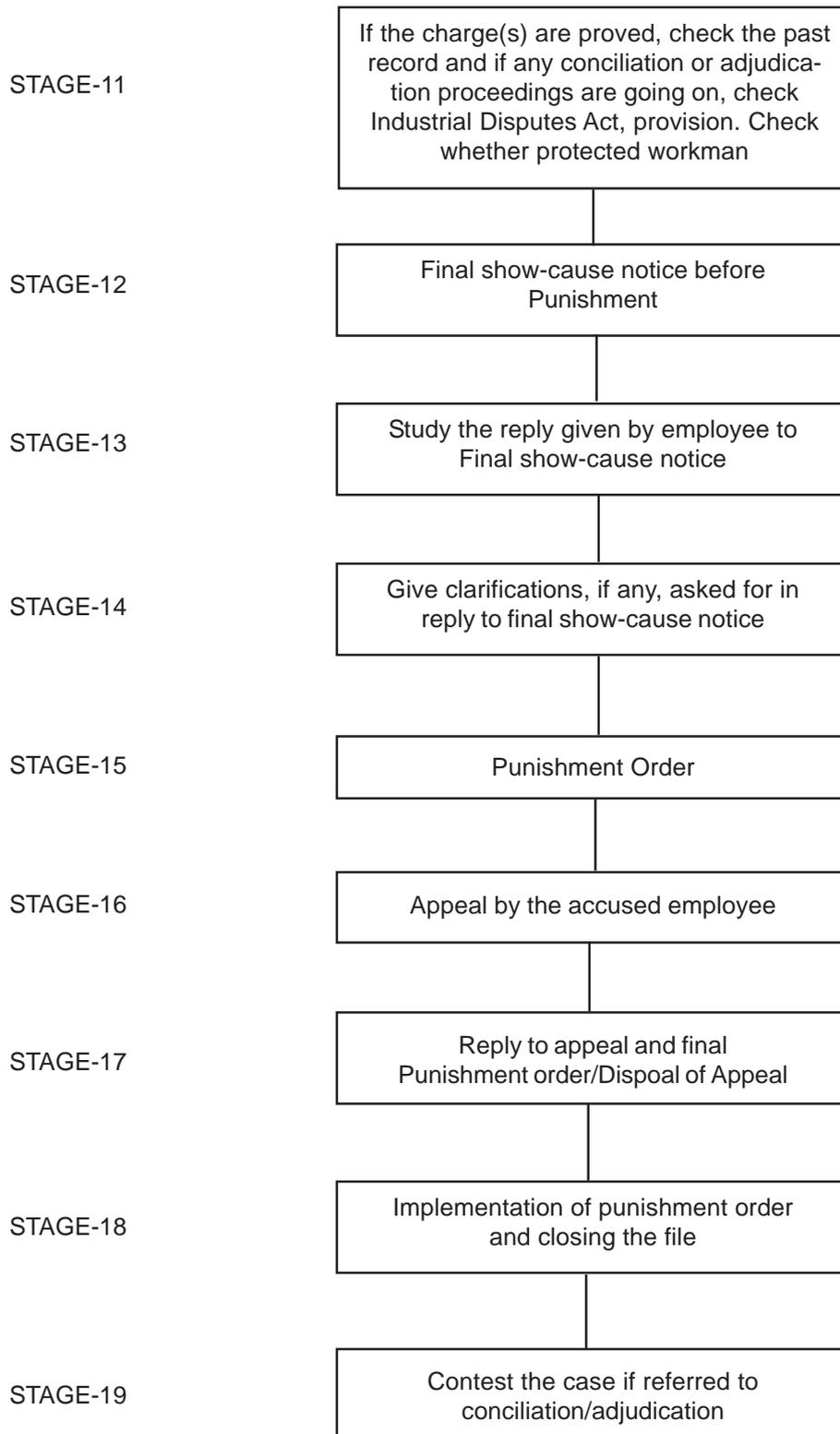


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STAGE-10







## CHAPTER-5

### PRELIMINARY ENQUIRY

- 5.1 As soon as a complaint is received, we should see whether it is worth dealing with in an elaborate manner by charge-sheeting the employee and conducting a domestic enquiry or not. This is determined by the gravity of the misconduct committed by the employee.
- 5.2 When an act of misconduct has been committed and the disciplinary authority receives a complaint, he should conduct a preliminary enquiry either himself or get it done by another Officer (Officer other than the one who has made the complaint or who is a witness to the incident). Preliminary enquiry is done with a view to decide whether there is adequate material for proceeding with a domestic enquiry. Domestic enquiry starts the moment a charge-sheet is issued and preliminary enquiry ends with the issue of charge-sheet. In all cases, preliminary enquiry is not essential. If the matter is obvious enough, the domestic enquiry can start with the issue of charge-sheet.
- 5.3 The following are the differences between domestic enquiry and preliminary enquiry.
- a) Preliminary enquiry is not an essential step while domestic enquiry is a must for taking disciplinary action for major penalty cases.
  - b) Domestic enquiry aims at determining whether charges are established or not while preliminary enquiry is conducted for finding out whether a prima-facie case has been made out.
  - c) Conclusions of preliminary enquiry lead to framing of charge-sheet while the report of domestic enquiry forms the basis for awarding punishment.
  - d) Preliminary enquiry is not subject to any rules while conduct of domestic enquiry is subject to principles of natural justice.



## CHAPTER-6

### PRINCIPLES OF NATURAL JUSTICE

- 6.1 The procedure for taking disciplinary action against any delinquent employee must be based on principles of “natural justice” - which again are in conformity with the principles of a Welfare State.
- 6.2 To hold an enquiry in conformity with the principles of natural justice, the following conditions are to be met :
- a) the employee proceeded against has been informed clearly of the charges levelled against him;
  - b) the witnesses are examined ordinarily in the presence of the employee in respect of the Charges;
  - c) the employee is given a fair opportunity to cross-examine the witnesses;
  - d) the employee is given a fair opportunity to examine his own witnesses, including himself in his defence, if he so wishes;
  - e) the enquiry officer records his findings with reasons for the same in his report.



## CHAPTER-7

### CHARGE-SHEET

7.1 If on the basis of preliminary enquiry or otherwise, the disciplinary authority is satisfied that a prima-facie case exists and decides to take disciplinary action against the employee concerned, the first thing to be done is to issue a charge-sheet to delinquent employee.

7.2 Charge-sheet is a memorandum of charges or allegations levelled against the employee which are acts of misconduct as per the Conduct, Discipline and Appeal Rules.

#### 7.3 Check-List for preparation of Charge-Sheet

While framing a Charge-sheet, the following items may be kept in mind so that nothing relevant would be missing from the Charge -sheet :

- a) Date of charge sheet.
- b) Correct Name and Card No./Employee No. of delinquent employee.
- c) Specify date of incident.
- d) Description of incident.
- e) Reproduce the language in verbatim if there are words of abuse, defamation or threat.
- f) Give reference of relevant rules as Conduct, Discipline and Appeal Rules.
- g) Specify within how much time and to whom the reply should be submitted.
- h) Check the authority competent to issue the Charge-Sheet (See Conduct, Discipline and Appeal Rules or Delegation of Powers, as the case may be).
- i) Decide whether employee is to be kept under suspension or not.
- j) Decide whom to send the copies of Charge-sheet.

#### 7.4 Guidelines for preparing Charge-Sheet

- a) The Charge-Sheet should be specific and must spell out all the relevant particulars of the misconduct.
- b) As far as possible, it should be precisely mentioned in the Charge-sheet as to under which rule or clause, the charges constitute acts of misconduct so as to enable the employee as to which rules are applicable to him in this context.
- c) The Charge-sheet must be signed by the competent authority so as to avoid facing a situation where the Charge-sheet is made invalid because it is signed by incompetent authority. (Refer to schedule of Conduct, Discipline and Appeal Rules or Delegation of Powers, as the case may be).



- d) Avoid loose usage of words such as 'Habitual' and 'Wilful' in the Charge-sheet. Do not use such qualifying words unless the charges are really so.
- e) If the charge is of abusing or threatening, reproduce the exact words used in the Charge-sheet.
- f) Avoid using abbreviations such as "etc." and also phrases such as "such other things".
- g) If the previous record of the employee is referred to, then sufficient particulars of the previous record should be given in the Charge-sheet.

## **7.5 Time for reply to Charge-sheet**

A reasonable period of time should be given to the employee to submit his reply to the Charge-Sheet. Time as stipulated in the Conduct, Discipline & Appeal Rules, but not less than 48 hours from the receipt of the Charge-sheet by the employee should be allowed for submission of his reply. If the Charge-sheeted employee requests for extension of time, such request(s) may be considered on its own merits.

## **7.6 Who signs the Charge-sheet**

Unless it is delegated otherwise, Disciplinary Authority is the Competent Authority to sign Charge-sheet. (See Annexure-C).

From the Annexure, it may be seen that for major penalties, the Disciplinary Authorities are different from those for minor penalties. At the stage of issuing the Charge-Sheet it may always not be very clear whether the offence is such that a major penalty may be imposed ultimately or the decision would be only in favour of a minor penalty. Except for very simple cases where beyond doubt the offence may lead to imposition of only a minor penalty, it will be desirable to have the Charge-sheet issued under the signature of Disciplinary Authorities empowered to impose major penalty.

## **7.7 Service of Charge-sheet**

Serving the Charge-sheet on the delinquent employee plays a very important role in disciplinary proceedings. Hence, all efforts should be made by the employer to see that the Charge-sheet is served on the delinquent employee. The Charge-Sheet may be handed over to the employee and his signature or thumb-impression of his having received the same obtained on the office copy.

- In case he refuses to accept the Charge-sheet, an endorsement to the effect should be made on the office copy in the presence of at least two witnesses whose signatures should be obtained.
- In case the concerned employee receives the Charge-sheet but refuses to sign or give his thumb-impression on the office copy, an endorsement to the effect should be made on the office copy and signatures of at least two witnesses may be taken.



- If the employee concerned asks for the Charge-sheet being made out in the language which he knows, the same should be done.
- If the employee either refuses to accept or give acknowledgement of the Charge-sheet or is not present within the organisation due to suspension or any other reason, the Charge-sheet should be sent to his last known and recorded address (both local as well as permanent) by Registered Post with acknowledgments due.
- If the employee concerned refuses to accept the registered letter carrying the Charge-sheet and there is an endorsement by the Postal Authorities to that effect on the envelope, the same may be treated as adequate service. The returned postal envelope in that case should be retained, without opening, in record.
- In case of absence or refusal of the employee to take the Charge-sheet or refusal to give acknowledgement of its receipt, a copy of the same should also be displayed on Notice Board.
- If all efforts to serve the Charge-sheet on the employee fail, the Charge-sheet may be published in some local/regional newspaper with a wide circulation.

7.8 While preparing a Charge-Sheet, the format suggested in Annexure 'D' may be followed.



## CHAPTER-8

### SUSPENSION

#### 8.1 What is Suspension?

Suspension from duty means keeping an employee away from work-place temporarily for reasons of discipline. Suspension does not mean removal from service. If a person is suspended, he continues to be in service, but is in a state, as it were of suspended animation.

#### 8.2 When to Suspend?

The suspension of an employee from duty often arises under the following three different types of situations :

a) Suspension Pending Domestic Enquiry

If an employee has committed serious acts of misconduct such as assault, sabotage etc. and his presence inside the work premises poses a threat to the safety of the men and material, he may be kept under suspension immediately, pending investigations. This is called Suspension Pending Domestic Enquiry. At this stage, a suspension cannot be called a punishment. It is desirable to issue the order of suspension along with charge-sheet but if it is not possible, the charge-sheet must follow within 7 days of issue of suspension order (See Annexure 'E-1').

b) Suspension Pending Court's Order

The disciplinary authority has the right to keep an employee under suspension, if he is accused in a court of law for any criminal offence, until the disposal of the trial. (See Annexure 'E-2').

c) Suspension as Punishment

Even though an employee is not suspended pending enquiry, if it is decided to punish him by way of suspension for the acts of misconduct committed by him, the disciplinary authority may do so after the conclusion of enquiry in which case the suspended employee will not be entitled to any payment for the period of suspension since it is a punishment imposed on him. (See Annexure 'M').

#### 8.3 Status of Suspended Employee

- (a) During the period of suspension, the suspended employee shall not enter the work-premises without the permission of the disciplinary authority or any other authority competent to do so.
- (b) The suspended employee shall not leave the station without the written permission of the competent authority.
- (c) The employee suspended pending enquiry shall be paid subsistence allowance as admissible to him under CDA Rules, which will increase/decrease depending upon the merits of the case if the period of suspension gets prolonged.



- (d) No leave shall be granted to a suspended employee during the period of suspension.
- (e) The suspended employee will not be paid subsistence allowance if he is engaged in any other employment, business, profession or vocation.
- (f) If it is decided after the conclusion of enquiry not to remove the suspended employee from service, he will be simply allotted the job treating the period of suspension as on duty or leave as decided by the disciplinary authority.
- (g) If an employee suspended pending enquiry submits resignation, it is normally not accepted unless it is in the company interest.

## 8.4 Subsistence Allowance

Subsistence allowance is the payment made to an employee who is kept under suspension pending enquiry/court's order only, as per CDA Rules, as under :

- a) Subsistence Allowance is payable at the rate of 50% of his basic pay. In addition, Dearness Allowance as admissible on such Subsistence Allowance and any other Compensatory Allowance of which he was in receipt on the date of suspension, are also admissible.
- b) If the period of suspension exceeds six months :
  - (i) Due to reasons not directly attributable to the employee, subsistence allowance, is payable at the rate of 75% of his basic pay and allowances thereon.
  - (ii) Due to reasons directly attributable to the employee, subsistence allowance is payable at the rate of 25% of his basic pay and allowances thereon.
- c) The payment of above subsistence allowance will be subject to a written declaration by the employee concerned that he is not engaged in other employment or business or profession or vocation as well as his observance of the instructions/ advice contained in the order of suspension issued to him.
- d) If the suspended employee is found guilty of the misconduct alleged against him or some other misconduct brought out in the course of the enquiry and punishment is awarded, he shall be entitled to such proportion of pay and allowances, only as the competent authority may prescribe.
- e) If the suspended employee is found not guilty of the misconduct, he shall be paid the difference between the subsistence allowance already paid and the emoluments consisting of pay and allowances which he would have received if he had not been suspended.
- f) For establishments located in West Bengal, the above provision will be subject to the West Bengal Payment of Subsistence Allowance Act, 1969.



## CHAPTER-9

### DOMESTIC ENQUIRY

9.1 If the explanation submitted by the delinquent employee in reply to the charge-sheet is not found satisfactory, the Disciplinary Authority may institute domestic enquiry by appointing an Enquiry Officer (or Enquiry Committee consisting of more than one person) and the Presenting Officer and inform the charge-sheeted employee about the same as shown in Annexures ('F' & 'G'). The Enquiry Officer would send a Notice of Enquiry as shown in Annexure 'H' giving him sufficient time to attend the enquiry.

#### 9.2 Role of Participants in Domestic Enquiry

The persons concerned with domestic enquiry and who participate in any domestic enquiry are :

- a) Enquiry Officer : The Enquiry Officer is the officer appointed by the disciplinary authority to conduct an enquiry into the allegations levelled against the charge-sheeted employee. The Enquiry Officer's job is to listen to and record the statements of both the parties i.e., the accused employee and the management representative; allow both the parties to submit to him the relevant documents in support of their contentions; allow both the parties to examine their witnesses as well as cross-examine the other's witnesses; allow both the parties to submit arguments and counter arguments in respect of the charges and evidence adduced in the enquiry; and finally submit his enquiry report to the disciplinary authority.
- b) Presenting Officer : Presenting Officer is the officer appointed to present the case of the management before the Enquiry Officer relating to the charges levelled against the accused employee. The Presenting Officer will produce in the enquiry, all the relevant documents relating to charges levelled against the employee and also examine the witnesses of the Company as well as cross-examine the witnesses of the charge-sheeted employee. In other words, he plays the role of the Prosecutor. In cases where felt appropriate, complainant may also be appointed as Presenting Officer.
- c) Charge-sheeted Employee : It is necessary that the enquiry should be held in the presence of the accused. If, however, the employee failed to report for the enquiry at the appointed place, date and time, the Enquiry Officer may proceed with the enquiry ex-parte, provided the charge-sheet or the enquiry notice included a provision to that effect.
- d) Defence Assistant of the Accused Employee : If the accused employee wishes another employee of his choice to assist him at the enquiry in the conduct of his defence, it should be allowed, if a request is made for a non-employee union office-bearer, he may be allowed if there is a provision to that effect under the Conduct, Discipline and Appeal Rules.



- e) Interpreter : The presence of an interpreter, from amongst the employees, would be desirable in case the accused employee is not familiar with the language in which the enquiry is conducted.
- f) Management Witnesses : These are the persons who appear in the enquiry to give their statements in support of the charges levelled against the charge-sheeted employee.
- g) Charge-sheeted Employee's Witnesses : These are the persons who appear in the enquiry to give their statements in defence of the charge-sheeted employee.

## 9.3 Who should be Enquiry Officer

- (a) If a person is the witness in the case, he should not be Enquiry Officer.
- (b) Enquiry Officer should not be appointed by an Officer who is a witness in the case.
- (c) Enquiry Officer can be any Officer of the Company. In exceptional cases, if it is felt desirable, any public servant or retired honest public servant may be appointed as enquiry officer (\*Subject to the provisions of Rules).
- (d) A person to be Enquiry Officer must be a responsible Officer commanding respect from the employee. He should not be a judge in his own case.
- (e) A person to be Enquiry Officer should be open minded and unbiased.

## 9.4 Documents to be forwarded to Enquiry Officer

The disciplinary authority shall forward to the Enquiry Officer :

- a) A copy of the charge-sheet;
- b) A copy of the reply, if submitted by the charge-sheeted employee;
- c)\* List of witnesses, if available;
- d)\* List of documents to be produced in enquiry, if available;
- d) Copy of order appointing the Presenting Officer.

(\* Not mandatory at this stage).

## 9.5 Procedure of Domestic Enquiry

- a) At the commencement of the enquiry, the charges should be read out and explained to the charge-sheeted employee and he should be asked whether he pleads guilty to the charges or not. If the employee admits his guilt it will be open



to the Enquiry Officer to examine the employee himself even in the first instance, so as to enable him to offer any explanation for his conduct, or to place before the Enquiry Officer any circumstances which may go to mitigate the gravity of the offence. If, after the examination of the employee, the Presenting Officer chooses to examine any witness, the employee must be given a reasonable opportunity to cross-examine those witnesses and also to adduce any other evidence that he may choose including his own further statement. If, on the other hand, the employee denies the charge, the burden of proving the truth of the charge and the allegations will be on the management and the witnesses for establishing the same should be examined first.

- b) At the conclusion of the statement given by each witness in support of the charges, the same should be read over and explained to the charge-sheeted employee in the language understood by him and he must be given a chance to cross-examine the witness. An endorsement to this effect should be made at the bottom of the statement. The Enquiry Officer may, as well as, put certain questions to the witness to elicit certain details/clarifications from him but the Enquiry Officer should not cross-examine the witnesses by putting leading questions or making suggestions. If the Enquiry Officer puts certain questions to the witnesses after the cross-examination of the said witnesses by the employee is over, the latter may again be given a chance to cross-examine on the basis of the supplementary statement given by the witness. Similar facility may as well be afforded to the Presenting Officer, after the Enquiry Officer asks some questions to a defence witness.
- c) After the examination and cross-examination of all the witnesses in support of the charge are completed, the charge-sheeted employee should be asked to adduce his defence. He may offer himself to be examined as a witness and also produce witnesses in his defence. The charge-sheeted employee may, if he so likes, submit his defence statement in writing, which should be accepted by the Enquiry Officer as part of the proceedings. The burden of bringing the defence witnesses before the Enquiry Officer is on the charge-sheeted employee. But if the charge-sheeted employee requests for time to adduce his defence such request should duly and liberally be considered by the Enquiry Officer. If the employee refuses to examine any witness the same should be recorded by the Enquiry Officer. After the examination of the defence witness is over, the employee should be asked whether he desires to make any further statement. Any statement which he may make should be taken down and questions may be put to him and asking him to clarify any particular point or circumstance. It is advisable for the Enquiry Officer to put the following question to the charge-sheeted employee before concluding the enquiry - "Have you anything further to state"? and record his answer thereto.

## 9.6 Recording of the Proceedings

Proceedings of the enquiry must be recorded elaborately. The statement of the witness and subsequent examination/cross-examination should be recorded. The statement should be recorded in a narrative form. However, on crucial and vital points the actual



question put and answer given may, if necessary, be recorded. But as far as practicable question-answer form of recording should be avoided.

## 9.7 Leading Questions

Leading questions i.e. questions suggesting the desired answer and suggestions, positive or negative, should be disallowed except in cross-examination. Some examples of Leading questions are given below :

1. X is charge-sheeted for assaulting Y in the latter's office at 10.30 a.m. on 1.1.1991. The Presenting Officer puts the following question to the witness for the charge.  
Q. Did not Mr. X enter the office of Y at 10.30 a.m., on 1.1.91 and slap Y on his face?
2. In another case X is charge-sheeted for theft of Company's property. The Presenting Officer puts the following question to the witness for the charge.  
Q. "Was not X going out through the gate with a red packet concealed in his umbrella?"

9.8 All documents and records relied upon by the Presenting Officer and produced at the enquiry for establishing the charge should be produced in the presence of the charge-sheeted employee and he should be explained the contents thereof relevant for the purpose.

9.9 The charge-sheeted employee and/or his co-employee should be allowed to inspect all such documents and records produced as evidence during the enquiry and his signature obtained on the documents and records which will show that he had inspected the same. Such documents and records should be marked as exhibits for the charge. Similarly documents and records produced by the charge-sheeted employee in his defence should also be marked as exhibits in defence.

9.10 If the charge-sheeted employee declines to cross-examine any witness examined in support of the charge, the fact of his having declined to do so should be recorded and the signature of the charge-sheeted employee and his co-employee obtained thereon. The statements at each page should be signed by the witness, the Enquiry Officer, the charge-sheeted employee and the co-employee. If the charge-sheeted employee does not know the language in which the statement is recorded, the Enquiry Officer should read it over and explain the statement in the language understood by him/them and, if necessary, may take the help of an interpreter. The Enquiry Officer then should record at the conclusion of the statement of each witness to the effect that the statement was recorded in presence of the employee and was explained to the witness and the employee in the language understood by them, as the case may be and then ask the witness to put his signature at the end and on each page and so also the employee be asked to sign on each page and at the end. The co-employee, if any, should similarly be asked to sign on each page and at the end. If any of the (above referred) persons refuses to sign as required, the same should be recorded by the Enquiry Officer and attested by any witness present.



## 9.11 Ex-parte Enquiry

When the enquiry is fixed at a particular time, place and date and the charge-sheeted employee does not turn up and seeks a postponement on genuine grounds, the same may be granted. If the charge-sheeted employee makes further attempts for adjournment and the Enquiry Officer is convinced that it is being done with a view to deliberately delay the proceedings, the Enquiry Officer may proceed with the enquiry ex-parte. Every adjourned proceedings of the ex-parte enquiry should be duly notified to the charge-sheeted employee. If he presents himself and desires to participate, he should be allowed to do so. In no case the Enquiry Officer should proceed ex-parte on the first date of enquiry. One ex-parte hearing does not preclude giving notice for subsequent hearings. Where an ex-parte enquiry is held, it should not be presumed that the misconduct as mentioned in the charge-sheet stands proved. The Enquiry Officer still should hold the enquiry and the Presenting Officer prove the charge against the charge-sheeted employee and adduce adequate evidence to that effect. If the Presenting Officer fails to prove the charge, the Enquiry Officer should give his findings accordingly, holding the delinquent not guilty.

## 9.12 Partly Heard Enquiry

If an Enquiry Officer, after having heard and recorded the whole or any part of the evidence in an enquiry, ceases to function as Enquiry Officer for any reason and a new Officer is appointed as Enquiry Officer for conducting the enquiry, the new enquiry officer may proceed with the enquiry from the stage left over by the predecessor and act on the evidence already recorded by his predecessor.

## 9.13 Joint Enquiry

Where two or more persons are charge-sheeted in connection with the same incident or transaction, the authority competent to take disciplinary action for all of them may direct a joint enquiry to be held against them. If the authorities competent to impose the penalty are different, an order for joint proceedings may be made by the highest of such authorities.

## 9.14 De-Novo Enquiry

If the charge-sheeted employee makes a request for re-conducting the enquiry or the Disciplinary Authority feels on the merits of the case that the enquiry has to be re-opened and conducted again in the interest of justice, the enquiry may be re-opened and conducted again as per the orders of the Disciplinary Authority. This is called De-Novo Enquiry.

## 9.15 Examination-in-Chief/Cross-examination/Re-examination

Examination of a witness by the party who calls him is called as examination-in-chief. The witness here may give his statement by himself or reply to the questions put by the party who has called him. The questions cannot be leading questions. The examina-



tion-in-chief of a witness is followed by cross-examination, by the opposite party. If after the cross examination, the party who has called the witness to further examination which is called re-examination. After such re-examination the witness should be allowed to be further cross-examined.

## 9.16 Report of the Enquiry Officer

After the conclusion of the recording of evidence, the Enquiry Officer should prepare and submit his report. The Enquiry Officer should record clearly and precisely his findings and indicate the reasons for arriving at such findings in respect of each charge. The findings must be based on the evidence on record. He should not import his personal knowledge or any material which is not on record. The oral evidence and the documents and records marked as exhibits at the enquiry should alone form the basis for arriving at the findings in respect of each charge. The Enquiry Officer need not write a very long or elaborate report, but he must discuss the evidence and state his reasons for accepting or rejecting the same. Even in a case where the Enquiry Officer himself is the ultimate disciplinary authority, he must state his reasons for finding the employee concerned guilty, or otherwise of the charges levelled against him.

9.17 The Enquiry Officer should clearly bear in mind that his task is to hold an enquiry into the charges and to record, in respect of each charge, whether it is established or not. He should not recommend any punishment to be imposed on the charge-sheeted employee. Facts or documents which have been adduced or produced as evidence before the committee in the presence of the charge-sheeted employee only should be taken into consideration while recording the findings unless the proceedings are ex-parte.

- i) After conclusion of the enquiry, a report shall be prepared by the Enquiry Officer and it shall contain :
  - a) the articles of charges and the statement of the allegations of misconduct or misbehaviour;
  - b) the defence of the employee in respect of each article of charge;
  - c) an assessment of the evidence in respect of each article of charge;
  - d) the findings on each article of charge and the reasons therefor.
- ii) The Enquiry Officer, where he is not himself the disciplinary authority, shall forward to the disciplinary authority the records of enquiry which shall include :
  - a) the report prepared by it under clause (i) above;
  - b) the written statement of defence submitted by the employee;
  - c) the oral and documentary evidence produced in the course of the enquiry;
  - d) the orders, if any, made by the disciplinary authority and the enquiry authority in regard to the enquiry.
- iii) The disciplinary authority shall consider the records of the enquiry, record his conclusions on each charge and pass appropriate order.



## 9.18 Supplying Copy of the Proceedings to the Employee

In case, during the proceedings of the enquiry, the charge-sheeted employee asks for copies of statement for the purpose of cross-examination, he should be supplied with the same provided that he is unable to read and understand the deposition.

## 9.19 Order by the disciplinary Authority

The disciplinary authority has to finally decide the matter. He may accept the findings of the Enquiry Officer and decide the penalty or otherwise. While so deciding he has to take into consideration the gravity of the misconduct and the past records of the charge-sheeted employee and any other extenuating and/or aggravating circumstances that may exist. If he agrees with the findings, he should take a decision regarding the penalty to be imposed. If, on the other hand, he does not agree with the findings he should record his own findings based on the evidence on record. In case the Enquiry Officer finds a charge-sheeted employee not guilty and the disciplinary authority, disagreeing with the findings of the Enquiry Officer records his own findings of guilt, he should afford another opportunity to the charge-sheeted employee to show-cause against the findings of guilt and take into consideration the causes, if any, shown before awarding any penalty. The quantum of penalty imposed on the charge-sheeted employee should not be disproportionate to the seriousness of the misconduct established, and should be one which any other reasonable employer, under similar circumstances would have awarded.

## 9.20 Check List for Disciplinary Authority

The disciplinary authority before passing final orders should check up if the following aspects have been taken care of :

- a) Whether definite and specific charges were framed;
- b) Whether the charge-sheet was properly served;
- c) Whether the charge-sheeted employee was given sufficient time to submit his explanation, as required under the rules. Whether the explanation, if any, submitted was duly considered;
- d) Whether the person charged was allowed to cross examine the witness produced in support of the charges, to give evidence in person and to call witness on his behalf;
- e) Whether the findings are based on evidence on record, and whether the penalty is proportionate to the gravity of the offence established;
- f) The disciplinary authority should also look into the past records of the employee and extenuating and aggravating circumstances, if any, while deciding the penalty to be imposed.



- g) The disciplinary authority should also see if permission or approval is to be taken from the appropriate authority under Industrial Disputes Act because some dispute is pending with conciliation etc. or the employee is a Protected Workman.
- h) The disciplinary authority should also check-up if any final show-cause notice is to be given to the charge-sheeted employee before passing the punishment order.

## 9.21 Communication of Order to the Charge-sheeted Employee

After the disciplinary authority decides to impose a major penalty it should be communicated to the employee as early as possible in the specimen form as in Annexures. The orders should be unambiguous and must relate to the charge. It should be signed by the authority competent to sign the order and in no case by any subordinate officer as "for and on behalf of" the Disciplinary Authority.

## 9.22 Employee on Deputation from the Central Govt. or the State Government etc.

Where an order of suspension is made, or disciplinary proceedings is taken against an employee, who is on deputation to the Company from the Central or a State Government, or another public undertaking, or a local authority, the authority lending his services (here-in-after 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.

## 9.23 In the Light of the findings in the Disciplinary Proceeding taken against the Employee

- (a) If the Disciplinary Authority is of the opinion that any of the minor penalties should be imposed on him, it may pass such orders on the case as it deems necessary after consultation with the Lending Authority; provided that in the event of a difference of opinion between the disciplinary authority and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority.
- (b) If the disciplinary authority is of the opinion that any of the major penalties should be imposed on him, it should replace his services at the disposal of the Lending Authority and transmit to it the proceedings of the enquiry for such action as it deems necessary.

9.23.1 If the employee submits an appeal against an order imposing a minor penalty on him under sub-rule (a), it will be disposed off after consultation with the Lending Authority; provided that if there is a difference of opinion between the Appellate Authority and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority and the proceedings of the case shall be transmitted to that authority for such action as it deems necessary.



## CHAPTER - 10

### PENALTIES

10.1 On the basis of the conclusions arrived at in the domestic enquiry, if it is found that the charges levelled against the employee are not proved, he may be exonerated and a letter to that effect may be issued (See Annexure-I). If any of the charges or all the charges are proved, then the appropriate penalty may be imposed on the employee by referring to the penalties provided under the Rules.

#### 10.2 Form of Penalties

For Employees governed by Conduct, Discipline and Appeal Rules :

##### Minor Penalties

- a) Censure;
- b) Withholding of Promotion;
- c) Withholding of increments of pay with or without cumulative effect;
- d) Recovery from pay or such other amount as may be due to him, of the whole or part of any pecuniary loss, caused to the Company by negligence or breach of orders.

##### Major Penalties

- a) Reduction to a lower grade or post or to a lower stage in a time scale;
- b) Dismissal from service;
- c) Removal from service which shall not be a disqualification for future employment.

#### 10.3 Action not considered “Penalty”

The following shall not amount to a penalty :

- i) Issue of warning;
- ii) Withholding of increment of an employee on account of his work being found unsatisfactory or failure to pass a prescribed test or examination;
- iii) Stoppage of an employee at the efficiency bar/test in a time-scale on the ground of his unfitness to cross the efficiency bar/test.



- iv) Non-promotion, whether in an officiating capacity or otherwise, of an employee to a higher post for which he may be eligible, but for which he is found unsuitable;
- v) Revision to a lower scale, grade or post of an employee officiating in a higher class, grade or post on the ground that he is considered, after trial, to be unsuitable for such higher class, grade or post, or on administrative grounds unconnected with his conduct;
- vi) Reversion to the previous class, grade or post of an employee, appointed on probation or another class, grade or post, during or at the end of the period of probation, in accordance with the terms of his appointment or probation;
- vii) Termination of service :
  - of an employee appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment;
  - of an employee appointed in a temporary capacity otherwise than under a contract or agreement, on the expiry of the period for which he was appointed earlier in accordance with the terms of his appointment;
  - of an employee appointed under a contract or agreement, in accordance with the terms of such contract or agreement; and
  - of an employee on reduction of establishment.

## 10.4 Penalties and their Imposition

The penalty proposed should normally be commensurate with the gravity of the 'misconduct'. Though it is the management's discretion to award a lesser penalty than stipulated under the rules, major penalty for a minor misconduct cannot be awarded. The management has the discretion to decide the appropriate penalty for a particular misconduct, subject to the obvious qualification that the penalty should not be unduly excessive. The penalty must be imposed for good and sufficient reasons.

## 10.5 Warning

Warning may be oral or written. When it is in writing, it forms a part of one's record of service and reflects on the conduct and efficiency of the employee. It can also be used in awarding severe punishment in future in case of habitual repetition of the same offence.

Issue of warning does not affect wages of the employee nor does it have any bearing on the status or future increment of the employee. It merely amounts to a displeasure by the management that such an act of the employee is not looked in with favour by the management and is just to inspire awe in the mind of the employee to be a bit more vigilant,



Careful and responsible and make it clear to him that if he persists in that action it is likely to bring him into trouble. Warning letter may be issued in the lines of the draft suggested, in Annexure-J.

## 10.6 Censure

Censure is a minor penalty that can be imposed as formal punishment. The conditions for imposing this penalty are :

- i) that the employee has been held guilty of some blame-worthy act or omission;
- ii) that it is imposed for good and sufficient reason;
- iii) that his explanation is received in writing and is found unsatisfactory, or his explanation has not been received.

Censure should be recorded in the service document of the employee. Letter awarding the punishment of Censure may be issued in the proforma as in Annexure-'K'.

## 10.7 Fine

Fine may be defined as sum of money fixed as penalty for an act of misconduct. It is a deduction made from the wages of an employee as a punishment. Payment of Wages Act provides that the total amount of fine which may be imposed in any one wage period on an employee shall not exceed an amount equal to three paise in a rupee of the wages payable to him in respect of that wage period.

No fine so imposed shall be recovered from an employee by installments or after expiry of 60 days from the day on which it was imposed.

Every fine shall be deemed to have been imposed on the day of act or omission in respect of which it was imposed.

Letter imposing the penalty of fine may be issued in the proforma as shown at Annexure-'L'.

All fines and all realisations thereof shall be recorded in a register, and all such realisations shall be applied only to such purpose beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

## 10.8 Suspension

Suspension may be ordered as a punishment. It is different from suspension pending enquiry. Suspension as a penalty can be inflicted on an employee after the completion of the formalities of the disciplinary proceedings. Suspension letter may be issued on the lines of the draft suggested in Annexure-'M'.



## 10.9 Withholding of Increments

Employees in time-scale of pay get annual increment in normal course, subject to passing of the efficiency bar or test, if any, prescribed. Withholding of increment of an employee either on account of his work being found unsatisfactory or for failure to pass the prescribed test/examination is different from withholding of increment as a penalty. While the former is only an administrative action taken by the management against an employee for his inefficiency, the latter is a result of disciplinary action.

As a penalty, the increment can be withheld after following the procedure prescribed. A letter to this effect may be issued on the lines of the draft suggested in Annexure-'N'.

## 10.10 Reduction to a Lower Grade or Post Stage

The expression 'reduction to a lower grade or post' means a transfer from a higher position to a lower position at a lower rate of salary.

Reduction in rank may be either by way of punishment or it may be on administrative grounds. When an employee is reverted from a higher post in which he does not hold a lien, it cannot be considered either a punishment or forfeiture of emoluments.

While ordering the punishment of reduction to a lower grade or post, the disciplinary authority shall state the period for which it shall be effective and whether on restoration, the period of reduction shall operate to postpone his future increment, if so, to what extent.

Every order passed by a disciplinary authority imposing the penalty of reduction to a lower stage in a time-scale. (Annexure-O) should indicate :

- i) the stage in the time-scale (in terms of rupees) to which the employee is reduced; and
- ii) the date from which it will take effect.

It is a major penalty and the acts of misconduct for which reduction in rank/grade may be awarded are almost the same as those for which the penalty of removal or dismissal can be awarded.

## 10.11 Removal and Dismissal

The Dictionary meaning of the word removal means 'to discharge', 'to get rid of', 'to dismiss'. The word dismissal means 'to let go', 'to relieve from duty'. In the ordinary parlance, both these words mean the termination of an employee's service. However, there is slight distinction between the two in the sense that the removal from service does not disqualify an employee from re-employment in the Company whereas dismissal from service does disqualify him from such re-employment and thus, dismissal is the sever-



est of all the penalties. Removal or dismissal is due to gross misconduct on the part of an employee and is resorted to generally for :

- a) Such conduct on the part of the employee as may be deemed to be inconsistent or incompatible for discharge of his duties; and
- b) Such immorality on his part as may bring the employer in disrepute.

No order of removal or dismissal from service shall be made by an authority lower than the appointing authority of the employee concerned, notwithstanding the fact that the appointing authority might have subsequently delegated the power of appointment of employees of the category/rank to which the employee belongs to such lower authority.

A removal or dismissal letter may be made on the lines of the draft suggested in Annexure-'P'.

Names of the dismissed employees shall be communicated to the different units/offices in order to prevent their re-employment in the Company.



## CHAPTER-11

### APPEAL AND REVIEW

11.1 An employee on whom any of the penalties is imposed shall have the right of appeal to the authority notified in this behalf.

#### 11.2 Provisions under Conduct, Discipline & Appeal Rules

11.2.1 An employee governed by Conduct, Discipline & Appeal Rules may also prefer an appeal against an order of suspension to the appellate authority as shown in Annexure-'C'.

11.2.2 The appeal shall be addressed to the appellate authority and submitted to the authority whose order is appealed against. The latter authority shall forward the appeal together with its comments and the records of the case to the appellate authority within 15 days. The appellate authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders within three months of the date of appeal. The appellate authority may pass order confirming, enhancing, reducing or setting aside the penalty or 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 if the enhanced penalty which the appellate authority proposes to impose is a major penalty and an enquiry as provided under rules has not already been held in the case, the appellate authority shall direct that such an enquiry be held in accordance with the provisions of the rules and thereafter consider the record of the enquiry and pass such orders as it may deem proper. If the appellate authority decides to enhance the punishment but an enquiry has already been held as provided in rules, the appellate authority shall give a show-cause notice to the employee as to why the enhanced penalty should not be imposed upon him. The appellate authority shall pass a final order after taking into account the representation, if any, submitted by the employee.

#### 11.3 Review

11.3.1 For employees governed by Conduct, Discipline & appeal Rules, the reviewing authority may either in its own motion or on the application of the employee concerned, call for the record of the case within 6 months of the date of the final order and after reviewing the case pass such orders thereon as it may deem fit.

Provided that if the reviewing authority proposes to impose any enhanced penalty, in the nature of a major penalty, the reviewing authority shall deal with the case in the same manner as indicated in the provision to para 11.2.2.



## LIST OF ANNEXURES

1. Annexure-A Acts of Misconduct as per Conduct, Discipline and Appeal Rules
2. Annexure-B Report of Misconduct
3. Annexure-C Schedule of Delegation of Powers in respect of Disciplinary matter under POWERGRID CDA Rules.
4. Annexure-D Charge-sheet
5. Annexure-E1 Order of suspension pending enquiry
6. Annexure-E2 Order of suspension where an employee is accused in a court of law for criminal offence
7. Annexure-F Order appointing the Enquiry Officer/Committee
8. Annexure-G Order appointing the Presenting Officer
9. Annexure-H Notice of enquiry
10. Annexure-I Exoneration letter
11. Annexure-J Warning letter
12. Annexure-K Punishment Order - Censure
13. Annexure-L Punishment Order - Fine
14. Annexure-M Punishment Order - Suspension
15. Annexure-N Punishment Order - Withholding/Stoppage of increment
16. Annexure-O Punishment Order - Reduction in pay/rank
17. Annexure-P Punishment Order - Removal/Dismissal

**N.B. :** The proforma given in these Annexures may be suitably modified, wherever necessary, to suit the facts and circumstances of a particular case.