

**6.5 Disciplinary Authority disagrees with the findings of the Enquiry Officer - Communicating the reasons for disagreement - Clarification**

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Personnel and Administrative Reforms (Personnel -N) Department

Lr.No.105983/Per.N/90- dt. 8.2.94

From

Thiru. M.Ahmed, I.A.S.,  
Secretary to Government

To

All Heads of Department

Sir,

Sub : Public Services – Disciplinary cases – Decision on the findings of the enquiry officer - instructions issued.

1. According to rule 17 (b) (ii) of the T.N.CS (CCA) rules, the inquiry officer will forward to the disciplinary authority his report of enquiry.

2. On receipt of the report of the enquiry officer, the disciplinary authority will examine it carefully. After satisfying itself that the Govt. Servant has been given reasonable opportunity to defend himself, the disciplinary authority will record its findings in respect of each article of charge saying whether, in its opinion, it stands proved or not. If the disciplinary authority disagrees with the findings of the inquiry officer, on any article of charge, it will while recording its own findings, also record reasons for disagreement. Reason need not, however be given if the disciplinary authority agrees with the enquiry officer.

3. According to G.O. (Ms) No.405 Personnel and Administrative Reforms (Per.N) Dept. dt. 19.9.90, if the competent authority proposes to impose any major punishment on the person charged, it shall, before making an order imposing such punishment furnish to him a copy of the report of the enquiry or personal hearing or both as the case may be, and call upon him to submit his further representation, if any, within a reasonable time not exceeding 15 days. The position whether the disciplinary authority should communicate the reasons for his disagreement with the findings of the inquiry officer to the person charged along with the report of the inquiry officer while calling for further representation has been examined by the Govt.

4. In Prakash Rao (BS) –vs- State of Andhra Pradesh and other (1959(1) LLJ P.560) the High court of Andhra Pradesh among others has held as follows:-

'It is only in cases where the disagreement is to the detriment or prejudice of the officer that he should be given an opportunity to put forward his case in regard to the charge over which there is difference of opinion nor is it necessary for the Govt to state reasons for its agreement with the findings of the Tribunal. Such an obligation is case on the Govt. only when it is unable to agree with the conclusions of the Tribunal'.

In view of the above, I am directed to state that the disclosed disciplinary authority should communicate the reasons for any disagreement on the findings of the inquiry officer to the person charge along with a copy of the enquiry report while calling for further representation from him where it is proposed to impose a major penalty. However, in case only a minor penalty is awarded, such report with reasons for any disagreement may be communicated to the person charged at the time of communicating final orders.

5. All Departments of Secretariat and all Heads of Department are therefore requested to follow the above instructions scrupulously while dealing with the disciplinary proceedings in future.

for SECRETARY TO GOVERNMENT