Preface to the Twelfth Edition of 'A Book on Discipline & Disciplinary Proceedings'

As in all organisations, vigilance activity in financial institutions is an integral part of the managerial function. The raison d’être of such activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. In banking institutions risk-taking forms an integral part of business. A distinction has to be drawn between a business loss which has arisen as a consequence of a bona-fide commercial decision, and an extraordinary loss which has occurred due to any malafide, motivated or reckless performance of duties. While the former has to be accepted as a normal part of business and the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.

This Book, among various topics, comprehensively covers important topics viz. conduct rules, misconduct, complaints, investigation, inquiry process, appeals & review process etc. Bank’s instructions and CVC guidelines updated as on 1st January, 2012 have been furnished in various chapters. I believe that this book will be useful as a reference for various functionaries in the Bank to be aware about vigilance and Disciplinary procedures.

I appreciate the initiative of the College in taking up the revision. I also place on record my appreciation of Shri R Ganesh, Dy. General Manager (HR&BS) and Sarvashri I.S. Rao, R. Venkateswara Rao and B.V. Rangadham, Faculty, for their efforts in updating this book.

S. RAJAN
Chief General Manager

Strategic Training Unit
Corporate Centre.
January 5, 2012
A book on
Discipline & Disciplinary Proceedings

12th EDITION
As on 1st January 2012

Compiled by
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C M (Faculty)   A G M (Faculty)  A G M (Faculty)

State Bank Staff College
Hyderabad
The last Edition of the book on Discipline & Disciplinary Proceedings was brought out on 01st March 2009. The present publication is the 12TH Edition. This book is a compilation of our Bank’s instructions, IBA guidelines and CVC guidelines issued upto 01st January 2012, in the area of discipline & disciplinary proceedings.

2. This edition, apart from incorporating the changes in various topics, is updated with inclusion of recent guidelines for conducting parallel proceeding and latest guidelines issued by CVC. Detailed guidelines for handling of anonymous / pseudonymous complaints have been included. Some of the judgments relevant to parallel proceedings have been furnished in this edition.

3. I am sure the compilation will serve as a useful reference book on the subject. The College welcomes feedback/suggestions, on the contents/coverage from all users/readers.

4. I place on record my appreciation of Sri R Ganesh, Deputy General Manager (HR & BS), Sri I S Rao AGM (Faculty), Sri Ravella Venkateswara Rao, AGM (Faculty) and Sri B V Rangadham, CM (Faculty) for their active involvement in bringing out the 12th edition. I must also add that Sri L Rajan AGM (retd) and Sri P Lakshminarayana, AGM (Retd.) provided useful guidance in the updation of the contents.

State Bank Staff College
Hyderabad
04.01.2012

Usha R. Nair
General Manager & Principal
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To inculcate a sense of alertness and awareness and widespread compliance with systems and procedures in the daily functions of the organization, to the grassroots level at branches, and acting as a catalyst for eliminating system weaknesses to generate a passion for achieving the highest ethical and professional standards, upholding the integrity and dignity of the organization.

Vision Statement

Attainment of high levels of systems integrity by creating awareness and developing commitment and probity at all levels and activities, contributing towards an organization with world-class standards of efficiency and professionalism.
1. DISCIPLINE IN BANK

Any organisation requires a framework of policies, rules regulations and procedures to fulfil its roles. These are necessary to function in an orderly and smooth manner. The orderly conduct based on well-defined standards and clear guidelines is called discipline.

The word ‘discipline’ is probably derived from the word ‘disciple’, which means learner or follower. A learner or follower complies with the requirements laid down by his teacher or leader with a view to serving the purpose for which he came to the latter.

When a person spontaneously and willingly abides by the required norms, it is called positive or constructive discipline; whereas when he is compelled to behave in a particular way under threat or fear of punishment, it is termed as negative or punitive discipline. Although positive discipline is desirable, there will be occasions when punitive action has to be resorted to for three main reasons:

1. to make the employee realise the seriousness of infringing the rules of conduct
2. to send right messages to others, and
3. to prevent recurrence of such events within the organisation.

Douglas McGregor explains the characteristics of disciplinary action by the analogy of a hot stove, which came to be known as Hot Stove theory.

1. Announcement
   A hot stove, when being used, emits heat, light, sound, and thereby makes its presence felt. The organisation, similarly, publishes the conduct rules, and code of discipline as applicable to supervising staff and award staff and provides them to all cadres of employees for them to take note of. The employees are, thus, put on notice regarding the framework of discipline; they are required to adhere to.

2. Advance Warning
   Any person approaching the hot stove feels the growing intensity of heat. Likewise, an employee trying to violate the rules will be made aware of the consequences of such an act. In fact the list of punishments, which an organization may inflict upon an employee for violation of service rules, serves the purpose of an advance warning. Normally, the appropriate authority will observe any tendency of an employee to break the rules and caution him in time to pre-empt resort to disciplinary action at a later stage.

3. Immediacy
   The hot stove burns the persons coming into contact instantaneously without any delay. On the same analogy, disciplinary action should brook no delay whatsoever. When a lapse occurs, it should be taken cognisance of immediately, and the persons responsible proceeded against without any delay. The well-known maxim “justice delayed is justice denied” has a relevance here, and as such any undue prolongation of the process will only compound the gravity of the lapse.

4. Impartiality
   Again, the hot stove has no favourites and does not discriminate between persons coming into contact. A person’s gender, religion, caste, age, region, language or any other distinctive feature has absolutely no role to play in the punishment inflicted on him. The disciplinary action, in the same way, should be taken with an absolute sense of impartiality, without differentiation on account of extraneous factors. There may however be compelling reasons for showing certain distinctness. The concerned authority should take care to ensure that such reasons are stated explicitly so that the validity of such reasons is well appreciated by one and all, especially the affected employee. Needless to mention that consistency in awarding
punishments, and transparency, in case of any deviation, should be the hallmark of the disciplinary proceedings.

5. Impersonality
Just as the hot stove does not derive any pleasure or satisfaction by burning the person coming into contact, the Disciplinary Authority should have no emotional involvement in the process. Enforcement of discipline is an operational necessity and the affected employee should get the message that this particular conduct is being dealt with as per rules and the organisation has no animosity against him. A sense of detachment, restraint and a judicious approach on the part of disciplinary authority will give the right message to the employee.

The disciplinary action is a tool in the hands of the Management to maintain discipline and order in an organisation. In case the tool is not handled properly and carefully, it may harm the cause itself. It is here that the concerned authority has to be very careful about initiation of action, and should proceed with care and discretion. In this context, the following approaches may be considered.

Legalistic approach
One can take a very narrow view of the rules adhering to the letter but not the spirit and proceed against an employee even for a flimsy reason. The concerned authority can impose punishments as a mechanical process according to a scale without considering in any manner the attendant circumstances. Just as hanging every person guilty of murder is not justifiable, the legalistic approach may not serve the purpose intended in all the cases.

Humanitarian approach
To err is human. It is therefore to be seen whether an act of misconduct is committed out of ignorance of rules, negligence or out of a deliberate plan. One needs to ask himself if the person is a habitual offender or if the offence is a one-time stray occurrence. Similarly, he needs to ascertain the circumstances that led to the event and find out if the employee is repentant or not. He also needs to see if a lesser punishment would help the employee reform himself. Consideration of these factors may be helpful to guide the authority concerned in handling a particular case. Sometimes the dependent family situation may also play a role. However, excessive pre-occupation with such humanitarian considerations may sometimes be dysfunctional. In any case, an organisation cannot take on the role of reformatories to the detriment of its own goals and function.

Development Approach
Some people act in haste and repent in leisure. Taking a lenient view of such acts especially when they do not involve frauds and condemnable misbehaviour may help the employee come back from the fringes of delinquency. After all, the organisation recruited, trained and retained the employee at great cost for a considerable period of time. By dealing with him sternly, the employee may turn a liability with no further utility for the organisation. Especially in the case of youngsters, well versed in specialised fields like International Banking, Credit, etc., one has to consider how far rendering them ineffective due to frustration for relatively simple acts of commission or omission is in the interest of the organisation. As the employee may have long years of service left, it may not be in the interest of the organisation to keep him disgruntled. At the same time, one cannot let serious lapses go unpunished. The organisation has to strike a balance in such cases.

The approaches discussed above are not to be adopted mechanically nor can they be effective in all situations. One has to take a balanced view as warranted by a specific situation. Whatever decision is taken, the rationale and the process of arriving at that particular decision should be recorded in black and white: and made known to all including the employee concerned.
2. MISCONDUCT

The word ‘misconduct’ has not been defined in any of the laws or enactments. The conduct rules have also not made any attempt to define it. The dictionary however explains ‘misconduct’ as improper behaviour, unprofessional behaviour, and deliberate violation of conduct rules or intentional wrongdoing. In general terms therefore any act of commission or omission, deliberately done by an employee, with a wrong intention, inconsistent with the conduct expected of him, is said to be an act of misconduct. ‘Misconduct’ also means dereliction of or deviation from duty or unlawful behaviour or conduct or ‘misfeasance.’ An act of misconduct is normally considered more than a simple act of negligence.

In the course of employment, the employee has to ensure that he conducts himself in accordance with the rules of service and the discipline expected of him. There may be occasions when the code of conduct is not spelt out. In the absence of the service rules too, the employee is expected to conduct himself in a manner expected of him. The following acts are considered examples of misconduct even though these would not have been specifically spelt out in the conduct rules.

a) Not performing duties - Whenever an employee is appointed, he is appointed essentially for performance of certain set of duties for which the remuneration is paid to him. Non-performance of duties entrusted to him is inconsistent with the obligation of employment and is, therefore, considered misconduct on the part of the employee. However, an employee cannot be called upon to perform any work, which is either superior, or inferior to the post he holds. It is however the duty of an employee to perform all other jobs which are ancillary, incidental or connected with or preliminary to his main duties, unless there is any contract, settlement or custom to the contrary. When an employee works on a certain machine, it may be one of his duties to clean the machine and then operate it. The employees on certain machines are expected to repair the machines to some extent if they can do so. It may also be noted that when drivers are appointed, they are not generally appointed for any specific car. The argument that every single matter should be reduced in writing is an impractical one. Further, it is the duty of workers to perform such jobs, which they have been doing before. If a despatch clerk who has been keeping money with him, returns cash to his superior one day on the plea that there is no proper place to keep it, the behaviour can amount to failure of duty on his part. When the coolies were doing the work of whitewashing in the slack season, the refusal by them to do the work in one particular season was not found justified.

b) Non-performance during duty hours - Late coming is a minor misconduct. While punctuality is no doubt a virtue, it cannot be said that mere late coming on duty or leaving the post of duty for a few minutes can warrant dismissal. An employee cannot be dismissed for the act of late coming unless the act is of a habitual nature. While taking cognisance of a misconduct of this nature, one ought to take into account factors like weather conditions, transport problems, etc. Leaving office early without authorisation is misconduct. So is loitering in the business premises or absence during working hours. Performance of personal or private work during duty hours is also misconduct. Sleeping on duty is regarded as a serious act of misconduct. A watchman can be dismissed for one single act of sleeping during office hours. Gambling in the work place is misconduct. On the same lines, drinking during duty hours is also misconduct. If an employee indulges in drinking on the premises or comes drunk,
he is regarded as having committed misconduct, notwithstanding whether he is convicted by a court of law. An employee can justifiably be asked not to come before the duty hours or stay back after the close of duty hours.

c) **Negligence** - An employee can be adjudged negligent only in relation to the duty that he is expected to carry out. The concept of negligence has to be seen differently from the concept of inefficiency. A person may be inefficient but not negligent. Inefficiency does not warrant dismissal or such harsh punishment, but negligence resulting in sizeable loss to the organisation may be viewed seriously.

d) **Strike** - “Strike means cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.” [ID Act, 1947]. Thus, cessation of work by a group of workers - whether in full or in part will be treated as ‘strike’. An individual employee who stays away in protest, for enforcing a particular demand, will not fall within the category of strike. When a strike is observed in violation of the provisions contained in the statute, i.e. Sec. 22 (i) and Section 23 of the ID Act, it is called an illegal strike.

e) **Insubordination** - Insubordination, as distinct from disobedience, means defiance of a person in authority. It denotes the tendency or state of mind or any act, which is contrary to the subordinate position of the employee. In this sense all acts of disobedience can be treated as insubordination, but not all instances of insubordination as disobedience. Insubordination is similarly different from subversion of discipline. In the latter case it amounts to going contrary to discipline or rules and regulations of establishment. In order to determine if an act is subversive of discipline, one needs to ascertain (a) whether the act of improper behaviour is directly linked to the general employer-employee relationship or has a direct connection with the contentment or comfort of men at work, and (b) whether prejudicial or an improper act has a material bearing on the smooth and efficient working of the company. Thus an attack on a superior will also be an act subversive of discipline because it is inimically connected with the affairs of the organisation. The supervision over the employee in a work situation would be seriously prejudiced if an attack on the supervisor for performance of duties remains unpunished. The scope of insubordination is limited to only such activities, which are addressed to superiors while an act may be subversive of discipline if the act interferes with the smooth working of the concern. An attack on a co-worker on duty is subversive of discipline but it is not an act of insubordination. Further, an act, which brings the superior officer in contempt, is subversive of discipline. Use of un-parliamentary, insolent, impertinent, abusive, offensive, vulgar, derogatory and insulting language by an employee to his superior in the presence of the subordinates of the latter is an act subversive of discipline. It may however be noted here that insubordination has to be willful in order to constitute a misconduct. There must be circumstances and conduct implying a declaration to the superior, ‘I am not going to take orders from you’.

f) **Assault on Superior Officer** - The word ‘assault’ has been defined under **Section 351 of the Indian Penal Code** as “whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person is said to commit an assault.” Mere words do not therefore amount to an ‘assault’. The words, which a person uses, may give to his
gesture or preparations such a meaning as may make those gesture or preparations amount to an assault. An assault on a superior officer is a serious misconduct; wilfully beating him is an even more serious act of misconduct. Whatever be the complaint, it is generally held that a worker has no right to assault the superior.

g) Giving Threat to Superior Officer - If the object of threatening is to instill fear in the minds of the superiors so that they may act according to the wishes of the employees, the threat amounts to misconduct. The threat should normally be the threat of injury to the person, his reputation or property. If the threat is not in respect of these matters, it will not amount to criminal intimidation. If an employee threatens his superior with legal action, it will not amount to criminal intimidation since an individual has a right to approach a court of law.

h) Indiscipline (Riotous Behaviour) - An act would be regarded as subversive of discipline even if the act occurs outside the working hours and outside the place of business, provided the act (i) is inconsistent with the fulfilment of the express or implied conditions of service, (ii) is directly linked with the general relationship of employer and employee, (iii) has a direct connection with the contentment or comfort of men at work, or (iv) has a material bearing on the smooth and efficient working of the organisation. In a particular case, the Gujarat High Court ruled that an employee can be dismissed for an act where the act or conduct of the servant is (i) prejudicial or likely to be prejudicial to the interest of the master or to the reputation of the master (ii) inconsistent or incompatible with the due or peaceful discharge of his duty to his master, (iii) so grossly immoral that all reasonable men will say that the employee cannot be trusted, (iv) such that the master cannot rely on the faithfulness of his employee, and (v) such as to open before him temptations for not discharging his duties properly. It may be noted here that misbehaviour with co-workers, customers or clients will be categorised as an act subversive of discipline. An employee is required to maintain peace at the establishment and he should not do such acts, which disturb the peace. Shouting at the work place or any act which creates a nuisance at the work place or disturbs the work will be an act subversive of discipline. If two employees fight between themselves, it will be treated as misconduct even though the employees patch up at a later stage.

i) Acts Harmful to Organisation’s Interest - The relationship between an employer and the employee is of a fiduciary character. This means that whenever an employer engages an employee, he believes that the employee will faithfully discharge duties entrusted to the latter, and protect and further the interest of the employer. The implied condition of fidelity may involve a number of requirements on the part of the employee. Any act, which is contrary to the duties and obligations of an employee, will be subversive of discipline. The employee should not therefore place himself in competition with the employer. The employee should not, similarly, associate himself with a concern or firm, which competes with his employer. He should not disclose any information or material to the rival company. Copying the employer’s confidential records and taking them outside is also treated as misconduct.

j) Improper Behaviour with Women while on Duty - An employee making indecent gestures towards a woman employee can be charged for misconduct. A bus-conductor, in a particular case,
was found cutting indecent jokes with lady passengers and making indecent overtures towards them. His dismissal on ground of misconduct was held justified.

**k) Acts of Personal Immorality and Conviction** - An employee should not do any thing incompatible with the due or faithful discharge of his duty to his organisation. Thus, even if an employee drinks in excess thereby interfering with the working of his employer, it would amount to misconduct. Similarly, any act of immorality taking place outside the work place is also considered a misconduct if the employee is found guilty of the act.

**l) Unauthorised Absence** - An employee can exercise his right of leave in accordance with the rules only. He must therefore wait for sanction of leave. In a number of organisations, an employee has to seek permission for leaving the station. When leave is granted in such cases, the employee need not ask for permission for leaving the station separately. Although leave cannot be demanded as a matter of right, it is incumbent on the part of the employer to see that an employee is not declined leave if he wants to be away on bona fide grounds.

**m) Bribe or illegal gratification** - Taking money or accepting illegal gratification for doing favour in the course of official work amounts to an offence under section 161 of the Indian Penal Code and under the Prevention of Corruption Act, 1988. The mere receipt of money does not necessarily constitute bribe. It is necessary that the amount should have been given for the purpose of extracting official favour. The receipt of tips, commission, ‘*Inam*’, gifts, etc. will amount to acceptance of bribe. The bribe will not cease to be a bribe merely by calling it by a different name. It will also not cease to be a bribe even if the payment is customary. Earlier, it was assumed that ‘*bakshish*’, *paid to the peons etc.* on the occasion of Diwali, Dussehra or Christmas, by a person officially unconnected was not a bribe. However, a Mumbai Court recently (2000) held that acceptance of *“Diwali bakshish”* (gift), amounted to illegal gratification under Section 7 of the Prevention of Corruption Act, 1988 and *“misconduct”* under section 13(2) of the same Act.

**n) Holding of Assets Disproportionate to Income** - The word ‘disproportionate’ means relatively large or small, and therefore, slight excess will not mean that the assets are disproportionate. Any employee holding assets disproportionate to his known source of income may be presumed to have taken bribes, undue favours, illegal gratification, etc. by misuse of his official position (the allegation of disproportionate assets will per se make it a “vigilance angle” case, as per Special Chapter of CVC Manual).

**o) Misappropriation of Amounts** - If a single window operator has accepted money for deposit into the account and issued receipt but has not credited the amount into the account, the employee may be presumed to have misappropriated amounts collected on behalf of the employer. In this case, even if he deposits the amount later on or offers to repay the amounts to the employer, the misconduct in respect of misappropriation will not be obliterated. He may still be charged for ‘temporary misappropriation’.
**Relevant Judgements**

No disciplinary action can be taken and punishment imposed for conduct not included in enumerated misconduct of service regulations or Standing Orders. It is not open to the employer to fish out some conduct as misconduct and punish the worker.

_S.C., Ahmedabad Municipal Corporation, LLJ 1985 I 527_

**Offences involving Moral Turpitude** - The term ‘moral turpitude’ has not been defined in the Law. It means anything done contrary to justice, honesty, modesty or good morals, and contrary to what a man owes to a fellow man or to society in general. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. The tests to identify an act involving moral turpitude, evolved in the case of Mangali vs. Chhakki Lal (A.P. Srivastava J.) AIR 1963 ALL 527, were as follows:

i) whether the act leading to conviction was such as could shock the moral conscience of society;

ii) whether the motive which led to the act was a base one, and

iii) whether on account of the act having been committed, the perpetrator could be considered to be a man of depraved character or a person who was to be looked down by the society

While it is difficult to give a list of offences, which can be considered as those involving moral turpitude, it is generally agreed that cases relating to defalcation of accounts, cheating, embezzlement, forgery, fraud, theft, criminal assault, etc. are the instances of offences involving moral turpitude.

Banking Regulations Act (1949), vide Section 10 (i) (b) (i) stipulates that ‘…no banking company shall employ or continue to employ any person convicted of an offence involving moral turpitude…’

Conviction here would mean conviction by a criminal court of law. Through many court judgments, it is now very clear that if the appellate court stays the sentence passed on the accused, the conviction is not automatically washed off.

In so far as the Award employees are concerned, the settlement dated 10th April 2002 stipulates the provisions under clause 2 and clause 5(s). In the case of Officers the relevant provisions are contained in Rule 68(7) of SBIOSRs-92.
3. MISCONDUCT IN EMPLOYMENT

Conduct Rules governing both Award employees and Officers of Banks have enumerated certain acts of omission or commission as misconduct. In the case of an award employee, barring a few exceptions, an act of misconduct either relates to or has a nexus to his work-situation. An act of misconduct, in the case of an Officer, may relate to his private life as well. He, for instance, should not behave in a way unbecoming of a bank official. Rule 50 (4) of the Officers’ Service Rules stipulates that he should 'do nothing which is unbecoming of an officer”.

An Officer of State Bank of India is governed by the State Bank of India Officers Service Rules. The conduct rules for the officers are spelt out under Rule 50 to Rule 65. Violation of any of the provisions will amount to an act of misconduct. Rule 66 reads: ‘a breach of any of the provisions of these rules shall be deemed to constitute misconduct punishable under Rule 67’.

In so far as an award employee is concerned, he has to abide by the ‘Rules of Conduct’ as indicated under Chapter 3, Volume 1 of Bank's Book of Instructions, subject of course, to the terms of any bipartite agreement, Award or Enactment in force for the time being. While the Awards and Bipartite Settlements do not specifically provide for this provision, it is deemed to be an employment contract and would constitute the terms and conditions of employment for the employees in the Bank. Any infringement of any provision of the ‘Rules of Conduct’ would therefore amount to misconduct. An employee, in addition to this, has to abide by the conduct rules, as stipulated under clause 5 (five) and clause 7 (seven) of the settlement dated the 10th April 2002 as Modified. He also should not act in a manner, which could amount to resorting to a restrictive practice. Resorting to ‘restrictive practices’ will also be treated as an act of misconduct. The list of acts defined, as 'restrictive practices’ are included under Settlements dated 31.10.79 and 17.9.84 and reiterated in 6th BPS dated 14.02.1995.

The acts of misconduct, in the case of an award-employee have been classified under two heads: (i) Gross Misconduct and (ii) Minor Misconduct. While, cases of ‘gross misconduct' have been spelt out under clause 5(five), those of 'minor misconduct' are detailed under clause 7(seven) of the settlement dated the 10th April 2002. An employee charged for an act of minor misconduct cannot be awarded the penalty for gross misconduct. In the case of officers, however, there is no prior categorisation. Any deviation from the Conduct Rules will amount to an act of misconduct. DA will take a decision at the stage of initiation of disciplinary proceedings on the basis of the gravity of misconduct whether to initiate major penalty proceedings or minor penalty proceedings.

In the event of an officer being proceeded against departmentally in respect of an act of misconduct committed during his tenure as an award employee, he will be governed the Officers’ Service Rules and not under the Award Staff Service conditions.
4. RULES OF CONDUCT (AWARD STAFF)

An employee of the Bank may not:

(i) borrow money or permit any member of his family to borrow money or otherwise place himself or a member of his family under a pecuniary obligation to a broker or a money lender or a subordinate employee of the bank or any person, association of persons, firm, company or institution, whether incorporated or not having dealings with the bank;

(ii) buy or sell stocks, shares or securities of any description without funds to meet the full cost in the case of a purchase or scrip for delivery in the case of a sale;

(iii) book debts at a race meeting;

(iv) lend money in his private capacity to a constituent of the Bank or have personal dealings with a constituent in the purchase or sale of bills of exchange, government paper or any other securities;

(v) guarantee in his private capacity the pecuniary obligations of another person or agree to indemnify in such capacity another person from loss, except with the previous permission of the Appropriate Authority;

(vi) act as agent for an insurance company otherwise than for or on behalf of the Bank;

(vii) take part in the registration, promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 or any other law for the time being in force or any co-operative society for commercial purposes without the previous sanction of the Appropriate Authority, except in the discharge of his official duties.

Provided that an employee may, take part in registration, promotion, or management of a co-operative society intended for the benefit of the Bank employees and registered under the Co-operative Societies Registration Act, 1860 or any corresponding law in force

(viii) engage directly or indirectly in any trade or business or undertake any other employment without the permission of the Appropriate Authority.

Provided that an employee may, without such sanction, undertake honorary work of a social or charitable nature or occasional work of a literary, artistic, scientific, professional, cultural, educational, religious or social character, subject to the condition that his official duties do not thereby suffer or the undertaking or such work is not detrimental to the interest of the Bank; but he shall not undertake, or shall discontinue such work if so directed by the Appropriate Authority.

Provided that nothing in the rules laid down in this paragraph shall be deemed to prohibit an employee from making a bona fide investment of his own funds in such securities as he may wish to buy.

Explanations:

(i) Canvassing by an employee in support of the business of insurance agency, commission agency, etc. owned or managed by a member of his family shall be deemed to be a breach of this sub-rule.
(ii) Prior sanction under this rule is not necessary for holding an office ex-officio outside the Bank, under any law or rules, regulations or bye-laws made there under, for the time being in force, or under directions from any authority to whom the employee is subordinate.

2. **An employee guilty of infringing any of the provisions of paragraph 1 may render himself liable to dismissal from the service.**

3. An employee of the Bank may not take an active part in politics or in any political demonstration, nor may an employee accept office on a municipal council or other public body without the prior sanction of the Bank.

4. All employees must maintain the strictest secrecy regarding the Bank’s affairs and the affairs of its constituents.

5. No employee shall accept or permit any member of his family or any person acting on his behalf to accept any gift except customary gifts from relatives and personal friends on occasions such as marriages, anniversaries, funerals or religious functions when the making of gifts is in conformity with the prevailing religious or social practice.

   **Note:**

   (1) **As a normal practice, an employee shall not accept any gift from a person obligated to the Bank through official dealings.**

   (2) **A casual meal, lift or other social hospitality shall not be deemed as a gift.**

6. An employee may not overdraw his account with the Bank, whether against security or otherwise, without the authority of the controlling office or the branch manager to the extent of powers delegated to him.

7. No employee shall bring or attempt to bring any political or other outside influence including that of individual directors of the Bank or the Members of the Local Board to bear upon any superior authority to further his own interest in the bank.

8. An employee desirous of applying for an appointment elsewhere or for a post in a higher capacity in the bank itself (if permissible) shall forward his application through the branch manager or the head of the department as the case may be.

9. In terms of the Criminal Law (Amendment) Act, 1988, the definition of the term ‘public servant’ as given in Section 21 of the Indian Penal Code has been extended to cover the employees of statutory corporations. Accordingly, all employees of the bank come within the purview of the Prevention of Corruption Act and any other criminal law relating to public servants.

10. These rules of conduct are in addition to the provisions of the existing Awards or any other Award that may come into force.
5. AWARD STAFF: PROVISIONS FOR DISCIPLINARY PROCEEDINGS
SETTLEMENT DATED 10TH APRIL 2002

Memorandum of Settlement dated 10th April 2002 between the Management of
52 "A" class Banks as represented by the Indian bank's Association (IBA) and
their workmen represented by the All India Bank Employees' Association
(AIBEA), National Confederation of Bank Employees (NCBE), Indian National
Bank Employees' Federation (INBEF).

(Under Section 2 (p) and Section 18 (1) of the ID Act, 1947 read with rule 58 of the
ID (Central) Rules 1957)

1: A person against whom disciplinary action is proposed or likely to be taken shall in
the first instance, be informed of the particulars of the charge against him and he shall
have a proper opportunity to give his explanation as to such particulars. Final orders
shall be passed after due consideration of all the relevant fact and circumstances. With
this object in view the following shall apply:

2. By the expression ‘offence’ shall be meant any offence involving moral turpitude for
which an employee is liable to conviction and sentence under any provision of law.

3(a). When in the opinion of the management an employee has committed an offence,
unless he be otherwise prosecuted, the bank may take steps to prosecute him or get
him prosecuted and in such a case he may also be suspended;

(b). If he be convicted, he may be dismissed with effect from the date of his conviction
or be given any lesser form of punishment, as mentioned in Clause 6 below.

(c). If he is acquitted, it shall be open to the management to proceed against him under
the provisions set out below in Clauses (11) and (12) infra relating to discharges. However, in the event of the management deciding after enquiry not to continue him
in service, he shall be liable only for termination of service with three months’ pay and
allowances in lieu of notice. And he shall be deemed to have been on duty during the
period of suspension, if any, and shall be entitled to the full pay and the allowances,
minus such subsistence allowance as he has drawn and to all other privileges for the
period of suspension, provided that if he be acquitted by being given the benefit of
doubt, he may be paid such portion of such pay and allowance as the management
may deem proper; and the period of suspension shall not be treated as a period spent
on duty unless the management so direct;

(d). If he prefers an appeal or revision application against his conviction and is
acquitted, in case he had already been dealt with as above, and he applies to the
management for reconsideration of his case, the management shall review his case,
and may either reinstate him or proceed against him under the provision set below in
sub-paragraphs 11 and 12 infra relating to discharge, and the provision set out above
as to pay, allowances and the period of suspension will apply, the period up-to-date
for which full pay and allowances have not been drawn being treated as one of
suspension. In the event of the management deciding after enquiry not to continue
him in service, the employee shall be liable only for termination with three months’ pay and allowances in lieu of notice, as stated above.

4. If after steps have been taken to prosecute an employee or to get him prosecuted, for an offence, he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of “gross misconduct” or of “minor misconduct” as defined below; provided that if the authority which was to start prosecution proceedings refuses to do so or comes to the conclusion that there is no case for prosecution, it shall be open to the management to proceed against the employee under the provisions set out below in Clauses 11 and 12 infra relating to discharge, but he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full wages and allowances and to all other privileges for such period. In the event of the management deciding after enquiry not to continue him in service, he shall be liable only for termination with three months’ pay and allowances in lieu of notice as directed in Clause 3 above. If within the pendency of the proceedings thus instituted he is put on trial such proceedings shall be stayed pending the completion of the trial, after which the provisions mentioned in Clause 3 above shall apply.

### STAFF AWARD:: PARALLEL PROCEEDINGS

**CRIMINAL AS WELL AS DEPARTMENTAL PROCEEDINGS**

Contents of letter CDO:IR:66 dated 13.05.2004

Para 4:: As regards the existing pending cases which have been kept on hold because of the commencement of the trial and are remaining as such for more than one year, Disciplinary Authority may review the cases and pass orders for starting the departmental enquiry and complete the process expeditiously, without waiting for the trial to be over. (Ref: Civil revision No 4814 of 2002, Rajindar Kumar Vs State Bank of India and others)

(5): By the expression ‘**gross misconduct**’ shall be meant any of the following acts and omissions on the part of an employee:

(a) engaging in any trade or business outside the scope of his duties except with the written permission of the bank

(b) unauthorised disclosure of information regarding the affairs of the bank or any of its customers or any other person connected with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank

(c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank

(d) wilful damage or attempt to cause damage to the property of the bank or any of its customers;

(e) wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;

(f) habitual doing of any act which mounts of "minor misconduct" as defined below, ‘habitual’ meaning a course of action taken or persisted in, notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him;

(g) wilful slowing down in performance of work;
(h) gambling or betting on the premises of the Bank

(i) speculation in stocks, shares, securities or any commodity whether on his account or that of any other persons;

(j) doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss;

(k) giving or taking a bribe or illegal gratification from a customer or an employee of the bank

(l) abetment or instigation of any of the acts or omissions above mentioned

(m) knowingly making a false statement in any document pertaining to or in connection with his employment in the bank

(n) resorting to unfair practice of any nature whatsoever in an examination conducted by the Indian Institute of Bankers or by or on behalf of the bank and where the employee is caught in the act of resorting to such unfair practice and a report to this effect has been received by the bank from the concerned authority.

(o) resorting to unfair practice of any nature whatsoever in any examination conducted by the Indian Institute of Bankers or by or on behalf of the bank in case not covered by the above sub-Clause (n) and where a report to that effect has been received by the bank from the concerned authority and the employee does not accept the charge.

(p) remaining unauthorisedly absent without intimation continuously for a period exceeding 30 days;

(q) misbehaviour towards customers arising out of bank’s business

(r) contesting election for Parliament/Legislative Assembly/Legislative Council/Local Bodies/Municipal Corporation/Panchayat, without explicit written permission of the bank.

(s) conviction by a criminal Court of Law for an offence involving moral turpitude

(t) indulging in any act of "sexual harassment" of any women at her work place.

[Note: Sexual harassment shall include such unwelcome sexually determined behaviour (whether directly or otherwise) as

(a) physical contact and advances;

(b) demand or request for sexual favour

(c) sexually coloured remarks

(d) showing pornography; or

(e) any other unwelcome physical verbal or non verbal conduct of a sexual nature]

(u) the giving or taking or abetting the giving or taking of dowry from the parents or guardians of a bride or bridegroom as the case may be, any dowry.

[Explanation: For the purpose of sub-Clause (u) the word "dowry" has the same meaning as in the "Dowry Prohibition Act, 1961"].

(6): An employee found guilty of gross misconduct may:

(a) be dismissed without notice; or

(b) be removed from service with superannuation benefits [i.e. Pension and/or Provident Fund and Gratuity] as would be due otherwise [under the Rules or Regulations prevailing at the relevant time] and without disqualification from future employment; or

(c) be compulsorily retired with superannuation benefits i.e. Pension and/or Provident Fund and Gratuity as would be due otherwise under the Rules or
Regulations prevailing at the relevant time and without disqualification from future employment; or
(d). be discharged from service with superannuation benefits i.e. Pension and/or Provident Fund and Gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment; or
(e) Be brought down to lower stage in the scale of pay up to a maximum of two stages; or
(f) Have his increment/s stopped with or without cumulative effect; or
(g) Have his special allowance [pay] withdrawn; or
(h) Be warned or censured or have an adverse remark entered against him; or
(i) Be fined.

7. By the expression “minor misconduct” shall be meant any of the following acts and omissions on the part of an employee:

a) absence without leave or overstaying sanctioned leave without sufficient grounds;
b) unpunctual or irregular attendance;
c) neglect of work, negligence in performing duties
d) breach of any rule of business of the bank or instruction for the running of any department;
e) committing nuisance on the premises of the bank;
f) entering or leaving the premises of the bank except by an entrance provided for the purpose;
g) attempt to collect or collecting monies within the premises of the bank without the previous permission of the management or except as allowed by any rule or law for the time being in force
h) holding or attempting to hold or attending any meeting on the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;
i) canvassing for union membership for collection of union dues or subscriptions within the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;
j) failing to show proper consideration, courtesy or attention towards officers, customers or other employees of the bank, unseemly or unsatisfactory behaviour while on duty;
k) marked disregard of ordinary requirements of decency and cleanliness in person or dress;
l) incurring debts to an extent considered by the management as excessive;
m) resorting to unfair practice of any nature whatsoever in any examination conducted by the Indian Institute of Bankers or by or on behalf of the bank in cases not covered by sub Clause (n) under “Gross misconduct” and where a report to that effect has been received by the bank from the concerned authority and the employee accepts the charge;
n) refusal to attend training programmes without assigning sufficient and valid reasons;
o) not wearing, while on duty, identity card issued by the bank
p) not wearing while on duty the uniform supplied by the Bank, in clean condition.
8. An employee found guilty of “minor misconduct’ may:
   A). be warned or censured, or
   b) have an adverse remark entered against him; or
   c) have the increment stopped for a period not longer than six months

9. A workman found guilty of misconduct, whether gross or minor, shall not be given more than one punishment in respect of any one charge.

10. In all cases in which action under paragraphs (4), (6) or (8) may be taken, the proceedings held shall be entered in a book kept specially for the purpose; in which the date on which the proceedings are held, the name of the employee proceeded against, the charge or charges, the evidence on which they are based, the explanation and the evidence, if any, tendered by the said employee, the finding or findings with the grounds on which they are based and the order passed shall be recorded with sufficient fullness, as clearly as possible, and such record of the proceedings shall be signed by the officer who holds them, after which a copy of such record shall be furnished to the employee concerned if so requested by him in writing.

11. When it is decided to take any disciplinary action against an employee, such decision shall be communicated to him within three days thereof.

12. The procedure in such cases shall be as follows:
   a) An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge-sheet, clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time being given to him to enable him to prepare and give the explanation as also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witnesses and produce other evidence in his defence. He shall also be permitted to be defended
   i) (x) by a representative of a registered union of bank employees [of which he is a member on the date first notified for the commencement of the enquiry
   (y) where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed, OR
   ii) at the request of the said union by a representative of the State Federation or all India Organisation to which such union is affiliated]**; OR
   iii) With the Bank’s permission, by a lawyer.

Explanation: the term representative of a Registered Trade Union should be read as” office Bearer of the Union or a member so authorized by the union” Source: CO letter CDO:IR 30120 dated 7.03.1996 addressed to CGM New Delhi
b). Pending such enquiry or initiation of such enquiry, he may be suspended, but if on the conclusion of the enquiry, it is decided to take no action against him, he shall be deemed to have been on duty and shall be entitled to the full wages and allowances and to all other privileges for the period of suspension; and if some punishment other than dismissal is inflicted, the whole or a part of the period of suspension, may, at the discretion of the management, be treated as on duty with the right to a corresponding portion of the wages, allowances, etc. (* In a recently decided case (State Bank of India. Vs. Harbans Lal, 2000 LAB IC 2334 SC), Supreme Court had upheld provision’s validity.)

c). In awarding punishment by way of disciplinary action the authority concerned shall take into account the gravity of the misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances that may exist. Where sufficiently extenuating circumstances exist, the misconduct may be condoned and in case such misconduct is of the ‘gross’ type he may be merely discharged, with or without notice or on payment of a month’s pay and allowances, in lieu of notice. Such discharge may also be given where the evidence is found to be insufficient to sustain the charge and where the bank does not, for some reason or other, think it expedient to retain the employee in question any longer in service. Discharge in such cases shall not be deemed to amount to disciplinary action.

(d). If the representative defending the employee is an employee of the same bank at an outstation branch within the same state, he shall be relieved on special leave (on full pay and allowances) to represent the employee and be paid one to and fro fare. The class of fare to which he will be entitled would be the same as while traveling on duty. In case of any adjournment at the instance of the bank/EO/IA, he may be asked to resume duty and if so, will be paid fare for the consequential journey. He shall also be paid full halting allowance for the period he stays at the place of the enquiry for defending the employee as also for the days of the journey which are undertaken at the bank’s cost.

Explanation:
‘State’ for the purpose shall mean the area, which constituted a political state as on 19.10.1966, but this explanation will not apply to SBI.

(e). **An enquiry need not be held if** –
   (i) The Bank has issued a show cause notice to the employee advising him of the misconduct and the punishment for which he may be liable for such misconduct.
   (ii) The employee makes a voluntary admission of his guilt in reply to the aforesaid show cause notice, and
   (iii) The misconduct is such that even if proved the Bank does not intend to award the punishment of discharge or dismissal.
However, if the employee concerned requests a hearing regarding the nature of punishment, such a hearing shall be given.

(f). An enquiry need not also be held if the employee is charged with minor misconduct and the punishment proposed to be given is warning or censure. However,

(i) the employee shall be served a show cause notice advising him of the misconduct and the evidence on which the charge is based; and
(ii) the employee shall be given an opportunity to submit his written statement of defence and for this purpose has a right to have access to the documents and material on which the charge is based.

(iii) if the employee requests a hearing, such a hearing shall be given and in such a hearing, he may be permitted to be represented by a representative authorised to defend him in the enquiry had such an enquiry been held.

(g). Where an employee is charged with a minor misconduct, and an enquiry is not held on two previous occasions, an enquiry shall be held in respect of the third occasion.

13. Where the provisions of this Settlement conflict with the procedures or rules in force in any bank regarding disciplinary action, they shall prevail over the latter. There may, in such procedures or rules, exist certain provisions outside the scope of the provisions contained in this Chapter enabling the bank to dismiss, warn, censure, fine an employee or have his increment stopped or have an adverse remark entered against him. In all such cases also the provisions set out above shall apply.

14. The Chief Executive Officer or the Principal Officer in India of a Bank or an alternate officer at the Head Office or Principal Office nominated by him for the purpose shall decide which officer (i.e. the Disciplinary Authority) shall be empowered to take disciplinary action in the case of each office or establishment. He shall also decide which officer or body higher in status than the officer authorised to take disciplinary action shall act as an appellate authority to deal with or hear and dispose of any appeal against orders passed in disciplinary matters. These authorities shall be nominated by designation, to pass original orders or hear and dispose of appeals from time to time and a notice specifying the authorities so nominated shall be published from time to time on the bank’s notice board. It is clarified that the Disciplinary Authority may conduct the enquiry himself or appoint another officer as the Enquiry Officer for the purpose of conducting an enquiry.

The appellate authority shall, if the employee concerned is so desirous, in a case of dismissal, hear him or his representatives, before disposing of the appeal. In cases
where hearings are not required, an appeal shall be disposed of within two months from the date of receipt thereof. In cases, where hearings are required to be given and requested for, such hearings shall commence within one month from the date of receipt of the appeal and shall be disposed of within one month from the date of conclusion of such hearings. The period within which an appeal can be preferred shall be 45 days from the date on which the original order has been communicated in writing to the employee concerned.

15. Every employee who is dismissed or discharged shall be given a service certificate without avoidable delay.

16. Any notice, order, charge-sheet communication or intimation, which is meant for an individual employee, shall be in a language understood by the employee concerned. In the case of an absent employee notice shall be sent to him by registered post with acknowledgement due. If an employee refuses to accept any notice, order, charge-sheet, written communication or written intimation in connection with disciplinary proceedings when it is sought to be served upon him, such refusal shall be deemed to be good service upon him, provided such refusal takes place in the presence of at least two persons, including the person who goes to effect service upon him. Where such notice, order, charge-sheet, intimation or any other official communication which is meant for an individual employer is sent to him by registered post with acknowledgement due, at the last recorded address communicated in writing by the employee and acknowledged by the bank, the same is to be deemed as good service.

DATE OF EFFECT:
(1). The provisions under this Memorandum of Settlement shall come into effect from the date of the settlement and shall continue to govern and bind the parties until the Settlement is terminated by either party giving to the other a statutory notice as prescribed by law for the time being in force.
(2). Copies of the Memorandum of Settlement will be jointly forwarded by the parties to the authorities listed in Rule 58 of the Industrial disputes (Central) Rules 1957, so that the terms and conditions hereof are binding on the parties as provided in law.


STAFF: AWARD
DISCIPLINARY PROCEEDINGS
FURNISHING REASONS BY THE DISCIPLINARY AUTHORITIES
FOR DISAGREEMENT WITH THE ENQUIRY OFFICERS' FINDINGS

In terms of Memorandum of Settlement dated 10.04.2002 / 27.05.2002, on disciplinary action and procedure therefor, a workman employee who is proceeded against departmentally for misconduct is required to be given a hearing regarding the proposed punishment before passing final orders. Arising from this provision, the designated disciplinary authorities convey their tentative decision regarding the proposed punishment in writing and ask the charge-sheeted employee to make submissions thereagainst in writing within a prescribed time schedule. On receipt of the submissions, the Disciplinary Authorities are required to examine the submission and taking these into account, pass final orders, which also in turn are communicated in writing to the employee.

Of late, arising from the judgments from various High Courts / Industrial Tribunals in the country, it is observed that Courts are not taking favourable view of the decisions of the disciplinary authorities if, in the event the disciplinary authorities differing with the findings of the Enquiry Officer, the reasons for holding difference of views between the Disciplinary Authority and the Enquiry Officer are not conveyed to the charge-sheeted employee. The matter has been examined in consultation with Law Department at this office and it has been decided as under:

I. If the Disciplinary Authority, after examining the enquiry proceedings and Enquiry Officer’s findings on the charges leveled against an employee, disagrees with any of the findings of the Enquiry Officer on one or more charges, he should record in writing his disagreements supported with the reasons therefor. The said recorded reasons for disagreement alongwith a copy each of the enquiry proceedings and the findings of the Enquiry Officer should be communicated to the charged employee in writing and he should be asked to make submission thereon within an appointed date. If, within the appointed date, no such submission is received by the Disciplinary Authority it will be assumed that the charged employee does not wish to make any submission and the Disciplinary Authority shall proceed accordingly for further action as deemed fit.

II. On receipt of the charged employee’s submissions to the above, the same will be examined by the Disciplinary Authority along with enquiry proceedings, findings of the Enquiry Officer and his earlier recorded reasons for disagreements and based thereon, he should record his preliminary order as to whether the charge(s) against the charged employee can still be held
as established or not. The Disciplinary Authority should also record therein his tentative decision as regards the proposed punishment to be inflicted on the charged employee and this order should be communicated to the employee, in writing, and he should be asked to make submissions in regard to the proposed punishment in terms of Clause 12(a)(iii) of the Settlement dated 10.04.2002 / 27.05.2002.

III. On receipt of the charged employee’s submission, the Disciplinary Authority will examine the same along with the enquiry proceedings, findings of the Enquiry Officer and other relevant documents, including those referred to above, and will record his final orders indicating punishment to be inflicted against the employee and communicate such orders to the employee in writing.

Although, it was not required under the earlier clause 521(10)(a) of the Sastry Award as retained by Desai Award and also not required under Clause 12 of the said Settlements of 2002, but by way of abundant caution (in view of Court’s decisions) the aforesaid course of actions can be followed in all future cases, where there is disagreement.
Preamble - The IBA, AIBEA and NCBE are in full agreement that no efforts should be spared by them to ensure efficient, courteous and speedy customer service in the banking industry. With this common objective in view, some "restrictive practices" were gone into jointly. The unions do not accept that there are any such practices. It is admitted by both sides that the details of situations or circumstances in which certain incidents might have taken place are not available and hence they cannot be gone into in detail. The Unions, however, make it clear that it has never been the intention of the Unions to indulge in any restrictive practices. The IBA concedes that in view of the size of the industry, there are difficulties in attaining perfection in the matter of work at all the offices in the country. Both, IBA and the Unions agree that much depends on the climate that develops and the relations that are built at the various offices by mutual understanding and respect for such other's difficulties.

Accordingly the IBA, AIBEA and NCBE jointly express themselves on the issue as under -

1. It is for the management to distribute the work equitably amongst the employees with a view to ensuring that every one has a full day's work. Adjustments would however become necessary in the day-to-day working of the offices and in the interest of smooth working, the workman should carry out all reasonable orders of the local management. The workman would however be free to take up with the management any genuine difficulty in this behalf. The question of fixing any arbitrary ceiling on the quantum of work by the employees themselves does not however arise.

2. While the services of senior employees would generally be utilised on desks requiring experience and knowledge, no one should refuse to work on any desk in exigencies that may arise.

3. The allotment of ledger/s to ledger keeper would depend on the number of transactions and the volume of work and not on the number of ledgers. Accordingly, it may be justifiable and necessary to allot more that one ledger whether in current account, cash credit, demand loan, etc.

4. Employees with double designations such as clerk-typist, cashier-cum, -clerk, etc. may be asked to perform both the duties on the same day. It would therefore be ensured that they are not subjected to frequent changes of work on the same day. Where an employee who is handling cash is asked to work outside cash section, he should be given time to tally and hand over his cash.

5. Where volume of cash work is not heavy, a cashier may be required to work both as a paying and receiving cashier.

6. Godown-keepers attached to branches may be required to perform clerical duties whenever they are free from godown work.

7. The system of checking payments made by an employee, by another employee and of entrusting the job of issuing tokens exclusively to an employee, are prevailing only in certain
banks at certain centres, the Management decide on their own about the necessity of continuance or otherwise of these systems.

8. On special occasions, it might be necessary to attend to cash transactions outside business hours. However due care and caution should be exercised by management in entertaining such late transactions. Such late transactions should be duly authorised by a competent official.

9. Normally cash should be accepted / paid at the cash counter. But employees should accept/make payments of cash other than of cash counters under instructions from a competent official in special circumstances and in such cases the concerned employee would be granted immunity from attendant risks.

10. The work of clerks posted in administrative offices includes drafting of letters, dealing with correspondence, etc. Clerks posted in branches/departments and offices other than administrative offices should also perform similar work of a routine nature.

11. The balancing of ledgers/registers and calculations of monthly products/interest etc. should not be claimed as work to be necessarily and essentially performed only outside normal working hours.

12. An employee who is assigned special allowance duties must, subject to availability of time, also perform routine duties of his cadre.

**Improvement in Working in Banks' Branches/Offices, etc.**

In the Bipartite Settlement dated 17.9.84 following new provisions have been added-

1. Having regard to the vital role of the banking industry in the national economy and various social and economic responsibilities they have been entrusted with from time to time, parties agree that there is a need to improve house keeping in the office / branches of banks throughout the country, to ensure efficient cordial and speedy customer service at all times in the banking industry and to promote harmonious industrial relations and better discipline at all levels.

2(a): Every workman shall take all possible steps to ensure and protect the interest of the bank and discharge his duties with utmost integrity, honesty, devotion and diligence. Every workman shall be at his place of work, commence the allotted work at the time fixed and notified, work for the full prescribed hours of work and give maximum output.

3. Unions agree that the authority of the branch manager / officer-in-charge in matters like deployment of staff from time to time and enforcement of rules of the Bank in the matter of discipline, customer service and the like, shall be respected by all workmen so as to ensure that day to day smooth and efficient functioning of the branch / office/ department is not adversely affected. If, however, there be any grievance or dissatisfaction in regard to handling of such matters by the branch manager or another authority or in regard to exercise of such authority, the matter shall be resolved expeditiously and amicably through mutual discussion with the branch manager or the authority concerned either by the aggrieved workman himself or by the office bearer(s) of the concerned union or its unit avoiding dislocation of customer service. Management should discourage abuse of authority on the part of any branch manager or other authority concerned. Unions deprecate
use of any violence or abusive language or vulgar slogans by name against individual officers or their family members.

3. In furtherance of objective towards improvement in working, parties reiterate for adherence by all concerned of what have been agreed to in Annexure-I to the Settlement dated the 31st October 1979.

(added vide Para 22 of Bipartite Settlement 10.4.1989)

GENERAL PROVISIONS:
(a). IMPROVEMENT IN CUSTOMER SERVICE:
Both the management and the unions appreciate the need to improve the customer service and working of the offices of the banks. To achieve this, both sides agree to maintain cordial industrial relations. The unions also appeal to the employees to render full day’s work and extend courteous and prompt customer service.

(b). BUSINESS HOURS:
The unions agree that any change in the business hours is management’s prerogative.

©. SECURITY STAFF
Armed Guards and Watchmen shall be exempted by the Unions from participating in strike/ work stoppage.

-0-0-0-0-
7. Voluntary Cessation of Employment

AWARD STAFF
(Eighth Bipartite Settlement)
Para 28

(i) When an employee absents himself/herself from work for a period of 90 or more consecutive days without prior sanction from the Competent Authority or beyond the period of leave sanctioned originally including any extension thereof or when there is satisfactory evidence that he/she has taken up employment in India or outside, the management at any time thereafter may give a notice to the employee at his last known address as recorded with the Bank calling upon him/her to report for work within 30 days of the date of notice.

Unless the employee reports for work within 30 days of the notice or gives an explanation for his/her absence within the period of 30 days satisfying the management inter alia that he/she has not taken up another employment or avocation, the employee shall be given a further notice to report for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated his/her employment on the expiry of the said notice and advised accordingly by registered post.

In the event of the employee submitting a satisfactory reply, he/she shall be permitted to report for work thereafter within 30 days of this notice failing which the employee will be deemed to have voluntarily vacated his/her employment on the expiry of the said notice and advised accordingly by registered post.

If an employee again absents himself/herself for the second time within a period of 30 days without submitting any application and obtaining sanction thereof, after reporting for duty in response to the first notice given after 90 days' of absence or within the 30 days' period granted to him for reporting to work on his submitting a satisfactory reply to the first notice, a further notice shall be given after 30 days of such absence giving him/her 30 days' time to report, if he/she fails to report for work or reports for work in response to the notice but absents himself/herself a third time from work within a period of 30 days without prior sanction, his/her name shall be struck off from the rolls of establishment after 30 days of such absence under intimation to him by Registered post deeming that he/she has voluntarily vacated his/her appointment.

(ii) Any notice under this Clause shall be in a language understood by the employee concerned. The notice shall be sent to him/her by registered post with the acknowledgement due. Where the notice under this Clause is sent to the employee by registered post acknowledgement due at the last recorded address communicated in writing by the employee and acknowledged by the bank, the same shall be deemed as good and proper service.
SUPERVISING STAFF

Rule 40 (2) of SBI OFFICERS’ SERVICE RULES

An officer who overstays his leave, except in circumstances beyond his control, shall not be entitled to any salary or allowances for the period of his absence without leave and also be liable to any of penalties specified in Rule 67.

Rule 40 (3) of SBI OFFICERS’ SERVICE RULES

Where an officer who has not submitted an application for leave or where an officer having submitted his application was refused sanction of leave, absents himself for a period of 90 or more consecutive days or overstays the sanctioned leave by 90 or more consecutive days notwithstanding the provisions of Sub Rule (2), the Bank may at any time thereafter give a notice to the officer at his last known address available with the Bank calling back upon him to report for duty within 30 days of the notice. If the officer does not report for duty within the stipulated period, he may, by an order of the Appointing Authority, be deemed to have voluntarily vacated his employment on the expiry of the said period set out in the notice. In such cases the officer shall also be liable to pay to the Bank such notice monies as are payable in case of resignation as if he has been permitted to pay the emoluments in lieu of notice.

Provided, however, that an officer may appeal to the competent authority within a period of three years from the date of order recording voluntary vacation under the afore said rule. The Competent Authority shall consider such appeal to treat the said order as rescinded if it is satisfied that the officer was prevented by any sickness incapacitating him from reporting for duty within the prescribed time or for any other sufficient cause, and pass such orders as it may deem fit in the circumstances of the case.

It may be noted that the action initiated for unauthorized absence considering the same as voluntary cessation/vacation of employment is only an administrative action. This is not to be considered as Disciplinary Action and the procedure relating thereto need not be followed. However, in respect of Supervising Staff imposing any penalty specified in Rule 67 of SBIOSR as stated in Rule 40 (2) ibid requires due process of disciplinary proceedings.
SOME IMPORTANT FLOW CHARTS ON SETTLEMENT DATED 10TH APRIL 2002

**ALLEGED COMMISSION OF OFFENCE INVOLVING MORAL TURPITUDE (Cl. 2) of Settlement dated 10th April 2002**

- **INITIAL CONVICTION:** DISMISS OR OTHER PUNISHMENT UNDER CL 6
  - CSE GOES FOR APPEAL TO COURT AGST. CONVICTION
    - COURT ACQUITS HIM
      - MANAGEMENT TO REVIEW ITS DECISION
        - REINSTATE & DROP THE PROCEEDINGS OR
          DON’T REINSTATE & START DISCHARGE PROCEEDINGS
            - POS – NOT ON DUTY, UNLESS STATED OTHERWISE BY THE MGT. In case decided not to continue in service
            - POS: ON DUTY: 3 MONTHS SALARY/NOTICE in case decided not to

- **INITIAL ACQUITTAL:** DECIDE TO KEEP OR NOT
  - WHETHER HONORABLE OR BENEFIT OF DOUBT?
    - BENEFIT OF DOUBT
    - HONORABLE ACQUITTAL
ALLEGED COMMISSION OF OFFENCE INVOLVING MORAL TURPITUDE (CL. [4])

WHETHER SIMULTANEOUS PROCEEDINGS CAN BE INITIATED?

WAIT FOR A PERIOD OF 12 MONTHS FROM THE DATE OF OFFENCE FOR TRIAL TO BEGIN BY THE CRIMINAL COURT OF LAW

YES NO

DOES TRIAL BEGIN?

IF THE TRIAL BEGINS BY THEN, STAY PUT THE ACTION

IF TRIAL DOESN’T BEGIN BY THEN, START THE D.P. PROCESS & COMPLETE IT

LATER, IF THE TRIAL BEGINS, STAY PUT THE D.P. PROCESS IF NOT COMPLETED & WAIT FOR THE RESULT OF CRIMINAL COURT TRIAL FOR ONE YEAR AND IF STILL TRIAL REMAINS PENDING START PROCEEDINGS

IF THE PROSECUTING AGENCY COMES TO THE CONCLUSION THAT NO CRIMINAL CASE IS MADE OUT, THE BANK CAN INITIATE THE D.P. PROCESS, RIGHT FROM THAT MOMENT
CL. (12)(b)

Pending such enquiry or initiation of such enquiry he may be suspended *(CL. [12][b]*

If no action/punishment contemplated after above process

**POS: ON DUTY**
WAGES+ALLOW+ PRIVILEGES

If a penalty is proposed

**DISMISSAL**
**LESS THAN DISMISSAL**

**POS: NOT ON DUTY**
**NO DISCRETION**

POS: MGT. DISCRETION PART/ FULL PERIOD**

**MGT MUST STATE EXPLICITLY, IN THE ABSENCE OF WHICH, IT WILL BE PRESUMED THAT POS BENEFITS ARE PAYABLE**

**POS: ON DUTY:**
3 MONTHS SALARY/ NOTICE
WHERE AN EMPLOYEE IS CHARGED WITH A MINOR MISCONDUCT, AND AN ENQUIRY IS NOT HELD ON TWO PREVIOUS OCCASIONS, AN ENQUIRY SHALL BE HELD IN RESPECT OF THE THIRD OCCASION

**MODIFIED BY THE THIRD BIPARTITE SETTLEMENT DATED 31.10. 1979**
VOLUNTARY CESSATION OF EMPLOYMENT

Employee

Absent unauthorisedly for 90 or more consecutive days/ overstays period of sanction of leave/ satisfactory evidence of employment elsewhere

1st Notice of 30 days

Employee deemed to have voluntarily vacated employment and name struck off from rolls after 30 days of such absence under intimation by Regd. Post Ack. due

Does not report for work/does not give satisfactory explanation for absence regarding non-employment elsewhere, within 30 days of notice

IInd Notice of 30 days

Gives satisfactory explanation of absence

Reports for work but absent without prior sanction for a third time within 30 days

Fails to report for work within 30 days of the notice

Employee deemed to have voluntarily vacated employment on expiry of notice period and advised accordingly by Regd. Post Ack. due

Fails to report for work within 30 days of final notice

Permitted to work within 30 days from date of expiry of notice without prejudice to bank’s right for further action

Absents himself for the second time without obtaining prior sanction within 30 days after reporting

Notice given after 30 days of such absence giving 30 days’ time to report

A final notice to report for work within 30 days of the notice

Fails to report for work within the given 30 days’ period

Note :- This flow chart is intended to facilitate understanding the course of action and has to be read and understood in conjunction with the provisions of the VIII Bipartite Settlement. In case of any doubt, the provisions of Bi-partite Settlement should only be relied upon.
8. CONDUCT RULES FOR OFFICERS

STATE BANK OF INDIA OFFICERS SERVICE RULES-1992

CHAPTER XI: CONDUCT, DISCIPLINE AND APPEAL

SECTION 1 - CONDUCT

General observance of good conduct, discipline integrity, diligence, fidelity etc.

50 (1) Every officer shall conform to and abide by these rules and shall observe/comply with and obey all lawful and reasonable order and directions which may from time to time be given to him by any person under whose jurisdiction/superintendence or control he may for the time being be placed.

50 (2) Every officer shall undertake and perform his duties as an official of the Bank in such capacity and at such place as he may from time to time be directed by the Bank.

50 (3) No officer shall, in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior.

Provided wherever such directions are oral in nature the same shall be confirmed in writing by his superior officer (amended by Central Board, dated 21.06.2001)

50 (4) Every officer shall, at all times, take all possible steps to ensure and protect the interests of the Bank and discharge his duties with utmost integrity, honesty, devotion and diligence, and do nothing which is unbecoming of a bank official (amended by Central Board, dated 21.06.2001).

50 (5) Every officer shall maintain good conduct and discipline and show courtesy and attention to all persons in all transactions and negotiations.

50 (6) Every officer shall take all possible steps to ensure the integrity and devotion to duty of all persons for the time being under his control and authority.

50 (7) Every officer shall make a declaration of fidelity and secrecy in the form set out in the Second Schedule in the State Bank of India Act, 1955 and shall be bound by the declaration.

50 (8) No officer shall take or give or attempt to take or give any undue assistance or use or attempt to use any unfair methods or means in respect of any examination or test conducted or held by the bank or any other authority or institution.

50 (9) No officer shall abuse or fail to comply with any of the terms and conditions in respect of any loan, advance or other facility granted by the Bank either directly or indirectly to the officer or through any other agency, including loans for purchase of vehicles or construction of houses.
Engaging in trade, business, employment, acceptance of fee, association with newspapers, other communications systems, etc.

51 (1) No officer shall, except with the previous sanction of the competent authority, engage directly or indirectly in any trade or business or undertake any other employment.

Provided that an officer may, without such sanction, undertake honorary work of a social or charitable nature or occasional work of a literary, artistic, scientific, professional, cultural, educational, religious or social character, subject to the condition that his official duties do not thereby suffer or the undertaking of such work is not detrimental to the interest of the Bank (amended by Central Board, dated 21.06.2001); but he shall not undertake, or shall discontinue such work if so directed by the competent authority after recording reasons for the same (amended by central Board, dated 21.06.2001).

Explanation
(i) Canvassing by an officer in support of the business of insurance agency, etc. owned or managed by a member of his family shall be deemed to be a breach of this sub-rule.
(ii) Prior sanction under this rule is not necessary for holding an office ex-officio outside the Bank, under any law or rules, regulations or bye laws made thereunder, for the time being in force, or under directions from any authority to whom the officer is subordinate.

51 (2) Every officer shall report to the competent authority if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

51 (3) No officer shall without the previous sanction of the competent authority, except in the discharge of his official duties, take part in the registration, promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 or any other law for the time being in force or any co-operative society for commercial purposes.

Provided that an officer may take part in registration, promotion or management of a co-operative society intended for the benefit of Bank employees/officers and registered under the Co-operative Societies Act, 1912 or any other law for the time being in force or any co-operative society registered under the Societies Registration Act, 1860 or any corresponding law in force.

51 (4) No officer shall accept any fee payment in the form of fee, remuneration, honorarium and the like in cash or kind (substituted by amendment, dated 21.06.2001) for any work done by him for any public body or any private person without the sanction of the competent authority.

51 (5) No officer shall act as an agent of or canvass business in favour of an insurance company or corporation in his individual capacity except that he may act as agent for an insurance company or corporation for or on behalf of the Bank.

51 (6) No officer shall, except with the previous sanction of the competent authority or in the bona fide discharge of his duties:
(i) Own wholly or in part or conduct or participate in the editing or management of any newspaper or any other periodical publication, or

(ii) Participate in radio broadcast or contribute any article or write any letter either in his own name or anonymously or in the name of any other person, to any newspaper or periodical or make public or publish or cause to be published or pass on to others any documents papers or information which may come into his possession in his official capacity, or

(iii) Publish or cause to be published any book or any similar printed matter of which he is the author or not or deliver talk or lecture in public meetings or otherwise.

Provided that no such sanction is, however required if such broadcast or contribution or publication or talk or lecture is of a purely literary, artistic, scientific, professional, cultural, educational, religious or social character.

51 (7) No officer shall in any radio broadcast or in any published document or communication to the press or in public utterance make any statement which has the effect of disparaging the bank or its management or bringing the same into disrepute.

Use of position or influence in matter of employment, sanction of loan etc. to relatives

52 (1) No officer shall use his position or influence as such officer, directly or indirectly, to secure employment for any person related whether by blood or marriage to the officer or to the officer’s wife or husband, whether such a person is dependent on the officer or not.

52 (2) No officer shall, except with the prior permission of the competent authority, permit his son, daughter or any other member of his family to accept employment in any private undertaking which is obligated to the bank through his official dealings or in any other undertaking which to his knowledge is obligated to the Bank.

Provided that where the acceptance of the employment cannot await prior permission of the competent authority or is otherwise considered urgent, the matter shall be reported to the competent authority within three months from the date of receipt of offer of employment*, and the employment may be accepted provisionally subject to the permission of the competent authority. (* added by PA/CIR/56 dated 16/07/93 as per CB decision dated 24th June’93)

52 (3) (i): No officer shall grant on behalf of the Bank any loan or advance to himself or his spouse, a Joint Hindu Family of which he or his spouse is a member or a partnership with which he or his spouse is connected in any manner or a trust in which he or his spouse is a trustee, or a private or public limited company, in which he or his spouse hold substantial interest.

52 (3) (ii): Save and except against specified security or in cases as may otherwise be specified by the Central Board from time to time and subject to Clause (i) above, no officer shall grant on behalf of the Bank any loan or advance to (a) a relative of his; (b) an individual in respect of whom a relative is a partner or guarantor; (c) a joint Hindu Family in which a relative is a member; (d) a firm in which a relative is a partner, manager or guarantor; and (e) a company in which a relative holds substantial interest or is interested as director manager or guarantor.
52 (3) (iii): No officer shall in discharge of his official duties knowingly enter into or authorise the entering into by or on behalf of the bank any contract, agreement, arrangement or proposal not being related to a loan or advance referred to in Clause (l) or (ii) above, with any undertaking or person if any of his relatives is employed in that undertaking or under that person or if he or any of his relatives has interest in any other manner in such contract, agreement, arrangement or proposal and the officer shall refer every such matter, contract agreement, arrangement or proposal to his superior and the matter of such contract, agreement, arrangement or proposal shall thereafter be disposed of according to the instructions of the authority to whom such a reference is made.

Explanations:
1. For the purpose of Clauses (I) and (ii) of this sub-rule, the terms ‘loan or advances’, ‘relative’ and ‘specified security’ shall have the same meaning as has been given to them in the State bank of India General Regulations, 1955
2. For the purpose of this sub-rule, ‘substantial interest’ shall have the same meaning, as in Clause (ne) of Section 5 of the Banking Regulation Act, 1949.

Active Part in politics

53. No officer shall take an active part in politics or political demonstration, or stand for election as member for a municipal council, district board or any legislative body.

Participation in demonstration, association

54 (1). No officer shall engage himself or participate in any demonstration which is prejudicial to the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign state, public order, decency or morality, or which involves contempt of the court, defamation or incitement to an offence.

54 (2). No officer shall join or continue to be a member of an association, the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India or public order or morality.

Evidence in enquiry, committee etc.

54 A (1). Save as provided in sub-rule (3), no officer shall except with the previous approval of the competent authority, give evidence in connection with any enquiry conducted by any person, committee or authority

54 (2): Where any approval has been accorded under sub-rule (1), no officer giving such evidence shall criticise the policy or any action of the Central Government or of a state Government or of the Bank.

54(3): Nothing in sub-rules (1) & (2) shall apply to any evidence given:-
   (a) at an enquiry before an authority appointed by the Central Government, State Government, Parliament or a State Legislature; or
   (b) in any judicial enquiry; or
(c) at any departmental enquiry ordered by the Bank; or
(d) at any action or proceedings taken by or on behalf of the Bank.

Receiving complimentaries, valediction, etc.

55 (1) No officer shall, except with the previous sanction of the competent authority, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour, or in the honour of any other employee of the Bank.

Provided that nothing in this sub-rule shall apply to:

(a) a farewell entertainment of a substantially private and informal character held in honour of the officer or any other employee of the Bank on the occasion of his transfer or retirement or any person who has recently left the service of the Bank, and
(b) the acceptance of simple and inexpensive entertainment arranged by employees of the Bank.

55(2): (a) No officer shall directly or indirectly exercise pressure or influence on any employee of the Bank to induce or compel him to subscribe towards any farewell entertainment.

(b) No officer shall collect subscription for farewell entertainment from any intermediate or lower grade employee for the entertainment of any officer belonging to any higher grade.

Acceptance of gift by self and family, and dowry

56 (1) Save as otherwise provided in this rule, no officer shall accept or permit any member of his family or any person acting on his behalf to accept any gift.

Explanations:

The expression 'gift' shall include free transport, boarding, lodging or other service or any other pecuniary advantage when provided by any person who is obligated to the Bank through official dealings with the officer other than a near relative or a personal friend.

Note - A casual meal, lift or other social hospitality shall not be deemed as a gift.

56 (2) On occasions such as marriages, anniversaries, funerals or religious functions when the making of gifts is in conformity with the prevailing religious or social practice, an officer may accepts gifts from his near relatives but he shall make a report to the competent authority if the value of the gift exceeds Rs. 500/-

56 (3) On such occasions as specified in sub-rule (2), an officer may also accept gifts from his personal friends who are not obligated to the Bank through official dealings with the officer but he shall make a report to the competent authority if the value of such gifts exceeds Rs. 200/-.
56 (4) In any other case, the officer shall not accept any gifts without the sanction of the competent authority if the value of the gifts exceeds Rs. 75/-. Provided that when more than one gift has been received from the same person within a period of 12 months, the matter shall be reported to the competent authority if the aggregate value thereof exceeds Rs. 500/-.  

Note - As a normal practice, an officer shall not accept any gift from a person obligated to the Bank through official dealings with the officer.

56 (5) No officer shall
(i) give or take or abet the giving or taking of dowry; or
(ii) demand directly or indirectly from the parents or guardian of a bride or bridegroom, as the case may be, any dowry.

Explanation
For the purpose of this sub-rule, “dowry” has the same meaning as in the Dowry Prohibition Act, 1961 (28 of 1961)

Bringing political or outside influence
57. No officer shall bring or attempt to bring any political or other outside influence including that of individual directors or members of the Local Board to bear upon any superior authority to further his own interest in respect of matters pertaining to his service in the bank.

Absence from Work
58 (1) No officer shall absent himself from his duty or be late in attending office or leave the station without having first obtained the permission of the authority empowered to sanction leave. Provided that in unavoidable circumstances where availing of prior permission is not possible or is difficult, the permission may be obtained later subject to the satisfaction of the concerned authority that prior permission could not have been obtained.

58 (2) No officer shall ordinarily absent himself in case of sickness or accident without submitting a proper medical certificate. Provided that in case of temporary indisposition or sickness of a casual nature, the production of a medical certificate may, at the discretion of the authority empowered to sanction leave, be dispensed with.

Borrowing, incurring debts, buying and selling shares, lending money, guarantee, etc.

59(a): No officer shall in his individual capacity:
(i): borrow money or permit any member of his family to borrow money or otherwise place himself or a member of his family under a pecuniary obligation to a broker or a money lender or a subordinate employee of the bank or any person, association of persons, firm, company or institution, whether incorporated or not, having dealings with the Bank;
Provided that nothing in this Clause shall apply to borrowing from the Bank, the Life Insurance Corporation of India, a co-operative credit society or any financial institution including a bank subject to such terms and conditions as may be laid down by the bank.

Provided further that an officer may accept a loan, subject to other provisions of these rules, from a relative or personal friend or operate a credit account with a bona fide tradesman.

(ii) buy or sell stocks, shares or securities of any description without funds to meet the full cost in the case of a purchase or scrip for delivery in the case of a sale;

(iii) incur debts at a race meeting;

(iv) lend money in private capacity to a constituent of the Bank or have personal dealings with a constituent in the purchase or sale of bills of exchange, Government paper or any other securities and

(v) guarantee in his private capacity the pecuniary obligations of another person or agree to indemnify in such capacity another person from loss, except with the previous permission of the competent authority.

Provided that an officer may stand as surety in respect of a loan taken from a co-operative credit society of which he is a member by another member.

Provided further that nothing in this Clause shall apply to any guarantee/indemnity that an officer may execute in favour of (a) the President of India in support of a passport application for any relative of his (b) any financial institution or educational trust for a loan or advance that such institution or trust may give to any relative of his for educational purposes.

b) lend money or have security related dealings with a constituent

Drawing advance salar y, discounting cheques, accepting contribution, collecting subscription

60 (1) No officer shall draw his salary in advance of the date on which it is payable without the previous sanction of the competent authority.

60 (2) No officer shall discount or negotiate or cause to be discounted or negotiated cheques or other instruments drawn on his account without sufficient balance therein.

60 (3) No officer shall, except with the previous sanction of the competent authority, ask for or accept contribution/s to or otherwise associate himself with the raising or any funds or other collections in cash or in kind.

60 (4) No officer shall canvass for membership or collect dues or subscription/s for or carry on any activity in connection with any association, union or other organisation during office hours or within the premises of the bank without the previous permission in written g of the competent authority.
Speculation, insolvency, indebtedness

61 (1) No officer shall speculate in any stocks, shares or securities or commodities or valuables of any descriptions or shall make investments, which are likely to embarrass or influence him in the discharge of his duties. Provided that nothing in this rule shall be deemed to prohibit an officer from making a bonafide investment of his own funds in such securities as he may wish to buy.

Note: Frequent purchase or sale or both of shares or securities or other investments shall be deemed to be speculation for the purpose of this rule.

61 (2) An officer shall so manage his private affairs as to avoid insolvency or habitual indebtedness. An officer against whom any legal proceedings are instituted for the recovery of any debts due from him or for adjudging him as an insolvent shall forthwith report the full facts of the legal proceedings to the Bank.

Submission of statement of assets and liabilities

62 (1) Every officer shall on his first appointment, either by direct recruitment or by promotion, submit return of his assets and liabilities giving full particulars regarding:

(a) the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;

(b) shares, securities, debentures and cash including bank deposits inherited by him or similarly owned or acquired or held by him;

(c) other movable property inherited by him or similarly owned or acquired or held by him; and

(d) debts and other facilities incurred by him directly or indirectly.

62 (2) Every officer employee shall every year submit a return of his movable, immovable and valuable property including liquid assets like shares, debentures as on 31st March of that year to the Bank before the 30th day of June of that year. (Bold faced amendment made vide CO letter No. PA/CIR/56 dated 16th June '93: CB decision dated 24th June '93)

62 (3) No officer shall except under previous intimation in writing to the competent authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family.

Provided that the previous sanction of the competent authority shall be obtained by the officer if any such transaction is:
(a) with a person obligated to the Bank through official dealings with the officer;
(b) otherwise than through a regular or reputed dealer.

62(4) Every officer shall report to the competent authority every transaction concerning movable property owned or held by him either in his own name or in the name of a member of his family if the value of such property exceeds Rs. 25000/- (amended by Central Board, dated 21.06.2001).

Provided that the previous sanction of the competent authority shall be obtained if any such transaction is
(a) with a person obligated to the Bank through official dealings with the officer;
or
(b) otherwise than through a regular or reputed dealer.

62(5) The Bank may, at any time, by general or special order, require an officer to furnish, within a period to be specified in the order, a full and complete statement of assets and liabilities, including such movable and/or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such a statement shall, if so required by the bank, include the details of the means by which or the source from which such property was acquired.

Recourse to Court
63: No officer shall, except with the previous sanction of the Managing Director, have recourse to any court or to the press for the vindication of any official act, which has been the subject matter of adverse criticism or an attack of a defamatory character.

Provided that nothing in this rule shall be deemed to prohibit an officer from vindicating his private character or any act done by him in his private capacity and where any action for vindicating his private character or any act done by him in private capacity is taken the officer shall submit a report to his immediate superior within a period of 3 months from the date such action is taken by him.

Second Spouse
64(1): (a) No officer shall enter into, or contact, a marriage with a person having a spouse living and
(b): No officer having a spouse living shall enter into, or contract a marriage with any person.
Provided that the competent authority may permit an officer to enter into, or contract, any such marriage as is referred to in Clause (a) or Clause (b) if it is satisfied that;
   i) such a marriage is permissible under the personal law applicable to such officer and the other party to the marriage, and
   ii) there are other grounds for so doing

64(2) An officer who has married or marries a person other than that of Indian Nationality shall forthwith intimate the fact to the competent authority.

Consumption of Intoxicating drinks, etc.
65 (1) An officer shall strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be posted for the time being.
65 (2) An officer shall refrain from consuming any intoxicating drink or drug in a public place.

65 (3) It is also the duty of the officer to see that:
   (a) he is not under the influence of any intoxicating drink or drug during the course of his duty and takes due care that the performance of his duty is not affected in any way by the influence of any intoxicating drink or drug;
   (b) he does not appear in public place in a state of intoxication, and he does not use any intoxicating drink or drug to excess.

Explanation:
For the purpose of this rule, 'public place' means any place or premises including clubs, even exclusively meant for members where it is permissible for the members to invite non-members as guests, bars and restaurants, conveyance) to which the public have or are permitted to have access, whether on payment or otherwise.

What is Misconduct

66 A breach of any of the provisions of these rules shall be deemed to constitute misconduct punishable under rule 67.

Note: For the purpose of rules 51, 52, 56, 59 and 62, family shall mean:-

(i) In the case of a male officer, his wife, whether residing with him or not; but does not include legally separated wife and in the case of a female officer, her husband, whether residing with her or not, but does not include a legally separated husband;

(ii) children or step children of the officer, whether residing with the officer or not, and wholly dependent on such officer but does not include a child or step child or whose custody the officer has been deprived of by or under any law; and

(iii) any other person related by blood or marriage, to the officer or to his spouse and wholly dependent on such officer.

RETIREEMENT

19(3) In case disciplinary proceedings under the relevant rules of service have been initiated against an officer before he ceases to be in Bank's service by the operation of, or by virtue of, any of the said rules or the provision of these rules, the disciplinary proceedings may, at the discretion of the Managing Director, be continued and concluded by the authority by which the proceeding were initiated in the manner provided for in the said rules as if the officer continues to be in service, so however, that he shall be deemed to be in service only for the purpose of the continuance and conclusion of such proceedings.
SECTION 2 - DISCIPLINE AND APPEAL

PENALTIES

67: Without prejudice of any other provisions contained in these rules, any one or more of the following penalties may be imposed on an officer, for an act of misconduct or for any other good and sufficient reason to be recorded in writing (amended by Central Board, dated 21.06.2001).

MINOR PENALTIES:

(a) censure
(b) withholding of increments of pay with or without cumulative effect
(c) withholding of promotion
(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 Bank by negligence or breach of orders
(e) reduction to a lower grade or post, or to a lower stage in time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting the officer’s pension (vide CDO/PM/142/CIR/1 dated 13.04.2000 amendment to SBIOSRs-92, w.e.f. 31.03.2000, this has been made a minor penalty. Before that date, it was a major penalty).

MAJOR PENALTIES:

(f) Save as provided for in (e) above, reduction to a lower stage in the time-scale of pay for a specified period with further directions as to whether or not the officer will earn increments to pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;
(g) reduction to a lower grade or post;
(h) compulsory retirement##
(i) removal from service##
(j) dismissal##

Corporate Centre letter No. VIG/GEN-153/2262 dated 5th May 2001:
The punishment inflicted under Service Conditions of the Officers & granting of pension are governed by two different sets of rules and are independent of each other. However, in view of the above referred circular (PA/CIR/82 dated 15th April 1987 that “It will not be in order to inflict the penalty of compulsory retirement unless an officer has completed required service, i.e. 25 years of service or 20 years pension able service with attainment of age of 50 years as provided in the pension rules”), instructions contained therein may be meticulously followed while inflicting a stiff major penalty under rule 67 of the SBIOSRs.

Corporate Centre Letter no CDO/PM/12:CIR:32 dated 22.09.2004
Under the extant instructions before imposing a minor penalty [other than that stipulated in Rule 67(e)], a statement of imputation of lapses is served on the charged officer and he is advised to submit his explanation, which is considered by the Disciplinary Authority before taking a decision. As such the officer gets sufficient opportunity to present his side. As per law holding an enquiry is not mandatory other than in cases in which employee can be dismissed, removed or reduced in rank.
has therefore been decided that holding an enquiry for imposing a penalty under Rule 67(e) be done away with.
Accordingly Rule 68(2) (i), Rule 68(3) (iii), Rule 68(4) (iv), Rule 69(2) , Rule 69(3) (i) stands amended by removal Clause (e).

The changes are effective from 31st August 2004 i.e. the date on which the approval was given by ECCB

Explanations
The following shall not amount to a penalty within the meaning of this rule:
(I) Withholding of one or more increments of an officer on account of his failure to pass a prescribed departmental test or examination in accordance with the terms of appointment to the post, which he holds,
(ii) Stoppage of increments of an officer at the efficiency bar in a time scale, on the grounds of his unfitness to cross the bar;
(iii) not giving an officiating assignment or non-promotion of an officer to a higher grade or post for which he may be eligible for consideration but for which he is found unsuitable after consideration of his case
(iv) reserving or postponing for promotion of an officer for reasons like completion of certain requirements for promotions or pendency of disciplinary proceedings
(v) reversion to a lower grade or post of an officer officiating in a higher grade or post, on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct
(vi) reversion to the previous grade or post, of an officer appointed on probation to another grade or position or at the end of the period of probation, in accordance with the terms of his appointment or rules or orders governing such probation;
(vii) reversion of an officer to the parent organisation in case he had come on deputation
(viii) termination of service of an officer,
(a) appointed on probation, in terms of sub-rule (1) of rule 16 (3) (a);
(b) appointed in a temporary capacity otherwise than under a contract or agreement on the expiration of the period for which he was appointed, or earlier in accordance with the terms of the appointment;
(c) appointed under a contract or agreement, in accordance with the terms of such contract or agreement, and
(d) as part of retrenchment
(ix) termination of service of an officer in terms of sub-rule 3 of rule 20;
(x) retirement of an officer in terms of rule 19
Decision to Initiate and Procedure for Disciplinary Action

68 (1) (i) The Disciplinary Authority may itself, or shall when so directed by its superior authority, institute disciplinary proceedings against an officer.

(ii) The Disciplinary Authority or any Authority higher than it may impose any of the penalties in rule 67 on an officer.

Provided that where the Disciplinary Authority is lower in rank than the Appointing Authority in respect of the category of officers to which the officer belongs, no order imposing any of the “major” (deleted vide 30/03/2000 Amendment) penalties specified in clauses (e), (f), (g), (h), (i) and (j) of rule 67 shall be made except by the Appointing Authority or any authority higher than it on the recommendations of the Disciplinary Authority.

68 (2) (i) No order imposing any of the “major” (deleted vide 30/03/2000 Amendment) penalties specified in Clauses (f), (g) and (h) of rule 67 shall be made except after an inquiry is held in accordance with this sub-rule. [(e) deleted vide CDO/PM/12 CIR:32 dated 22.09.04]

(ii) Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct against an officer, it may itself inquire into, or appoint any other officer or a public servant (hereinafter referred to as the Inquiring Authority) to inquire into the truth thereof.

Explanation:
When the Disciplinary Authority itself holds the inquiry, any reference in Clauses (viii) to (xxi) to the Inquiring Authority shall be construed as a reference to Disciplinary Authority.

(iii) Where it is proposed to hold an inquiry, the Disciplinary Authority shall frame definite and distinct charges on the basis of the allegations against the officer. The articles of charge, together with a statement of the allegations on which they are based, list of documents and witnesses relied on and, as far as possible, copies of such documents and statements of witnesses, if any, (in line with CVC Special Chapter on Vigilance Management for PSBs, vide para 12.1.2 thereof and as communicated by Corporate Centre vide their letter No. CDO/PM/1421/CIR/82 dated 11th Feb.2000) shall be communicated in writing to the officer who shall be required to submit within such time as may be specified by the Disciplinary Authority (not exceeding 15 days) or within such extended time as may be granted by the said Authority, a written statement of his defence

(iv) On receipt of a written statement of the officer, or if no such statement is received within the time specified, an inquiry may be held by the Disciplinary Authority itself, or if it considered it necessary to do so appoint under Clause (ii) an Inquiring Authority for the purpose.

Provided that it may not be necessary to hold an Enquiry in respect of the article of charge admitted by the officer in his written statement but it shall be necessary to record its findings on each such charge.

(v). The Disciplinary Authority shall, where it is not the Inquiring Authority,
forward to the Inquiring Authority:

(a) A copy of the articles of charge and statement of imputation of misconduct.
(b) A copy of the written statements of defence if any, submitted by the officer.
(c) A list of document by which and a list of witnesses by whom the articles of charge are proposed to be substantiated.
(d) A copy of statement of the witnesses, if any;
(e) Evidence proving the delivery of the articles of charge under Clause (iii):
(f) A copy of the order appointing the “Presenting Officer” in terms of Clause (vi).

Note: The forwarding of the documents referred to in this Clause need not necessarily be done simultaneously.

(vi) Where the Disciplinary Authority itself undertakes enquiries or appoint an Inquiring Authority for holding an inquiry, the bank may, by an order, appoint an officer or a public servant to be known as the ‘Presenting Officer’ to present on its behalf the case in support of the articles of charge.

(vii) The officer may take the assistance of an officer as defined in Clause (m) of rule 3 (hereinafter referred to as officer’s representative) but shall not engage a legal practitioner for the purpose.

Provided that where the Presenting Officer is a public servant other than an officer of the Bank, the officer may take the assistance of any public servant.

Note: The officer who has three pending disciplinary cases in hand shall not give assistance to an officer as the representative.

(viii) :

(a) The Inquiring Authority shall by notice in writing specify the date on which the officer shall appear in person before the Inquiring Authority.
(b) On the date fixed by the Inquiring Authority, the officer shall appear before the Inquiring Authority at the time, place and date specified in the notice.
(c) The Inquiring Authority shall ask the officer whether he pleads guilty or has any defence to make and if he pleads guilty to all or any of the articles of charge, the Inquiring Authority shall record the plea, sign the record and obtain the signature of the officer thereon.
(d) The Inquiring Authority shall return a finding of guilt in respect of those articles of charge to which the officer concern pleads guilty.

(ix): If the officer does not plead guilty, the Inquiring Authority may, if considered necessarily, adjourn the case to a later date not exceeding 30 days or within such extended time as may be granted by it.

(x) The Inquiring Authority shall, where the officer does not admit all or any of the articles of charge furnish to such officer a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be proved (deleted vide CC letter dated CDO/PM/ 1421/CIR / 82 dated 11th Feb.2000).
68 (2) (x): [Re-numbered as per above amendment]
The Inquiring Authority shall also record an order that the officer may for the purpose of preparing his defence:

(i) inspect and take notes of the documents listed within five days of the order or within such further time not exceeding five days as the Inquiring Authority may allow;
(ii) submit a list of documents and witnesses that he wants for inquiry;
(iii) be supplied with copies of statements of witnesses, if any, recorded earlier and the Inquiring Authority shall furnish such copies not later than three days before the commencement of the examination of the witnesses by the Inquiring Authority;
(iv) give a notice within ten days of the order or within such further time not exceeding ten days, as the Inquiring Authority may allow for the discovery or production of the documents referred to at (ii) above.

Note: The relevancy of the documents and the examination of the witnesses referred to at (II) above shall be given by the officer concerned.

68 (2)(xi): The Inquiring Authority shall, on receipt of the notice for the discovery or production of the documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents on such date as may be specified.

(xii): On receipt of the requisition under Clause (xi), the authority having custody or possession of the requisitioned documents shall arrange to produce the same before the Inquiring Authority on the date, place and time specified in the requisition.

Provided that the authority having custody or possession of the requisitioned documents may claim privilege if the production of such documents will be against the public interest or the interest of the Bank. In that event, it shall inform the Inquiring Authority accordingly.

(xiii): On the date fixed for the inquiry, the oral and documentary evidence by which the articles or charge are proposed to be proved shall be produced by or on behalf of the Bank. The witnesses produced by the Presenting Officer shall be examined by the Presenting Officer and may be cross-examined by or on behalf of the officer. The Presenting Officer shall be entitled to re-examine his witnesses on any points on which they have been cross-examined, but not on a new matter without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.

(xiv) Before the close of the case in support of the charges, the Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the charge sheet or may itself call for new evidence or recall or re-examine any witness. In such case the officer shall be given opportunity to inspect the documentary evidence before it is taken on record or to cross-examine a witness who has been so summoned. The Inquiring Authority may also allow the officer to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interest of justice.
(xv) When the case in support of the charges is closed, the officer may be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the officer shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer.

(xvi) The evidence on behalf of the officer may then be produced. The officer may examine himself as a witness in his own behalf if he so prefers. The witnesses, if any, produced by the officer shall then be examined by the officer and may be cross-examined by the Presenting Officer. The officer shall be entitled to re-examine any of the witnesses on any points on which they have been cross-examined, but not on any new matter without the leave of the Inquiring Authority.

(xvii) The Inquiring Authority may, after the officer closes the evidence, and shall if the officer has not got himself examined, generally question on the circumstances appearing against him in the evidence for the purpose of enabling the officer to explain any circumstances appearing in the evidence against him.

(xviii) The Inquiring Authority may, after the completion of the production of the evidence, hear the Presenting Officer, if any, appointed and the officer or his representative, if any or permit them to file written briefs of their respective cases within 15 days of the completion of the production of evidence, if they so desire.

(xix) If the officer does not submit the written statement of defence referred to in Clause (iii) on or before the date specified for the purpose or does not appear in person, or through the officer’s representative or otherwise fails or refused to comply with any of the provisions of these rules which require the presence of the officer or his representative, the Inquiring Authority may hold the inquiry ex-parte.

(xx) Whenever any Inquiring Authority, after having heard and recorded the whole or part of the evidence in an inquiry ceases to exercise jurisdiction therein and is succeeded by another Inquiring Authority which has, and which exercises, such jurisdiction, the Inquiring Authority so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding Inquiring Authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall and cause that to be examined, cross-examined and re-examined as hereinafore provided.

(xxii)(a) On the completion of the inquiry, the Inquiring Authority shall prepare a report, which shall contain the following -

1. a gist of the articles of charge and the statement of the imputations of misconduct
2. a gist of the defence of the officer in respect of each article of charge;
3. an assessment of the evidence in respect of each article of charge;
4. The findings on each article of charge and the reasons therefore.
Explanation:
If in the opinion of the Inquiring Authority, the proceedings of the inquiry establish any article of charge different from the original article of charge, it may record its findings on such article of charge

Provided that the findings on such article of charge shall not be recorded unless the officer has either admitted specifically and not by inference the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge

(b). The Inquiring Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority, the records of inquiry which shall include:

1. the report of the inquiry prepared by it under (a) above;
2. the written statement of defence, if any, submitted by the officer referred to in Clause (xv);
3. the oral and documentary evidence produced in the course of the inquiry;
4. written briefs referred to in Clause (xviii) , if any, and
5. the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry.

68 (3) (i): The Disciplinary Authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority - whether the Inquiring Authority is the same or different - for fresh or further inquiry and the Inquiring Authority shall thereupon proceed to hold further inquiry according to the provisions of the sub-rule (2) as far as may be.

(ii). The Disciplinary Authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge; it the evidence on record is sufficient for the purpose;

(iii). If the Disciplinary Authority, having regard to the findings on all or any of the articles of charge, is of the opinion that any of this penalties specified in rule 67 should be imposed on the officer, it shall, not withstanding anything contained in sub-rule (4) make an order imposing such penalty,

Provided that where the Disciplinary Authority is of the opinion that the penalty to be imposed is any of the “major” (deleted vide 30/03/2000 Amendment) penalties specified in Clauses (e), (f), (g) (h), (i) and (j) of rule 67 and if it is lower in rank to the Appointing Authority in respect of the category of officers to which the officer belongs, it shall submit to the Appointing Authority its recommendations regarding penalty that may be imposed. Records of the inquiry specified in Clause (xxi) (b) of sub-rule (2), shall also be submitted to the Appointing Authority in respect of penalties to be imposed under Clauses (f), (g), (h), (i) & (j) of Rule 67. The Appointing Authority shall make an order imposing such penalty as it considers in its opinion appropriate. [as amended vide CDO/PM/12 CIR 32 dt.22.09.04]
(iv) If the Disciplinary Authority or the Appointing Authority, as the case may be, having regard to its findings on all or any of the articles of charge, is of the option that no penalty is called for, it may pass an order exonerating the officer concerned.

68 (4)(i): Where it is proposed to impose any of the minor penalties specified in Clauses (a) to (d) (e) (amended w.e.f. 30/03/2000) of rule 67, the officer shall be informed in writing of the imputations of lapses against him and be given an opportunity to submit his written statement of defence within a specified period not exceeding 15 days or such extended period as may be granted by the Disciplinary Authority. The defence statement, if any, submitted by the officer shall be taken into consideration by the Disciplinary Authority before passing orders;

(ii) Where, however, the Disciplinary Authority is satisfied that an inquiry is necessary; it shall follow the procedure for imposing major penalty, as laid down in sub-rule (2);

(iii) The record of proceedings in such cases shall include:
   (a) a copy of the statement of imputations of lapses furnished to the officer
   (b) the defence statement, if any, of the officer, and
   (c) the orders of Disciplinary Authority together with the reasons therefor.

(iv) Notwithstanding anything contained in sub-rules (i), (ii) and (iii) above, if in a case it is proposed, after considering the written statement of defence, if any, submitted by the officer under sub-rule (i) to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period under rule 67(b), (bold-lettered words added vide 30/03/2000 Amendment), an inquiry shall be held in the manner laid down in sub-rule (2) to Rule 68, before making an order imposing on an officer any such penalty. [As amended vide CDO/PM/12 CIR 32 dated 22.07.04]

68 (5) Orders made by the Disciplinary Authority or the Appointing Authority as the case may be under sub-rule (3) and (4) shall be communicated to the officer concerned, who shall also be supplied with a copy of the report of inquiry, if any.

68 (6) Where two or more officers are concerned in a case, the authority competent to impose major penalty on all such officers may make an order directing that disciplinary proceedings against all of them may be taken in a common proceeding;

68 (7)(i). Notwithstanding anything contained in sub-rule (2), (3) and (4), where an officer is at any time or has been adjudicated insolvent or has a suspended payments or has compounded with his creditors or is or has been convicted by a criminal court of an offence involving moral turpitude, the Appointing Authority may discharge the officer from the Bank’s service without any notice whatsoever, and no appeal shall be against such discharge.

68 (7)(ii). Without prejudice to what is stated in Clause (i) above and notwithstanding anything contained in sub-rules (2), (3) and (4), the Disciplinary Authority, or the Appointing Authority, as the case may be, may impose any of the penalties specified in rule 67, if the officer has been convicted of a criminal charge or on the strength of facts or conclusions arrived at by a judicial trial. Provided that before a penalty is imposed in terms of this Clause, the officer employee may be given an opportunity of making representation on the penalty to be imposed, before any order is made.
Suspension

68A (1): An officer may be placed under suspension by the Disciplinary Authority;
   a). where a disciplinary proceeding against him is contemplated or is pending; or
   b). where a case against him in respect of any criminal offence is under investigation, inquiry
      or trial;

68A (2): If an officer who is detained under custody whether on a criminal charge or otherwise for a
   period exceeding forty-eight hours is placed under suspension by an order of the Disciplinary
   Authority, it shall be open to the Disciplinary Authority to give effect to such suspension from
   a retrospective date not earlier than the date of such detention or such conviction

**Explanation**
The period of forty-eight hours referred to above shall be computed from the commencement
of the imprisonment after conviction or detention and for this purpose, intermittent periods of
imprisonment or detention, if any, shall be taken into account.

68A (3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon
an officer under suspension is set aside in appeal or on review under rule 69 and the case is
remitted for further inquiry or action or with any directions, the order of his suspension shall
be deemed to have continued in force on and from the date of the original order of dismissal
removal or compulsory retirement and shall remain in force until further orders.

68A (4) Where a penalty of dismissal removal or compulsory retirement from service imposed upon
an officer under suspension is set aside or declared or rendered void in consequence of, or
by a decision of a court of Law, and the Disciplinary Authority on consideration of the
circumstances of the case decides to hold further inquiry against him on the allegations on
which the penalty of dismissal removal or compulsory retirement was originally imposed, the
officer shall be deemed to have been placed under suspension by the Disciplinary Authority
from the date of the original order of dismissal removal or compulsory retirement and shall
continue to remain under suspension until further orders.

68A (5) (a): An order or suspension made under this rule shall continue to remain in force until
modified or revoked by the authority, which made the order;
(b) An order of suspension made under this rule may at any time be modified or revoked by
the authority, which made the order.

68A (6) No leave shall be granted to an officer under suspension

68A (7) (i) An officer who is placed under suspension shall be entitled to receive during the period of
such suspension and subject to Clauses (ii) and (iii) subsistence allowance equal to half his
substantive salary and such other allowances as the competent authority may decide.
Rule 68 (A) (7)(i) Guidelines for the administration of the Rule

(i) During the first year of Suspension: One half of the DA/ HRA/F.& H. Allowance, Mid academic Transfer Allowance as may be applicable to the employee under suspension, subject to the terms & conditions as specified in the SBIOSRs for the payment of respective allowance.

(ii). During subsequent period: The allowance referred to above may be paid to the employee under suspension in full, subject to the terms & conditions governing the payment of respective allowances provided that the Appropriate Authority is satisfied that the delay in completing the DP against the employee is due to reasons beyond the control of the employee and not due to his own act or omission.

N.B. It would be necessary to review each case after the expiry of 11 months from the date of suspension.

(ii) During the period of suspension an officer may, at the discretion of the Bank, subject to such guidelines, as decided by the Managing Director, be allowed occupation of official house upto a period of four months such official accommodation as may be decided by the Bank but shall not be entitled to free use of the Bank's car or receipt of conveyance or entertainment allowance or special allowance. (Portion struck-through and in bold-face, both, vide amendment by CO letter No. PA/CIR/17 dated 13.06.92)

(iii) No officer who is under suspension shall be entitled to receive payment of subsistence allowance unless he submits a certificate that he is not engaged in any other employment, business, profession or vocation.

68A (8) (i) Where the Appointing Authority holds that the officer has been fully exonerated or that the suspension was unjustifiable, the officer shall be granted the full pay to which he would have been entitled had he not been so suspended, together with any allowance of which he was in receipt immediately prior to his suspension or may have been sanctioned subsequently and made applicable to all officers. The period of absence from duty in such a case shall for all purposes, be treated as period spent on duty.

(ii) In all cases other than those referred to in Clause (I) above and where the officer has not been subjected to the penalty of dismissal the period spent under suspension shall be dealt with in such a manner as the Disciplinary Authority may decide and the pay and allowances of the officer during the period adjusted accordingly.

Appeal Against Punishment or Suspension, Review, Service of Order, Extension of Time Limit, etc.

69 (1) An officer may appeal to the Appellate Authority against an order imposing upon him any of the penalties specified in rule 67(1) or against the order of suspension referred to in rule 68A

(2) An appeal shall be preferred within 45 days from the date of receipt of the order appealed against. The appeal shall be addressed to the Appellate Authority and submitted to the authority whose order is appealed against. The officer may, if he so desires, submit an advance copy to the Appellate Authority. The authority whose order is appealed against shall forward the appeal together with its comments and records of the case to the Appellate Authority. The Appellate Authority shall consider whether the findings are justified and/or whether the penalty is excessive or inadequate and pass appropriate orders. The Appellate Authority may pass an 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 directions as it deems fit in the circumstances of the case;

Provided that
   (i) if the enhanced penalty which the Appellate Authority proposes to impose is a “major” (deleted vide 30/03/2000 Amendment) penalty specified in Clauses (f), (g), (h), (i) and (j) of rule 67 and an inquiry as provided in sub-rule (2) of rule 68 has not already been held in the case, the Appellate Authority shall direct that an inquiry be held in accordance with the provisions of sub-rule (2) of rule 68 and thereupon consider the records of the inquiry and pass such orders as it may deem proper;
   (ii) if the Appellate Authority decides to enhance the punishment but an inquiry has already been held as provided in sub-rule (2) of rule 68, the Appellate Authority shall give a show-cause notice to the officer as to why the enhanced penalty should not be imposed upon him and shall pass final order after taking into account the representation, if any, submitted by the officer. [As amended vide CDO/PM/12 CIR 32 dated 22.09.04]

69 (2) (iii) Where the enhanced penalty proposed to be imposed is a “major” (deleted vide 30/03/2000 Amendment) penalty specified in Clauses (e), (f), (g), (h), (i) and (j) of rule 67 and the Appellate Authority is not of the same rank as of higher than the Appointing Authority in respect of the category of the officers to which the officer belongs, it shall submit to the Appointing Authority the record of the proceedings together with its recommendations and the Appointing Authority shall pass such final order on the appeal as it may deem appropriate.

69 (3): Notwithstanding anything contained in this section, the Reviewing Authority may call for the record of the case within six months of the date of the final order and, after reviewing the case, pass such orders thereon as it may deem fit.

Provided that
   (i) if the enhanced penalty which the Reviewing Authority proposes to impose is a “major” (deleted vide 30/03/2000 Amendment) penalty specified under Clauses (f), (g), (h), (i) or (j) of rule 67 and an inquiry as provided under sub-rule (2) of rule 68 has not already been held in the case, the Reviewing Authority shall direct that an inquiry be held in accordance with the provisions of sub-rule (2) of rule 68 and thereafter consider the record of the inquiry and pass such orders as it may deem proper;
   (ii) if the Reviewing Authority decides to enhance the punishment but an inquiry has already been held in accordance with sub-rule (2) of rule 68, the Reviewing Authority shall give show-cause notice to the officer as to why the enhanced penalty should not be imposed upon him and shall pass that order after taking into account the representation, if any, submitted by the officer.

69 (4) Every order, notice and other process made or issued under this section shall be served on the officer concerned in person or communicated to him by registered post at his last known address.
69 (5) Save as otherwise expressly provided in the rules in this section, the authority competent thereunder may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified thereunder for anything required to be done thereunder or condone any delay.

Central Vigilance Commission
70. The Bank shall consult the Central Vigilance Commission wherever necessary, in respect of all disciplinary cases having vigilance angle.

72. A Committee consisting of two managing directors and Deputy managing Director & Corporate Development Officer may, from time to time, issue such instructions or directions as may, in its opinion, be necessary for giving effect to or carrying out the provisions of these rules (amended by Central Board, dated 21.06.2001).

-0-0-0-0-
9. SEXUAL HARASSMENT OF WOMEN IN THE WORK PLACES
(GUIDELINES AND NORMS LAID DOWN BY THE HON’BLE SUPREME COURT)

The guidelines and norms prescribed herein are as under: -

Having regard to the definition of ‘human rights’ in section 2(d) of the Protection of Human Rights Act, 1993

Taking note of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women for sexual harassment in work places and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in workplaces as well as other responsible persons in institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

(i) **Duty of the Employer or other responsible persons in work places and other institutions:** It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

(ii) **Definitions:** For the purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

(a) physical contact and advances;
(b) a demand or request for sexual favour;
(c) sexually coloured remarks;
(d) showing pornography; and
(e) Any other unwelcome physical, verbal or non-verbal conducts of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim’s employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and many constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

(iii) **Preventive Steps:** All employers or persons in charge of work place whether public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps

(a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways;
(b) The Rules/ Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender;
(c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946; and
(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable ground to believe that she is disadvantaged in connection with her employment.

(iv) Criminal Proceedings: Where such conduct amount to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority. In particular, it should ensure that victim, or witness are not victimised or discriminated against while dealing with complaints of sexual harassment. They should have the option to seek transfer of the perpetrator or their own transfer.

(v) Disciplinary action: where such conduct amounts to misconduct in employment as defined by the relevant service rules, the employer in accordance with those rules should initiate appropriate disciplinary action.

(vi) Complaint mechanism: Whether or not such conduct constitutes an offence under law or a breach of service rules, an appropriate complaint mechanism should be created in the employer’s organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time-bound treatment of complaints.

(vii) Complaints Committee: The complaint mechanism, referred to in (iv) above, should be adequate to provide where necessary, a complaint committee, a special counsellor or other support service including the maintenance of confidentiality. A woman should head the complaints committee and not less than half of its members should be women. Further to prevent the possibility of any undue pressure or influence from senior levels, such complaint committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment. The complaint committee must make an annual report to the Government department concerned of the complaints and action taken by them. The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

(viii) Worker’s initiatives: Employees should be allowed to raise issue of sexual harassment at workers’ meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

(ix) Awareness: Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

(x) Third party harassment: Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and prevention action.

(xi) Steps to be taken by Government: The Central/ State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

(xii) These guidelines will not prejudice any rights available under the Protection of Human Right Act, 1993

(Source: PIL Writ Petition (Criminal) No 666/70 of 1992 [Vishaka & Ors. Vs. State of Rajasthan & others])
10 COMPLAINTS AND ANALYSIS OF COMPLAINTS

Complaints are an important source of information regarding the malfunctioning of branches and often provide useful clues to cases of fraud etc. As per the guidelines issued by the Government of India, banks are required to take cognisance of anonymous or pseudonymous complaints if the complaints contain verifiable and specific allegations. Complaints may be oral, anonymous, pseudonymous or signed ones. There are several sources from which complaints are received. However, complaints having vigilance angle are those that will be specially looked into by the Vigilance Department. Such complaints may come to light from any source, such as:

- Complaints received by the controlling authorities directly, or through the branches functioning under them
- Complaints received by the Government of India, Government agencies like Central Vigilance Commission, Central Bureau of Investigation, Police authorities etc. and forwarded by them to the Bank for disposal
- Complaints and allegations appearing in the press
- Complaints or communications containing information about malpractices, etc. received from Bank’s other officials or employees, either directly or through proper channels, and
- Inspection and Audit, Verification Audit reports submitted by the Inspecting Officials and/or Circle Auditors

2 A source must always be protected and any investigation undertaken should be so guarded that the source will not be revealed. This secrecy is essential to ensure that people do not desist from making complaints for fear of repercussions.

3 Complaints may be received by any department or the Local Head Office/Head Office or Regional Office. If a complaint is received at the branch, the Branch Manager should promptly forward it to the Controlling Authority for necessary action. While forwarding the complaint, the Branch Manager should offer his comments on the allegations.

4 The Vigilance Department at the Local Head Office/Head Office and each Regional Office should maintain a Vigilance Complaint Register. In this register, all complaints in which there is an allegation of corruption or improper motive will be entered as and when they are received. While investigating into non-vigilance cases, if any vigilance angle becomes evident, the original complaint must be transferred to the Vigilance Complaints Register immediately. Information collected from Inspection and Audit, Verification Audit Reports, press reports, etc., which has a vigilance angle, will be included in the term “Complaint” and entered in the Vigilance Complaints Register in the same way as any other written complaints.

5 If a complaint is received by a department at the Local Head Office/Head Office against an official working under the jurisdiction of another department, it should be promptly forwarded to the Vigilance Department, which will deal with the complaint after entering it in its own Vigilance Complaints Register. Immediately after registration in the Vigilance Complaints Register, the Circle Vigilance Officer or Chief Vigilance Officer of the Associate Bank (as the case may be) will peruse each complaint. He will examine the various allegations contained in the complaint and take a view whether the allegations merit a probe. If they are vague, general and prima facie unverifiable, he may decide not to take any action thereon, in which case the complaint will be
filed away. However, in cases pertaining to supervising officials belonging to Senior Management Grade Scale V and above, the relevant papers together with the views of the Disciplinary Authority will be forwarded to the Central Office (in case of Associate Banks, to its CVO) for obtaining the advice of the Central Vigilance Commission as to whether the complaint may be filed.

6 Where a complaint contains definite information warranting a probe, the Circle Vigilance Officer/Dy. General Manager (in case of Associate Banks, its CVO/AGM-Vigilance) will arrange for a preliminary enquiry to verify the allegations against the concerned official so as to decide whether or not he should be proceeded against departmentally or in a Court of Law. Where considered necessary, a copy of the complaints received by a Regional Office should be sent to the Circle Vigilance Officer (or in Associate Banks, to its CVO). If after a study of the complaint, he feels that his intervention is called for immediately, he will act accordingly.

7 It cannot be said with certainty whether the allegations contained in any anonymous, pseudonymous complaint carry an element of truth in them or not. It is possible that the allegations, or at least some of them, may be true but the complainant may have withheld his identity for fear of reprisal at the hand of the Bank employee complained against. Enmity, rivalry or such other negative influences may also be the cause of the complaint. In such cases, the allegations usually prove to be baseless on verification. The departmental Head would, therefore, be well advised to exercise circumspection, before taking a view as to whether any action needs to be taken on any anonymous complaint received by him.

8 If a head of a department has reason to believe that there is an element of truth in the allegations contained in an anonymous complaint and he considers that a preliminary enquiry is warranted, he may take suitable steps in that direction, unless the Circle Vigilance Officer (or CVO, as the case may be) undertakes his own investigation. After the enquiry is completed, he will forward the complaint and the preliminary enquiry report together with his comments to the Vigilance Department at the Central Office (or the CVO of the concerned Bank) for advice as to the further course of action.

9 All anonymous and pseudonymous complaints should be entered in the inward Mail Register or Vigilance Complaints Register, as the case may be and appropriately dealt with.

10 To ensure uniformity in practices and procedures for handling and processing of complaints in departments/organizations, it is imperative for laying down a “Complaints handling policy”. Such a policy should clearly specify that any complaint/grievance containing allegations of corruption/malpractices or misconduct should compulsorily be sent to CVO for his scrutiny and action. The DGM (Vigilance) shall arrange scrutiny of complaints received at various departments of LHO to ensure that all complaints to be examined from vigilance angle have been forwarded to the Vigilance Department by the departments concerned. He will submit a certificate to that effect to the CVO at monthly intervals.
**INVESTIGATION OF COMPLAINTS**

<table>
<thead>
<tr>
<th>Action on complaints proposed by Vigilance Department, Corporate Centre</th>
<th>Action to be taken at LHO, Vigilance Department / Modules</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Forwarded by us for investigation and report (including anonymous / pseudonymous complaints)</td>
<td>Should be investigated in detail and report submitted to us with IRF within the prescribed time limit or within the period indicated by us.</td>
</tr>
<tr>
<td>b) Forwarded by us for LHO comments (including anonymous / pseudonymous complaints)</td>
<td>The facts / allegations should be ascertained / verified (without a formal / full fledged investigation) and comments furnished to us with recommendations for (a) detailed investigation or for (b) administrative action at LHO or for (c) closure.</td>
</tr>
<tr>
<td>c) Forwarded for information / necessary action at LHO (including anonymous / pseudonymous complaints)</td>
<td>To keep a watch over the official (s) allegedly involved / closure. Advise / report further to us, if there are strong reasons to do so, in which case, action as per (b) above to be followed.</td>
</tr>
<tr>
<td>d) Complaints containing serious allegation (s) such as corruption (e.g. other than deficiencies in customer service) received directly at Vigilance Department, LHO. (i) complaints which are signed (ii) anonymous / pseudonymous complaints</td>
<td>(i) See (a) above (ii) Closure or action as indicated in (b) above</td>
</tr>
</tbody>
</table>
e) Complaint sent for investigation by other departments from Corporate Centre
   (i) anonymous / pseudonymous
   (ii) signed complaints
   (i) to be referred to us for advice before taking up for investigation.
   (ii) May be investigated and report sent to the concerned department and to us as in (a) above

**IMPROVING VIGILANCE ADMINISTRATION**

**ACTION ON ANONYMOUS / PSEUDONYMOUS COMPLAINTS**

As you are aware, the Central Vigilance Commission had issued several circulars in the past in the matter of dealing with complaints received by the Bank. With a view to ensuring uniformity of procedure, the following guidelines are issued.

(i) No action is to be taken by the Bank, as a general rule, on anonymous / pseudonymous complaints received by it.

(ii) When in doubt, the pseudonymous character of a complaint may be verified by inquiring from the signatory of the complaint as to whether it had actually been sent by him. If he cannot be contacted at the address given in the complaint, or if no reply is received from him within a reasonable time (say 4 weeks), it should be presumed that the Complaint is pseudonymous and should accordingly be ignored.

(iii) However, if any LHO/department proposes to look into any verifiable facts alleged in such complaints, it may refer the matter to the CVO for seeking the
concurrence of the Commission, irrespective of the level of the employees involved therein.

(iv) If an investigation has been conducted by the Circle into a pseudonymous complaint under the belief that it is a genuine signed complaint, the Commission need not be consulted if it is found that the allegations are without any substance. However, the matter should be reported to the CVO for information and record. If, however, the investigation indicates, prima facie, that there is some substance in the allegations, the facts should be advised to the CVO, for further course of action to be taken.

(v) Although the Commission would normally not pursue anonymous / pseudonymous complaints, yet it has not precluded itself from taking cognizance of any complaint on which action is warranted. Accordingly, if the Commission forwards a complaint to the Bank for necessary action at our end, the action on the complaint is not required to be sent to the Commission and the concurrence of Commission for closure of such complaint is not required. However, the complaint should, in any case, be investigated and the result thereof should be advised to the CVO, for taking a final view in the matter. If, however, the investigation reveals irregularities of serious nature the case will be referred to the Commission through the CVO for advice. Similarly, if the complaint is received from the Commission for action and report i.e. the Commission deciding to make an investigation into an anonymous / pseudonymous complaint, such complaint should be treated as a reference received from the Commission and necessary investigation should be made into the complaint and the report thereof should be furnished to the Commission through CVO within 3 months from the date of receipt of the complaint obtaining necessary advice of the Commission.

(vi) All investigation reports as above, along with the entire case papers, should be placed before the Disciplinary Authority / internal Advisory Committee at LHO / Corporate Centre, to determine involvement of vigilance angle or
otherwise. In this context, a reference may be invited to the detailed guidelines contained in Corporate Centre letter No. VIG/GEN -71/3266 dated 17th September 2004.

(vii) When the Commission asks for an inquiry and report considering that the complaint is from an identifiable person, but it turns out to be pseudonymous, the Circle should bring the fact to the notice of the CVO and seek instructions as to whether the matter is to be pursued further or not. The matter will be referred to the Commission by the CVO for advice.

(viii) With a view to avoiding harassment to the officials against whom frivolous complaints are received at the time of their promotion / selection, as a rule, complaints which are more than 5 years old and in respect of which no action has been taken till then, should not be investigated. However, the limit of 5 years will not apply to cases of fraud and other criminal offense. Similarly, no cognizance should be taken of any complaint which is received 6 months prior to initiation of selection process for senior posts in which the official complained against is being considered.
11. INVESTIGATION PROCESS AND ENQUIRY PROCESS:
BASIC POINTS OF DISTINCTION

<table>
<thead>
<tr>
<th>INVESTIGATION</th>
<th>ENQUIRY</th>
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</thead>
<tbody>
<tr>
<td>1. Investigating Officer is a representative of the Controlling Authority</td>
<td>1. EO/IA is a representative of the Disciplinary Authority</td>
</tr>
<tr>
<td>2. It is an administrative process</td>
<td>2. It is disciplinary process or a quasi-judicial process</td>
</tr>
<tr>
<td>3. It is generally initiated by the Controlling Authority</td>
<td>3. It is initiated by the Disciplinary Authority</td>
</tr>
<tr>
<td>4. A written order is not essential. Verbal instructions are sufficient</td>
<td>4. Written order is a must</td>
</tr>
<tr>
<td>5. It can be done either by our officers or external authority, like CBI or Police</td>
<td>5. It can be done only by our officers or CBI, unless extended to Court</td>
</tr>
<tr>
<td>6. Investigating Officer can look beyond the allegations</td>
<td>6. EO/IA has to restrict the enquiry to the alleged charges, even if the Presenting Officer presents allegations beyond the scope of the charge sheet.</td>
</tr>
<tr>
<td>7. Investigation can be ordered any time but as promptly as possible after the receipt of complaint</td>
<td>7. Last but one step in the process, the last process being the order of the Disciplinary Authority either to punish or exonerate the alleged employee</td>
</tr>
</tbody>
</table>
12. GUIDELINES FOR CONDUCTING OF INVESTIGATIONS


It is frequently observed that investigation reports are compiled more as Audit Reports rather than reporting factually on the issue(s) referred for investigation. It is also not uncommon that the findings of the investigating officials are influenced by subjective assumptions and personal judgments. Faulty /incomplete investigations/reports, or reports with lacunae, result in unnecessary explanations being called from officers/employed against whom no lapses are subsequently established, and consequent unnecessary first and sometimes second stage references, (ii) wrongdoings / lapses on part of officers, employees getting overlooked, resulting in faulty/incomplete charge-sheets and consequent punishments not being commensurate with the misdemeanours. In fact, the nature of the entire disciplinary proceedings flows from the investigation report. This report, thus, becomes a very critical document.

It has to be understood that an investigation is a fact-finding mission and not fault finding one. An investigation should be an exercise in pure unadulterated search for the truth, recording events as they happened, comparing them with the relevant instructions of the bank and practices prevailing at the material time, without being coloured by any subjective assumptions and personal value judgments of the investigators. However, the reports should bring out any peculiar or extenuating circumstances prevailing at the branch/office in question.

In the process of reviewing the nature of lacunae in the investigation reports and charge-sheets and debating suggestions to rectify these, it was found that the methods/guidelines for conducting investigation and framing of charge-sheets have already been brought out in various internal publication of the bank, including the Vigilance Manual. The suggestions made herein would, therefore, only reiterate the long-standing guidelines, which are often ignored.

Process of investigation: Lack of adequate knowledge, experience of the subject matter to be investigated always acts as a serious hindrance in the process of investigation, especially in matters relating to advances and foreign exchange. This results in faulty and incomplete inferences. It is, therefore, very necessary for investigations to be entrusted to officials with credit (in respect of investigations into advances) and operational exposure, and with sufficient aptitude and analytical skills, knowledge and experience of the subject matter, necessary for ascertaining facts and getting to the core of the case. While aptitude and analytical skills are the matter of subjective judgment, which anyway has to be exercised with due care, the knowledge and experience of an investigator, especially in respect of advances & foreign exchange, is easily verifiable from the available records, and verification should invariably be done.

Pre-investigation stage:
1. To have a clear understanding of the issues involved, the investigating official (I/O) should have detailed discussions of the entire matter with the authority ordering the investigation/ DGM- Vigilance.
2. Wherever possible the investigating official should contact the complainant for the purpose of securing more details.
3. Investigating official must contact the suspect official, if any, to ascertain his version of the events.
4. The I/O for ready reference should gather all information relating to the Bank’s rules/procedure relevant to the events/transactions during the material period.

Scrutiny/Examination of Documents/Witnesses: -
1. The I/O must scrutinise all original relevant records/documents, have them segregated and detained with him till the conclusion of the investigation. After completion of investigation these records/documents, in original, should be handed over to the branch manager/departmental head for safekeeping and a certificate obtained from him. A list of such documents in the custody of branch manager/departmental head should be retained by the investigating officials and form part of the report. The branch/department copy of the list and certificate should be held as branch documents and entered accordingly in the branch documents Register. Copies of the originals may be retained by the I/O for future references as also to facilitate drafting of charge sheet/s. If, however, the documents are too voluminous, preparing copies of originals need not be insisted upon but serial number must be given on each page of the documents and papers.

2. It is necessary to record the individual version/statements of all officials/employees connected with the transactions and events in the case and all the witnesses, as also of persons who are likely to have knowledge about the events/transactions. It is preferable to frame these questions/statements, in question & Answer form. Wherever necessary supplementary questions may have to be framed for further clarifications. All these verbal exchanges must be recorded and form part as annexure the report and must also be to be signed by the officers/employee.

3. It is quite often found that, while an investigation report lists out lapses against certain officials, and their explanations called, on receipt of explanations, the official’s version is found acceptable and consequently no lapses are found attributable to him/them. It’s also often found that the I/O has not sought the official’s version at all. Or if his version has been sought and received due consideration has not been given to it. This results in avoidable and unnecessary explanations and first stage references. Getting the individual version of all concerned also sometimes result in fresh leads. Hence, the versions/statements of all officers, employees against whom prima facie lapses are found, must be invariably obtained and must be given due consideration while framing the reports. The I/O must categorically confirm that the statements/versions of all such officers/employees are obtained. In case it becomes difficult for obtaining his version for reasons of non-availability, for example, being transferred to a distant place, all efforts must be made to obtain his version, either by the I/O going to the place where the official is available, or by calling the official to the place of investigation on any convenient place. Even then, if it does not become possible for his version to be recorded, the specific reasons must be recorded in the investigation report. However, not recording of such version can only be in exceptional circumstances and any laxity in this regard cannot be condoned.

4. While seeking clarifications/comments/recording replies of the officials/employee concerned, he must be shown the records which are relevant to the event/transactions. At the end of the statement/version, a certificate that all “relevant original records shown” should be given by the IO and confirmed by the official/employee.

5. While investigating cases of advances going bad, if the I/O considers it necessary to comment upon projections/appraisals made, he should spell out the reasons for considering these as lacunae in the projection/appraisal.
Investigation report:
1. The report should be confined only to the terms of reference or allegations contained in the complaint. Other illegalities/malpractices observed in the course of investigation, not having a direct bearing on the subject matter of terms of reference may be brought to the notice of the controller through a separate Note.

2. The report should contain: -
   a. The terms of reference
   b. The allegations made
   c. Description of the events/transactions
   d. Particulars of evidences/witnesses and statements of such witnesses and the complaints, if any.
   e. The concerned officer’s/employee’s version of the case
   f. Examination of the available evidences/witnesses/statements and versions of the officials/employees
   g. Allegations considered substantiated/not substantiated, with the reasons thereof
   h. Whether any deviations are observed, along with the evidences/lapses/reasons leading to the conclusion.
   i. Any peculiar or extenuating circumstances prevailing at the branch/office observed by the IO.

3. There should be no subjective assumptions or personal value judgements while compiling the report.

4. The investigation report must, as an annexure, list out the complete list of documents, evidences and witnesses necessary to establish the substantiated allegations. Against each document/witness/evidence, it should be specifically stated what event/allegation would stand established and what each witness will say (in brief). Accompanying this list should be a certificate stating the documents/evidences are held in the custody of the branch manager/s of the respective branches.

5. If certain omissions/lapses do not have a direct bearing on the losses the bank is likely to sustain or on the main subject matter of the investigation, then the I/O should specifically comment so in his report.

6. Wherever deviation from the extant instructions are observed, the IO should mention such original instructions, the extent to which it has been deviated from, by whom, under what circumstances, and the consequences arising out of such deviation

7. The report should state the extent of monetary loss expected on account of the lapses, and also the process by which the loss has been arrived at. As far as feasible, the loss attributable to each individual official/employee on account of his or her lapses should be indicated.

8. List of officers/and the individual lapses attributable to them, and the particulars of documents/witnesses leading to the substantiation of the lapses, should be included as an annexure to the Report.

The suggested format of the Report and its annexure is enclosed.
FORMAT FOR INVESTIGATING OFFICER

(TO BE SUBMITTED ALONGWITH ANNEXURES IN TRIPlicate)

INVESTIGATION REPORT

Branch:

Account:

Name of Investigating Official/ Grade

Authority & Date of ordering investigation:
(Or date of oral instruction)

Investigation report in term of letter No. ............
dated ................. addressed to me by..............................
(Name and Grade)

(A copy of the letter as well as complaint letter, if any, enclosed as Annexure I)

Date of Investigation Report:

SPECIMEN OF FIRST PAGE OF INVESTIGATION REPORT:

SOURCE/ REFERENCE: INTRODUCTION (HOW THE MATTER SURFACED)

(i) Complaint: (copy enclosed)

Name of complainant:

Name of the official/ employee complained against:

Date of receipt of complaint:

Period/ Date of occurrence :

(ii) Date of detection by Investigation/ Audit/ Inspection :
(extract enclosed)

Amount involved

Amount of loss anticipated:

(iii) Fraud folder No:

(iv) Police/ CBI FIR No :

(v) Any other reference which has relevance to this case:

(vi) Other remarks, if any:
# Investigation Report-Format

**Annexure: B**

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>1. Name of the Branch visited</strong></td>
<td></td>
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<tr>
<td><strong>2. Dates of visit</strong></td>
<td></td>
</tr>
<tr>
<td><strong>3. (a) Terms of Reference and allegations made</strong></td>
<td></td>
</tr>
<tr>
<td><strong>(b) Description of events/ transaction</strong></td>
<td></td>
</tr>
<tr>
<td><strong>4. Particulars of evidences/ witnesses (statements of witnesses/complainants to be enclosed as annexure)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>5. Versions/ statements of officers/employees against whom prima facie lapses are found (statements to be enclosed as annexure)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>6. Examination of evidences/ witnesses statements and versions/ statements of officials/employees (to be done for each official/employee separately)</strong></td>
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<tr>
<td><strong>7. Allegations considered substantiated/not substantiated together with reasons/arguments (this can be integrated with item No 6, if necessary).</strong></td>
<td></td>
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<tr>
<td><strong>8. Monetary loss expected arrived at. (as far as possible, loss attributable to each individual official/employee to be indicated)</strong></td>
<td></td>
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<tr>
<td><strong>9. Any peculiar/extenuating circumstances/prevailing at the branch office</strong></td>
<td></td>
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**Certificates:**

1. Confirmed that all officers/employees listed in the (relevant) Annexure, against whom lapses have been observed, have explained their version of the events/transactions and their statements has been obtained. It is also confirmed that all relevant original records were shown to officials/employees and they have certified accordingly in their statement/version.

2. Confirmed that all original documents listed in the relevant Annexures are held in the personal custody of the branch manager/s and the list of documents has been entered in the **Branch Document Registers**.

---

Investigation Officer  
(Name & Grade, Assignment held & Place of posting)  

Date .................................
Annexures: -(To the report.)

1. Particulars of Staff involved

<table>
<thead>
<tr>
<th>No.</th>
<th>Employee name</th>
<th>Scale</th>
<th>PF index number</th>
<th>Designation</th>
<th>DOB</th>
</tr>
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<tbody>
<tr>
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</tbody>
</table>

Lapses/ Allegations prima facie substantiated (in brief)

2. List of evidences/document/witnesses

A. Document/s Serial No. | Particulars of Documents/ Evidences | Relevance of the documents, and/or allegation/event which would stand established
<table>
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B. Sl. No. | Name/ Designation/ Address of Witness | Relevance of witnesses/ Nature of his deposition (in brief)
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3. List of statements/ versions, along with statement/ versions in original

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<thead>
<tr>
<th>Sl. No.</th>
<th>Statement/ version made by</th>
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**BIO-DATA (as on ..................)**

*(in respect of each official/employee interrogated by the Investigating Officer)*

<table>
<thead>
<tr>
<th>1. Name in full (in block letters)</th>
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</table>
| 2. Date of employment and designation  
(at the time of appointment in the bank) |
| 3. Present Grade/Designation |
| 4. Places of postings (since date of appointment in the bank as shown in (2) above) |

<table>
<thead>
<tr>
<th>Name of the branch</th>
<th>Period of posting (month &amp; year approx.)</th>
<th>Nature of work/duties performed</th>
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5. Whether earlier, at any time in the past, interrogated in connection with any complaint/allegation/transaction or event with which associated/dealt with (Brief description with name of the branch to which the matter pertained)

I certify that the above information/particulars have been furnished by me on ............................ to Shri ........................................ Grade ............... in the course of investigation relating to ................................. and these are correct to the best of my knowledge.

Signature.

(Name & Grade, Assignment held & Place of posting)

Date........................................
SPECIMEN FORMAT OF INTERROGATION

State Bank of India,

…………….Branch,

Camp Office.

Shri………………………….

…………………………..

Dear Sir,

INVESTIGATION:

I have been instructed by the appropriate authority to conduct investigation into a case where it has been revealed from the relevant records that you were associated with the same. In order to bring out facts of the case, I have considered it necessary to seek from you, your comments, replies and clarifications on the connected matters, and therefore I request you to furnish your comments/clarification/replies on the under-noted questions/matter being put by me to you

Yours faithfully,

Name :………………)

Date................................

(Name and designation)

Camp............................. (Name of branch)

1. Nature of records shown should be indicated here by recording here as (so and so record/circular, etc.) shown Replies/comments/clarification

2.

3.

I have been shown all the records/books referred to on pages ............... above before giving my comments/replies on each of these, as above.

Note:

Signature and date (Member of Staff or Public)
13. SCIENCE OF INVESTIGATION

a. Objective

A fact finding mission/enquiry

b. Approach & attitude

The Investigating Officer should convey a feeling of trust and confidentiality and should have

- unbiased mind
- logical approach
- ability to analyse critically
- insight into psychology of people
- persuasive attitude in assessing the facts and ability to listen
- empathy
- the ability to ensure eye contact

c. Preparation before investigation

The Investigating Officer should-

1. read the complaint at least twice
2. discuss with the CVO or concerned appointing official
3. prepare a questionnaire
4. pin-point specific allegation, if possible
5. prepare an action plan to include
   a). persons to contact
   b). documents to collect and examine
6. read all instructions on the subject (rules, systems and procedures)

d. At the spot

The Officer may make initial enquiries discreetly without revealing his identity. He should interrogate the suspect carefully before witnesses and record statements.

The objectives of examination are to

a) ascertain the truth
b) obtain an admission of guilt if any
c) recover evidence
da) ascertain identities
e) discover crimes and
f) eliminate suspects

Examination of documents:

The Investigating Officer should-

- Examine accounts if necessary
- Examine the assets and liabilities statements, if necessary, at the Controlling Office
- Collect bio-data of the suspect employee
- Examine failure of systems and procedures
- Examine staff lapses and accountability
- Seize documents, if necessary
Document Seizures: Guidelines

- If allegations are verifiable from any document, the document is to be seized.
- All documents and registers containing evidence should be taken over against acknowledgement.
- If ledgers and registers cannot be removed on account of operational difficulties, they should be retained in personal custody of the Branch Manager after being entered in the Branch Document Register.
- If required for current use, originals can be replaced with Photostat or authenticated copies.
- Where seizure is not possible, the documents are to be preserved in the BM’s custody in a sealed cover and Photostat copies duly certified obtained for investigation.
- The vigilance department or Disciplinary Proceedings Department should maintain a record of all seized documents handed over by the Investigating Officer.

Examination of complainant:
The Investigating Officer should:
- Speak to him and find out his connections with the Bank.
- Ask for the evidence – documentary/oral.
- Record statements.
- Cross-check statements.
- Seek more and more intensive details for cross-checking genuineness of statements.
- In case of anonymous complaint, trace the complainant with possible leads.
- Verify allegations by inquiries.
- Where information is forthcoming, spend more time.
- See what the IR climate at the branch is.
- Assess the level of customer-satisfaction.
- Assess whether the area/branch is fraud prone.
e. Techniques of Investigation

Examination of witness

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<tr>
<th>Types of witnesses</th>
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<tr>
<td>Willing witness</td>
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<td>Eye witness</td>
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<td>Reluctant witness</td>
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<td>Unreliable witness</td>
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<td>Frightened witness</td>
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<td>Hostile witness</td>
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<td>Biased witness</td>
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<tr>
<td>Timid witness</td>
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<tr>
<td>Deceitful witness</td>
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The Investigating Officer should-
- Plan examination, and seek appointment for obtaining statement of the witness
- Ensure provision of some degree of privacy to the witness
- Identify himself without delay
- Ensure that he has the facts in advance
- Keep in mind the objective of examination
- Be persuasive – encourage the witness to talk
- Be courteous, efficient and friendly while obtaining statement of the witness

Recording a statement:
The Investigating Officer should-
- Record statements in the first person
- Detail gestures in case of examination of a deaf and dumb
- Not accept joint statement
- Cite the witness even if he is not available.
- Record statement on the spot
- Avoid undue pressure
- Do not detain the witness
- Record the date, time of arrival and departure of the witness
- Ensure others’ presence while examining female witness
- Read out the statement of the witness to him if he is illiterate

f. Handling of evidence

Outside evidence (yielding):
The Investigating Officer should-
- seek more and more intensive details, secure evidences
- obtain written statements
- have statements witnessed by our officials
- cross-check facts
Witness on the fence:
The Investigating Officer should-
• start coolly
• assure witnesses’ secrecy and safety
• appear as if the investigation is harmless
• obtain statements

Witness (unyielding):
The Investigating Officer should-
• observe the witness’ traits - any gesticulations
• have the ingenuity to mend the attitude of the witness
• maintain a sympathetic stance to begin with

Suspect employee:
The Investigating Officer should-
• if he is a bank’s employee, gently but firmly indicate also the consequences of his withdrawing information/giving wrong information
• if he is an outsider, not go beyond the limits of persuasion

The Investigating Officer may
• let him speak
• help him speak
• listen to him keenly and critically
• maintain a low tone
• try not to become offensive
• ask for the evidence
• not pity the tears and suspend the interrogation
• obtain written statements

Suspect employee (unyielding):
The Investigating Officer should-
• start low and high
• adopt the same strategy as the one mentioned for unyielding witnesses
Interrogation

<table>
<thead>
<tr>
<th>Forms of Interrogation</th>
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<tr>
<td>➢ Leading questions</td>
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<td>➢ Misleading questions</td>
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<td>➢ Direct questions</td>
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<td>➢ Indirect questions</td>
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<td>➢ Fishing questions</td>
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<td>➢ Questions testing credibility</td>
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<tr>
<td>➢ Questions that divert attention</td>
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<tr>
<td>➢ Conducive questions</td>
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<tr>
<td>➢ Searching questions</td>
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<tr>
<td>➢ Intimidating questions</td>
</tr>
<tr>
<td>➢ Incriminating questions</td>
</tr>
</tbody>
</table>

The Investigating Officer should-
- Keep in mind the objective of interrogation
- Plan examination, make studies and make reviews before an interrogation
- Have confidence in himself, and have lots of patience and perseverance
- Maintain an interrogation log
- Be fast, and interrogate as early as possible and do not allow time for fabricating evidence
- Put lot of questions
- Not use bluff, trickery or deceitful methods while interrogating
- Do not give time for fabrication of evidence
- Size up the subject before using a particular technique
- Use tape recorder if needed.
- Allow time when information is forthcoming
- Check contradictions
- In case of non-employee, ascertain his connection with the Bank

g. Report writing

While writing report The Investigating Officer should-
- Ensure completeness, (b) conciseness (c) clarity and (d) accuracy
- Not give personal opinion
- Not use ambiguous words
- Be factual
- Preserve notes, scribbling for future reference, if any
- Put his signature, date and place at the conclusion of the report
- Attach enclosures, interrogation-sheets, bio-data, documents, etc.
14. INVESTIGATING OFFICER :: DESIRABLE QUALITIES

While selecting an investigating official, the following qualities are desirable.

PHYSICAL FITNESS
A person posted as an Investigating officer has to be physically fit so that he can not only take up the rigour of making the investigation but can also preserve his own image as worthy of the job assigned in the eyes of the people encountered.

INFORMALITY
An Investigating Officer must have an informal approach to the problem as if it were a general discussion. The climate of informality should also be reflected in his dress and bearing, since the facts are not likely to be revealed to one representing a formal organisation.

INQUISITIVENESS / CURIOSITY
An Investigating Officer should have the approach of a child in the sense of questioning about everything and trying to learn as many facts as possible. A deeper probe with this inquisitiveness / curiosity will be of tremendous help to him in digging up the facts.

KEEN SENSE OF OBSERVATION
While making an investigation, the Officer must keep his eyes and ears wide open, so that nothing important gets ignored. Even the minor particulars should not escape his notice and knowledge. At times, certain innocuous and seemingly harmless facts may prove to be a big clue in arriving at the truths.

LISTENING SKILL
An Investigating Officer should necessarily be a good listener. Listening implies not just hearing but understanding what he hears. The process of proper listening helps him to not only understand what is said, but also what is not said. In short, it helps him make the right judgement about the people involved.

PATIENCE / GOOD TEMPER
An Investigating Officer must have adequate patience to go through the process of investigation and extract the facts. He has to essentially maintain a calm temper and develop the ability to control his feelings and anger to the extent possible with a view to ascertaining the truth.

POLITENESS / PERSISTENCE
An Officer entrusted with investigation must necessarily be polite while investigating. Even slight exhibition of authority will inhibit the party concerned who will enter into his
own shell and the facts will rarely come out. In other words, an impolite person will not be able to dig out the facts. It is therefore necessary that the tenacity of purpose should not be forgotten and the Officer’s tone has to be persistent in ascertaining the truths.

**MATURENESS / LOGICAL BENT OF MIND**
An Investigation Officer should develop a logical bent of mind to arrive at logical conclusion. One needs to be very careful not to be hasty or jump to conclusions. The conclusions must not only be drawn logically but should also appear and be accepted as such by the general public. This demands a greater amount of patience as also maturity of mind on the part of the person making the investigation.

**WILLINGNESS TO ACCEPT EVERY FACT**
The person assigned the responsibility of an Investigating Officer must collect all the facts and must not reject anything as of trivial nature or of less importance. Collection of facts would also mean a watchfulness of the behaviour of the person being dealt with. After accepting all facts, one can always decide to reject a few things later if found irrelevant.

**OPTIMIST**
An Investigating Officer should never get frustrated or disgusted if the facts collected fail to lead anywhere.

**SHARP MEMORY**
A good memory for an Investigating Officer does go a long way in correlating the earlier recordings with what is observed presently.

**SELF CONFIDENCE**
An Investigating Officer has to be very confident about being able to achieve the target and accept the job of discovering the truth as a challenge to be met. This is a challenge of the unknown and the attitude should be to accept the job as a call to discover whether or not a lapse is committed. This will certainly enrich his job.

**IMPARTIALITY / OBJECTIVITY / PRACTICABILITY OF APPROACH**
An Investigating Officer should necessarily be impartial and objective with an open mind. He should not be overtaken by emotions but at the same time the approach should be practical so that his report will help in arriving at a decision this way or that. The result of the investigation should not be like ‘the charges neither appear to be proved nor do they appear to be disproved.’ He should not presume that it is his responsibility to confirm the allegations as proved.

While all the above traits may be kept in view, one has to remember that experience is the best teacher and one could take the advice of those who are already proficient in the job.
15. INVESTIGATING OFFICERS:

IMPORTANT POINTS TO REMEMBER

- Identify each event and transaction and discuss brief and terms of reference with authority ordering Investigation.
- Examine all books and records
- List the names and grades of all officials/employees who may be involved.
  - a) ascertain if he was required to be associated/deal with the matter in accordance with the duty/powers vested in him. If not, the factors which prompted him to associate/deal with the transaction/event
  - b) establish the circumstances in which he associated or dealt with the transaction/event.
  - c) record his admission, in writing, on the above matter referred to under para (a) and (b) above.
  - Show the relevant records.
  - Obtain certificate "I have been shown all the records/books in question, referred to above, before giving reply thereto.

[Signature and date]

- Analyse evidence objectively in chronological order
- Segregate and keep documents in custody of BM
- Obtain his acknowledgement on three copies of the list of such documents:
- Attach a copy of this list to each of the three sets of investigation report.
- Attach Photostat copies (duly certified) of the documents to each set of the report.
- If integrity of any official/employee is in doubt, compile draft report and discuss with Vigilance/controllers and authority ordering investigation
- Use Format given by Vigilance Department.
- Submit a separate report if any matter not covered by this case comes to light
- Attach the letter of complaint.
- Quote Bank’s instructions with references and then cite the deviations.
- Do Not recommend any action
- Have outsider’s depositions witnessed.
- Use a translator if necessary and take on record his name and address.
- Submit a separate note on other lacunae observed.
- Examine if loss can be recovered.
- Examine if continuation of the employee without suspension will jeopardize future action
- Obtain a certificate from BM that all documents and records have been returned.
- If BM is the suspect official, ensure that the custody of the seized documents is entrusted to other officials.
16. **STAFF ACCOUNTABILITY**

**BASED ON CVO LETTER DO: VIG/2707 dated 24/05/1995**

The risk of facing ‘staff accountability’ is one of the major areas of concern, which reportedly makes the staff hesitant in taking decisions in vital matters, thereby jeopardising the interest of the Bank, or at least not taking fair risk. It is in this context that the controlling authority needs to be careful at the stage of fixing accountability on the concerned staff for his alleged act of negligence, omission or commission. He should consider the following aspects dispassionately while examining staff accountability:

a) How is the loss caused? What were the precise reasons, which resulted in the loss to the Bank?

b) Whether the loss is due to any act of negligence, omission or commission on the part of the staff or due to factors beyond his control?

c) It has also to be ascertained if the act of negligence displayed by the official was a deliberate one or an unintentional act.

d) The concerned authority needs to examine the act of alleged negligence omission or commission with reference to the laid down rules and procedures.

e) It should also be ascertained whether in the absence of the alleged act of omission or commission the loss suffered by the Bank could have been avoided.

f) The controlling authority should also examine into the possibility of any lack of integrity on the part of the concerned person when he committed the alleged act of omission or commission.

g) If the act is not due to lack of integrity and if there are reasons to justify the omission or commission, the concerned authority may accept it as a non-vigilance case.

h) If however the official’s integrity is suspect and there are sufficient evidences to prove it, the authority concerned can term it as an act involving vigilance angle, and can take action accordingly.

The question of staff accountability should be examined at the time of asset-classification itself and kept on record.
Staff Accountability

Credit Policy & Procedures Department at Corporate Centre, Mumbai have vide their instructions on March 24, 2003, advised the new guidelines for examination of Staff Accountability on slippage of asset quality of advances as per IRAC norms.

The revised approach to examination of Staff Accountability will apply to all advances of the bank. The exercise should be undertaken when an asset has slipped from standard to substandard category and remains in that category for six months continuously from the date of such classification (i.e., it is not upgraded within six months). However, SA will be examined immediately if asset quality has deteriorated from standard to doubtful on below straight away, or such deterioration is on account of mala fide or gross negligence.

The scope of this exercise will be to find out if there were any staff lapses involving gross negligence or mala fides which could have caused/contributed to the impairment of the asset. The exercise is to be carried out in the light of the circumstances prevailing at the time the events had occurred and not with benefit of hindsight.

Procedure to be followed:

For advances sanctioned by a branch functionary below the Branch manager/ AGM of Branch/ DGM of branch

The branch head will examine staff accountability in the prescribed cases of asset slippage, keep his findings recorded at the branch and advise the Controlling Office.

Advances sanctioned by Branch Manager and above
Staff accountability will be examined by an authority higher than loan sanctioning authority such as:

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<tr>
<th>Sanctioned by</th>
<th>SA to be examined by</th>
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<tr>
<td>Branch functionaries below Branch Head</td>
<td>Branch Head</td>
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<tr>
<td>Branch Head</td>
<td>Controlling Authority</td>
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<tr>
<td>Functionaries below Head of CPCs</td>
<td>Head CPC</td>
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<tr>
<td>RM (ME) under sales-hub model</td>
<td>Concerned Regional Manager</td>
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<tr>
<td>AGMs )Region_/ CPCs headed by AGM in Circles</td>
<td>DGM (NCM) in Circles</td>
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(Above table is an indicative only, while ordering the Staff Accountability aspect Bank’s instruction in this regard should be followed)

- The authority examining staff accountability will keep a record of findings at its office.
- Where the prescribed authority is of the view that staff lapses like gross negligence or mala fides may have contributed to the asset slippage, he may arrange to advise the appropriate authority to investigate the matter further and proceed thereafter in the usual manner.
Recording of slippages:

Branches will prepare and keep on record a consolidated statement of all slippages in IRAC at the end of every month as in Annexure-1 of the circular.

Annexure-1

(Enclosed to CPPD letter No. CPP/CJT/ CIR/ dated 24th March 2003)

Consolidated Statement to Be Prepared at the End of Every Month

Branch……………………
Month……………………

<table>
<thead>
<tr>
<th>Asset Slippages</th>
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<td>Name of the Accounts</td>
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Central Office Letter to All LHOs:

Private & Confidential

The Chief General Manager,
State Bank of India
All LHOs

No.CDO: PM: CIR: 44                             Date: October 15, 1996
Asvn.13. 1918(S)

Dear Sir,

STAFF ACCOUNTABILITY FOR ADVANCES

The present system of accountability which the Bank has evolved over the years has stemmed from its concern to establish as to which of the rules or instructions or practices were overlooked by an individual in the discharge of his responsibilities in a particular post. The accountability could be for acts of inadvertence or deliberate omission and commission. The system also evolved as a result of growing demands made by the various regulatory and other authorities for accountability on the part of public sector managers and their acts of omission and commission. Creation of separate Vigilance department within the Bank and the acceptance by the Bank of the jurisdiction of the Central Vigilance Commission (in 1977) are the other developments in this matter. More recently in his Circular D.O. letter No.VIG/2707 of the 24th May 1995 the Chief Vigilance Officer at this office has detailed the aim of the exercise of accountability and the manner in which it should be conducted (copy enclosed).

2. Many instances and practices of fixing staff accountability in our Bank have been found to be inconsistent with our corporate goal as a commercial organization. While the Controllers have been emphasizing aggressive marketing and innovative approach to succeed in a competitive environment, the accountability exercises within the Bank have often tended to be a drag and a discouraging factor in taking business-related decisions. This is creating a feeling among officers that there should be no room for error in one’s own work. The Bank is a commercial organization and not a regulatory body, where decisions are taken on the basis of available data and each decision contains some element of fair banking risks. In the process, there is a possibility for genuine errors of judgement /decisions taken on purely commercial considerations and in good faith after following the procedures. Such errors and decisions need to be examined with an absolute professional approach. While there is agreement all round that cases involving lack of integrity need to be dealt with severely, the practices followed for determining whether a given case has ‘vigilance angle’ or not seem to need clarity. Therefore, to evolve a more rational view of the role of staff involved in the various activities of the Bank, the matter was examined by a committee appointed by the Bank for the purpose. The Central Management Committee considered the recommendations of the Committee on staff accountability. We have incorporated in succeeding paragraphs decisions taken at this office for your information. These decisions may please be brought to the notice of the various Disciplinary Authorities viz., Asst. General Managers in-charge of Regions, Dy. General Managers and General Managers by means of a DO letter, for their information and guidance, while determining staff accountability in sanction and conduct of advances. Unless otherwise stated, these guidelines are applicable to non-vigilance cases only.
However, where vigilance angle is discernible or suspected the guidelines already issued by Vigilance Dept. should be followed. In case of any doubt a specific reference may be made to Vigilance Dept.

3. (i) In any failed advance it is important to determine what went wrong as also who went wrong so that proper lessons are learnt by everybody for the future. While analyzing the failure of an official, particularly on account of business related decisions, a total view of the matter needs to be taken into consideration and it has to be ascertained whether the failure was on account of him or was beyond his control. On conclusion of the disciplinary proceedings and before deciding the quantum of punishment, the official’s previous track record, circumstances under which the decision was taken etc. should be taken into consideration and some weightage should be given to it as also to the external environment prevailing at the time the decisions were taken by the official. In this connection, your attention is invited to the detailed guidelines already issued by Vigilance Dept. vide their Circular DO letter No.VIG/2707 of 24th May 1995.

(ii) Counselling by superiors has to be increasingly introduced in the cases of minor and procedural lapses. In respect of minor and procedural lapses committed by officers in the category of JMGS I and MMGS II, the DPD Manager/Disciplinary Authority should record a detailed note regarding the lapses and the officer should be suitably counselled to avoid recurrence of such lapses in future. As regards officers in Scale III and above prior consultation with Central Office is necessary. In composite cases where there is involvement of scales I & II officers along with Scale III officer/s and above, the entire case has to be referred to Vigilance Dept, before a final decision is taken. It will be necessary to keep a record of such notings as punishment in the case of repeated offenders has to be decided by the Disciplinary/Appointing Authority also taking into view such earlier instances where the officer was counselled and let off. The records may be centrally kept in the Vigilance department in the Circle in respect of vigilance cases. In respect of non-vigilance cases such records should be kept with the Personnel Dept.

(iii) The investigations into alleged lapses should be more detailed and should take into account all the relevant factors and the prevailing circumstances at the material time. Circumstances beyond the control of the operating staff and options available to the officials in actual practice and other extenuating circumstances that operated at the material time must be considered. Circles should identify some officers with a view to imparting suitable training so that a pool of officers with the right aptitude and sufficient knowledge is available from where the investigating officers could be drawn as and when necessary.

(iv) Investigations should normally be carried out by officials with adequate seniority and experience in the sanction and conduct of advances and the related activities and preferably not working under the concerned controlling authorities. This would ensure independence of views and impartiality of investigations. However, there cannot be a rigid rule that this work cannot be entrusted to a junior official as it involves only collection of facts.

(v). The investigations should be carried out by the investigating officer normally within 4/6 weeks. However, if the investigating officer needs more time, he should seek extension from the competent authority. The outer limit for concluding an investigation and taking a view on the report should be 3 months.
vi). Inordinate delays ranging from 18 months to 6 years have been observed in the completion of disciplinary process due to lack of a sense of urgency. It is, therefore, essential that all CVC cases are completed in 15 months and other cases in 11 months as already laid down in terms of our Circular letter No.VIG/2070 dated 15th May 1989. All out efforts should be made to cut down administrative delays. However, in case where there is a delay of more than 12 months the charge-sheeted officer can take up the matter with the Disciplinary Authority. As a follow up measure, a review of all the pending vigilance/disciplinary cases will be done by MD & GE (NB) and Vigilance Dept. at this office at quarterly intervals. Circles have been asked to constitute similar committees vide our letter No. VIG/ 2077 dated the 16th April 1995.

vii). The order of punishment issued by the Disciplinary/Appointing Authority should invariably incorporate a clause advising the official that he may, if he so desires, prefer an appeal with the Appellate Authority. The appeal against the orders of the Disciplinary Authority may be submitted by the concerned official directly to the Appellate Authority with a copy to the Disciplinary Authority. The appeals should invariably be processed by a Department which has nothing to do with the original disciplinary proceedings. The post of a separate Dy. General Manager (Appeals & Reviews) as already been created at Central Office. A similar set up, independent of the Disciplinary Proceedings Department may be created at Local Head Offices. He should report to the Circle Development Officer, Please arrange to post the officials from amongst the officials posted in Vigilance/Disciplinary Proceedings Dept. dealing with the appeals and confirm to us having created a separate cell. (The position of Appeals & Review was created out of this).

viii) Disciplinary cases where the officials have already been placed under suspension should receive priority for disposal over other cases by the Department concerned. A review of suspensions outstanding for more than one year is to be undertaken by the Disciplinary Authority and suspension may be lifted if the disciplinary proceedings are likely to be further prolonged and the gravity of lapses does not warrant capital punishment. In respect of CBI cases, this should be done in consultation with CBI to ensure that the revocation of suspension will not have any adverse impact on the criminal proceedings launched by them and pending before the court. Orders of suspension served on officers should always contain a reference to the provision for appeal against suspension. The appeal against suspension cases would be dealt with by the department which deals with the appeals against final orders of Disciplinary Authority.

ix). At present, unless a charge sheet is issued, the advice relating to exoneration, if any, is not sent to the official. Henceforth, cases where investigations have been undertaken, explanations have been called for and it is observed that there are no lapses; the concerned officer should be advised that the Bank does not propose to proceed further and the matter relating to his involvement is closed unless, as stated earlier, mala fides surface later on. All confidential reports on such officials for the years during which investigation was in progress should be reviewed again by the standing review committee keeping in mind the trauma the officer had undergone. Similarly, officials who have been punished in a disciplinary case should be treated on par with the others in the matter of promotion/postings once the rigour of punishment is over. The confidential reports of such officers should also be reviewed once again and should be consistent with earlier reports before the punishment. The work relating to the review of such confidential reports may also be entrusted to the SRC (Standing Review Committee).
x) For awarding scholarships to the children of employees the certificate stating that there are no disciplinary cases pending contemplated need not be insisted upon. In case of housing loans, vigilance clearance should be obtained. However, in case the pending /contemplated disciplinary case is not, prima facie, serious enough to warrant removal from service, the necessary sanction for the loan may be accorded.

4. We shall be glad if speedy steps are taken to advise these instructions to all Disciplinary Authorities including officers in the grades of SMGS V and above.

Yours faithfully,

Deputy Managing Director & Corporate Development Officer

(ENCL: REFERENCE TO PARA (2) OF CIR. NO.CDO/PM/1424/CIR/65 DATED 22ND JANUARY, 2002)

Disciplinary Proceedings
Advising Officers/ Employees of “No Action”

Whenever explanations have been called from officials/employees and the explanations submitted by the officials/employees are found satisfactory and Disciplinary Authority(ies) decides that no action is warranted against the officials/employees the officials/employees may be advised suitably. The draft letter enclosed to the circular is furnished hereunder.

STATE BANK OF INDIA,
Office……………………

Shri. ___________________

Dear Sir,

HEADING OF THE ALLEGATIONS/COMPLAINTS

Please refer to our letter No.________________ dated the __________________ calling for your explanation on the points mentioned therein.

2. We have since received your explanation dated ______________. We have examined the position presented by you therein with reference to the various allegations stated against you. In this connection, we advise that the Competent Authority for the reasons/points placed before him is satisfied with the explanation offered by you and has decided to treat the matter as closed.

3. However, please note that if any new facts come to light at a later date, Bank reserves its right to initiate such action as deemed fit.

Yours faithfully,

Controller/ Designated Officer
Suspension is an executive action, which in effect results in debarring an employee from active service temporarily. It implies depriving the employee’s office or position and stopping him from exercising powers for a temporary period. It keeps the employee out of duty and away from the work-situation during the pendency of departmental or criminal proceedings against him for allegations, usually, of a serious nature. It however, does not put an end to the master-servant relationship. It is important to remember that umbilical cord is not snapped by placing an employee under suspension. As such, the official continues to be governed by the same discipline and penalties and accountable to the same authorities. The service rules, including those relating to discipline and conduct, continue to be applicable to him as hitherto.

While defining the objective of placing an employee under suspension, Kerala High Court in N. Subramanian v. State, SLR (1973) 1 Kerala 521, stated and that suspension would be justified where:

(a): the allegations against him are such that in the interest of the maintenance of the purity & probity of the administration or the upkeep of proper standard of discipline and morale in the service it will not be desirable to allow the officer to continue in service until he is cleared of the charges; or
(b): where the position occupied by the officer is such that his continuance in service would render the conduct of investigation against him difficult or embarrassing. The Appointing Authority, taking into account the facts and circumstances which are available before it at that stage forms the opinion and comes to the conclusion that the concerned employee should not function anywhere, before the matter is finally set at rest after holding further inquiry”

In another landmark case, Kerala High Court defined the meaning of suspension in the following lines:

‘Putting off from duty’ is in law not different from suspension. Suspension means suspension of the contract as distinct from repudiation or termination. The pristine law of contract is that one of the contracting parties cannot unilaterally terminate the contract or keep it in suspension, without the consent of the other. The principle has always been applied to the law of master and servant also, which to a considerable extent, is governed by the principles of the law of contract. The employer cannot direct the employee to keep away from work and at the same time deny him wages during the period, unless the contract expressly provides such a contingency. The law of master and servant recognises the right of the master to hire and fire, but not the right to suspend. The right to suspend is not an implied term; it can only be a matter of expressed agreement, or of some statutory prescription. In other words, in the absence of an express term in the contract of employment, or a statutory provision governing the contract, a master has no right to keep an employee out of employment and deny him wages at the same time. There may be cases where the contract of employment itself confers an express power to suspend an employee without wages, and in that case the contract will operate. Similarly, there may be situations where though there is nothing in the contract, a law may intervene and empower to keep an employee under suspension without wages either expressly or by necessary implication.

(K Saradamma vs. Senior Superintendent of Police, 1983-I-LLN-SNOC-49)

Suspension is, in short, an interim order intended to keep the powers, functions and privileges of the employee in abeyance. Legally speaking, it is not considered to be a penalty or punishment.
**Grounds for Suspension**

An employee can generally be placed under suspension when the employee’s continuation in the office will

a) where continuance in office of the official will prejudice investigation, trial, any other inquiry e.g. apprehended tampering with witnesses or documents

b) where continuance in office of the official is likely to seriously subvert discipline in the office in which he / she is working

c) where continuance in office of the official will be against the wider public interest, e.g. if there’s a public scandal and is considered necessary to place the official under suspension to demonstrate the policy of the bank to be strict with offices involved in such scandals, particularly corruption.

d) where preliminary inquiry into allegations made has revealed a prima facie case justifying criminal or departmental proceedings, which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service.

e) where the official is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

Even in the above circumstances, an official may be placed on suspension only in respect of misdemeanours of the following types:

1. An offence of conduct involving moral turpitude
2. Corruption, embezzlement of or misappropriation of bank’s money, possessing of disproportionate assets, misuse of official powers for personal gains. Bank issued Circular # CDO/PM/1423/CIR/ 40 dated 6th July 2002 on the need for placing under suspension, the employees having played insider role in perpetuating the frauds).
3. Serious wilful negligence and dereliction of duty resulting in considerable loss to the bank
4. Desertion of duty
5. Refusal or deliberate failure to carry out a written orders of supervising officers and misconduct is such that after completion of due proceedings, the normal punishment would be termination of service in some form

While placing an official under suspension, the DA should consider whether the purpose can be served by transferring the official from his post to a post where he may not repeat the misconduct or influence the investigations, if any, in progress. If the authority finds that the purpose cannot be served by transferring the official from his post to another post, then he should record reasons therefore before placing the official under suspension.

The Bank advised, vide its circular No PA: CIR: 130 dated Sept 4, 1986 that in the following cases there would be adequate justification for placing an employee under suspension on the request received from CBI or otherwise:

1. In a case where a trap has been laid to apprehend an employee, while committing an act of corruption (usually receiving illegal gratification), immediately after the employee has been so apprehended,

2. In the case where, on conducting a search, it is found that an employee is in possession of assets disproportionate to his known source of income and it appears, prima facie that a charge under Sec. 5 (i) (e) of the PCA, 1947 could be laid against, immediately after the prima facie conclusion has been reached.
3. In a case where a charge sheet accusing an employee of specific acts of corruption or any other offences involving moral turpitude has been filed in a criminal court, immediately after the filing of the charge sheet.

4. In a case where, after investigation by the CBI, a prima facie case is made out and pursuant thereto regular departmental action for imposition of major penalty has been instituted against an employee and a charge sheet has been served upon him alleging specific acts of corruption or gross misconduct involving moral turpitude, immediately after the charge sheet has been served upon the employee

Suspension is normally ordered when there is a prima-facie case against an employee, justifying criminal or departmental proceedings against him, which could result either in conviction by the criminal court of law or imposition of major penalty by the employer. Suspension is also ordered by the competent authority in cases where the employee is suspected to have involved in acts prejudicial to the interest of the security of the state, committed an offence involving moral turpitude or indulged in corruption, etc. It is, however, obligatory on the part of the concerned authority to communicate the ground of suspension within a reasonable period of time, if the charge sheet has not been served meanwhile. It may be clarified here that an appeal can be made against the order of suspension.

**Operation of the Order of Suspension**

The order of suspension is generally operative when

a) it is issued and delivered to the employee at the Head Quarters in person

b) it is issued and sent out to him, generally through the Controlling Authority or Reporting Authority, or

c) the suspension order is served by post when the employee is in any other place, on leave or on tour. The person if on leave need not be recalled from duty for placing him under suspension.

**Deemed Suspension: (only applicable to supervising staff)**

Generally, an order of suspension would come into effect forthwith or from a prospective date. The only situation it would operate retrospectively would be a situation like ‘deemed suspension’ where the employee is placed under suspension on the happening of some contingency prescribed in the service rules. It is deemed to be in force unless revoked, or the order expires at the end of the period specified, if any. It can be revoked either by the issuing authority or a higher authority. It is advisable that the issuing authority only revokes his order of suspension. The order of suspension cannot be revived retrospectively.

If an officer is detained in custody for 48 hours or more in respect of a criminal case or otherwise, he is deemed to be under suspension from the date of detention. This period of 48 hours need not be in continuity. It is however advisable, under such circumstances, to serve upon him a proper suspension order. It needs to be clarified here that it is the duty of the employee concerned to intimate his superior officer about the fact of his arrest, or detention. Any failure to do so can be treated as an act of misconduct on the part of the employee.

If the order of dismissal, removal or compulsory retirement of an employee is set aside by a court of law on technical grounds, and the employer intends to continue to proceed against the employee afresh, the former is deemed to be under suspension from the date of such order of the court.
Where a person is reinstated on court’s order, unless exonerated, the period of absence is not treated on duty.

Leave during Suspension

A person under suspension is not granted any leave, nor is he required to attend the office during the period of his suspension. There is no need for him to mark attendance in the attendance-register. He can be instructed to keep away from the office premises for safety reasons. He is, however, expected to stay at the HQ centre and not to leave the centre without obtaining permission from the competent authority. In the event of death of the person during the period of his suspension, the legal heirs of the employee will be entitled to all the benefits of superannuation.

Subsistence Allowance

Rule 68A (7)(i): - An officer placed under suspension shall be entitled to receive during the period of such suspension, subject to his submitting a certificate that he is not engaged in any other employment, business, profession or vocation. Subsistence allowance equal to half his substantive salary and such other allowances as the competent authority may decide, shall be payable to him. (Please see Para 557 of Sastry Award, for Award staff)

Recoveries and Deductions from Subsistence Allowance:
The permissible deductions can be classified under two heads, viz. (a) compulsory deductions and (b) optional deductions. The compulsory deductions from the subsistence allowance are -

I. Income Tax
II. Instalments against loans granted by the Bank
III. House rent, electricity charges, etc. where the employee has been provided with accommodation by the Bank

The optional deductions, as under, can be made at the request of the employee under suspension:

I. Payment to the Credit Co-operative Society
II. Life Insurance Premium

There should not, however, be any deductions under the following heads:

I. Provident Fund Contribution
II. Deduction towards Pension Fund
III. Recovery of loss to the Bank/ Amount due on Court Attachments

Exoneration/ Unjustifiable Suspension:
Where the employee has been fully exonerated or that the suspension was found to be unjustifiable, the employee will be granted the full pay to which he would have been entitled to, had he not been so suspended, together with any allowance of which he was in receipt immediately prior to his suspension or may have been sanctioned subsequently and made applicable to other employees. The period of absence from duty in such a case shall for all purposes, be treated as period spent on duty. In all other cases, where the employee has not been subjected to the penalty of dismissal, the period spent under suspension shall be dealt with in such a manner as the Disciplinary Authority may decide and the pay and allowances of the officer during the period of suspension can be adjusted accordingly.
Certain provisions applicable to Officers placed under suspension

During the period of suspension, an officer may subject to the following provisions be allowed occupation of such official accommodation as may be decided by the Bank.

a. If the suspended officer is residing in the Bank’s leased residential accommodation, he would be left undisturbed
b. If the officer is residing in a designated flat/house allotted to him by virtue of his position as Branch Manager or incumbent of any other post, he should shift to an alternative leased accommodation
c. If the place of residence is Bank’s own house/flat, the suspended official may shift to a leased house or to an alternate accommodation as Bank’s flats are in short supply and there would be long waiting list of incoming officers
d. The leased accommodation can be at the same centre as the Office/branch from where the official was placed under suspension or elsewhere, as per his convenience, and Bank finding it feasible and/or prudent to do so in the interest of pending investigation.
e. The recovery on account of provision of accommodation will be as per rules, as if the official was in active service
f. The furniture/fixture already provided in the said house will not be withdrawn and usual rent will be recovered
g. The rental ceiling will be as per the place of stay
h. The following facilities will also be allowed to the officers under suspension -
   ➢ Residential telephone, if any, will not be withdrawn and may be continued on the same terms as in active service
   ➢ Cleaning materials for upkeep of furniture and fixtures as per rules
   ➢ Reimbursement of causal labour charges as per rules

The officer will not be entitled to free use of the Bank’s car nor will he receive any conveyance allowance. He will also not receive entertainment allowance or special allowances during the period of his suspension.

Certain important points on suspension

a) An order of suspension must be based on an objective assessment of situation by the competent parity himself and not as a result of dictation or direction by an extraneous authority. This is important, because though suspension is not a penalty or punishment; its stigma is having a longer lasting effect on the image of the public servant.

b) CAT in its judgement in Hari Dev Pillai vs. UOI, 1987 7 ATC 914 has held that where the facts are self-evident, suspension may be ordered without holding any preliminary investigation. It held that the principle of res ipsa loquitur (the thing speaks for itself) applies in such a situation.

c) Suspension is an administrative decision, and is not considered to be a penalty

d) suspension has a very injurious effect on the common servant. The employer also stands to lose because of non-availability of active service of the employee.
e) some sort of preliminary investigation should be made to ascertain the prima facie view of the matter to decide whether recourse to suspension is to be taken.
f) public interest is the guiding factor and hence suspension may be limited to cases where public interest demands it.
g) suspension should normally be awarded only in grave charges which are ultimately likely to result in the world, dismissal or reduction in rank of the employee concerned
h) suspension is justified where the continuance in office of the officer concerned will interfere with the inquiry against him on is likely to cause embarrassment to the officers making investigation
i) wherever possible, the transfer of the officers/ employee to some other place or office may be considered in place of suspension.
j) Defiance of the order of suspension is misconduct in itself.
k) When the suspension is not followed by the charge sheet within a reasonable period of time, the suspension renders itself subject to frown/ disapproval of the Courts.
l) Payment of subsistence allowance to the person under suspension is mandatory and non-adherence to this provision would render the entire disciplinary process invalid.
m) Non-payment of subsistence allowance may vitiate an ex-parte enquiry notwithstanding the serving of notices, as that amounts to denial of basic right of survival.
n) The Court Orders cannot attach the subsistence allowance payable to an employee under suspension
o) While in the case of a Bank Officer, he is deemed to be placed under suspension if imprisoned for a period of 48 hours or more; there is no such provision in respect of award staff employees.
p) A suspension, after revocation, cannot be revived with retrospective effect
q) An employee under suspension can be permitted to defend another employee proceeded against departmentally.

PERIODICAL REVIEW OF CASES OF SUSPENSION:
In order to ensure that the period of suspension is kept to the barest minimum, it has been provided that a constant review at every stage, viz, Investigation and Inquiry stages is required to be made by the respective Disciplinary Authorities.

A review of the cases at quarterly intervals shall be made and put up to the CGM of the Circle and a copy thereof is forwarded to Vigilance Department at Corporate Center.

APPEALS AGAINST SUSPENSION:
An Officer may appeal against the order of suspension referred to the rule 68(A) as per the provision of Rule 69(1) of SBIOSR. An appeal shall be preferred within 45 days from the date of receipt of the order appealed against.
On receipt of the appeal, the appellate authority shall consider whether in the light of the provisions and having regard to the circumstances of the case the order of suspension is justified or not; and confirm or revoke the order accordingly.

REVOCATION OF SUSPENSION ORDER:

An order of suspension should be revoked without delay where the employee/official were placed under suspension pending completion of:

(i) departmental investigation or inquiry –
   a) if it is decided that no formal proceedings need be drawn up with a view to imposing penalty of dismissal, removal, compulsory retirement or reduction in rank;
   b) if the employee/official is exonerated of the charges against him,
   c) if the penalty awarded is not dismissal, removal or compulsory retirement;

(ii) investigation or trial in respect of any criminal offence—
   a) if investigation does not disclose any prima facie case of an offence having been committed,
   b) if he is acquitted by a competent court; and it is further decided that no departmental proceedings need be initiated on the basis of facts disclosed during investigation or on the basis of facts which led to the launching of prosecution in a court of law.

If an official who was deemed to have been placed under suspension due to detention in police custody erroneously or without basis and thereafter released without any prosecution having been launched, the deemed suspension may be treated as revoked from the date the cause of suspension itself ceases to exist, i.e. the official released from police custody without any prosecution having been launched. A formal order of revocation of such suspension may however be issued for administrative record.

In the case of an employee/official under suspension who is acquitted in a criminal proceeding and against whose acquittal an appeal or a revision application is filed, it may be considered whether it is necessary to continue him under suspension. If not, the order of suspension should be removed immediately.

The order of revocation of suspension will take effect from the date of issue. However, where it is not practicable to reinstate a suspended employee/official with immediate effect, the order of revocation of suspension should be expressed as taking effect from a date to be specified.

CONSULTATION WITH CBI BEFORE REINSTATEMENT

Wherever an officer/employee has been suspended based, inter alia, on the recommendation by CBI, the revocation may be done in consultation with the CBI. A flow chart on Suspension is placed on the next page.
A provision relating to suspension

AWARD STAFF
Clause: 3(a) / 12 (b)
(Settlement dated 10 04 02)

OFFICERS
Rule 68 (A) /

SUBSISTENCE ALLOWANCE

SASTRY AWARD
(Para 557)

SBIOSRs-1992: RULE 68-A (7)(ii)

Who conducts investigation?

Bank itself

Outside agency

1st 3 months: 1/3rd (BP+All)

Beyond 3 Ms. & Upto 1 Yr: (¼ of BP+All)

Theretherafter: ½ (BP+Allow.)

One yr. from D.O. Sus.

Whichever is late

6 months from D.O. receipt of report of IA, not to prosecute

At full scale

Beyond 1 yr onwards:

Deduction from sub.

Compulsory deductions:
- Income Tax
- Repay. of Loans
- Advances (Fest. Adv)

Optional:
1. LIC Premium
2. Coop. Society borrowings

No deductions:
- Provident Fund

YES

No

1st 6 months: ½ (BP+All)

Thereafter: ½ (BP+Full Allowances)

Provided,

- DA is satisfied the delay is not due to omission/ commission of the CSO
- CSO submits a certificate that he is not engaged in any other employment, business, profession or vocation.

Bank decides to conduct the Enquiry after getting report of the agency?
(Under Cl 4 of BPS-April 2002)

Where enquiry is proposed to be held by Bank's own machinery

Where enquiry is done by outside agency, including trial in a criminal court - No matter who conducted investigations

- CVC Letter No. 3 (v)/ 99/8 dated 5th Oct. 1999 on Drafting of Charge sheet:
- Rule No. 68 (2)(ii) :
A few clarifications about Suspension

Subsistence Allowance

Officers:

i) During the first year of suspension: ½ x (Basic pay + all allowances)

ii) After first year: ½ Basic Pay + full allowances subject to sanction of the Disciplinary Authority.

Award Staff:

I) where the case is not entrusted to or taken up by an outside Agency like CBI/ Police:

i) For the first three months: 1/3 rd of the Pay and allowances.

ii) Beyond 3 months up to one year: ½ x (pay + allowances)

iii) After one year: full pay and allowances provided the enquiry is not delayed for reasons attributable to the workman concerned or any of his representatives.

II) Where the Investigation is done by an outside Agency:

i) For the first three months: 1/3 rd of the Pay and allowances

ii) Beyond 3 months up to one year: ½ x (pay + allowances)

iii) After one year:

a) If the Investigating Agency has come to the conclusion not to prosecute:

Full salary and allowances after one year of suspension or six months from the date of receipt of such advice whichever is later, provided the enquiry is not delayed for reasons attributable to the workman or any of his representative.

b) If the employee is already put on trial/ is being prosecuted by the investigating agency:

In such case, it is implied that he is not entitled for full salary and allowances till the outcome of the trial.

[ Reference para 5 of memorandum of settlement dated 08.09.1983:

Where the investigation is not entrusted to or taken up by an outside agency (i.e. police/ CBI), Subsistence allowance will be payable at the following rates:-
(i) For the first three months 1/3rd of the pay and allowances which the workman would have got but for the suspension
(ii) Thereafter ½ of the pay and allowances
(iii) After one year, full pay and allowances if the enquiry is not delayed for reasons attributable to the concerned workman or any of his representatives. Where the investigation is done by an outside agency and the said agency has come to the conclusion not to prosecute the employee, full pay and allowances will be payable after six months from the date of receipt of Report of such agency, or one year after suspension, whichever is later and in the event the enquiry is not delayed for reasons attributable to the workman or any of his representative ]

III) Payment of Subsistence Allowance on account of revision in the pay scales in respect of workmen staff:

The employee concerned is given the benefit of salary revision and his subsistence allowance re-fixed as per the revised salary. Further, the annual increment which falls due during the period of suspension should be reckoned for calculation of subsistence allowance.

[ Reference: The Personnel Committee of IBA in its meeting held on the 11th June 1997 and 01st June 1998 decided in case of workmen staff as under:

(i) annual increments which fall due during the period of suspension should henceforth be reckoned for calculation of subsistence allowance in respect of workmen staff, in accordance with the provisions of Awards/ Bipartite Settlement; and
(ii) that the benefit of salary revision be extended to those workmen employees who were placed under suspension before such revision became effective.

IV) Payment of higher Subsistence Allowance:

The Disciplinary Authority concerned is the competent authority to decide payment of higher subsistence allowance.

V) Exoneration / Unjustifiable Suspension:

Where the employee has been fully exonerated or that the suspension was found to be unjustifiable, the employee will be granted full pay to which he would have been entitled to, had he not been so suspended, together with any allowance of which he was in receipt immediately prior to his suspension or may have been sanctioned subsequently and made applicable to other employees. The period of absence from duty in such cases shall for all purposes, be treated as period on duty. In all other cases, where the employee has not been subjected to the penalty of dismissal, the period spent under suspension shall be dealt with in such manner as the Disciplinary Authority may decide and the pay and allowances during the period of suspension can be adjusted accordingly.
VI) Increments during the period spent on suspension – Release: The Disciplinary Authority should invariably specify while passing the orders regarding the punishment, as to whether the increment/s for the period of suspension are to be released or withheld. If the order is silent then it should be construed that the increments fallen due during the period of suspension are to be released from the date the suspension was lifted. (As per the advice of Personnel Committee of the IBA). Penalties awarded on or after 13.06.1992 (date of IBA circular), should be interpreted in terms of the clarification given by the Personnel Committee. Past (earlier) cases need not be reopened for practical considerations. [CO Letter PA: CIR: 51: 26.06.1993].

[Vide CO letter No. ADM: SPL: 2551 dated Aug. 27, 1993, CO have clarified that as the above decision is based on the principles of natural justice, it would apply to officers employees equally.]
18. PRINCIPLES OF NATURAL JUSTICE

The fundamental tenet of the rule of law is that all persons are equal before the law and no person can be condemned without being given an opportunity of hearing. This is also called principle of notice and opportunity. This principle is having the generic name called, the principles of natural justice. These principles are applied in the quasi-judicial proceedings, and cover the area where the law is not codified or legislated. There are several areas or specific situations where rules/regulations, which govern the administrative matters, have no patent provisions to guide the administrative authority. In such situations the PRINCIPLES OF NATURAL JUSTICE come to play a greater role to fill the void and thus decide the validity of the administrative actions on the touchstone of "absence of arbitrariness/caprice". While the term 'natural justice' has not been defined in any Code, Law or Rules, it has been used to imply the existence of natural principles of self-evident and unarguable truth. It is virtually a synonym for natural law, devoid of philosophical overtones and implications of that concept. The principles of natural justice aim at securing justice and preventing miscarriage of justice. It may however be noted that the principles cannot be cast in a narrow mould or straightjacket, as this could at times amount to inflexibility and rigidity. The facts and circumstances of individual case would determine as to which particular principle of natural justice should be made applicable in a particular situation.

The principles of natural justice are based on two Latin maxims, viz.

a) Nemo judex causa sua (meaning, no one should be judge in his own cause)
b) Audi Alteram Partem (meaning, hear the other side).

Since all the above principles have been further amplified and expanded by the Courts, in their various pronouncements, some authors are of the view that "justice must not only be done, but also must seen to be done" should be accepted as the third principle.

The principles, recognised and accepted in several judgments of the Supreme Court, are to be applied in all domestic inquiries conducted by the appropriate authorities as also by the Labour Courts/Tribunals (Karnataka SRTC Vs. Lakshidevamma, 2001 Lab. I. C. (June '01) 1774 SC- "strict rules of natural justice are not applicable to the proceedings before the Labour Court/Tribunals, but essentially the rules of natural justice are to be observed in such proceedings"). In departmental proceedings, while the first principle is known as the doctrine of bias, the second one has a relevance to the evidence in inquiries conducted in the course of the proceedings and is known as principle of prejudice. (*There are three types of bias- Personal, Official and pecuniary).

The maxim "Nemo judex causa sua" prohibits a person from being a judge in his own case. By extension, however, it is often cited when referring to the allied but distinct rule that a judge must be free from bias and be impartial. The implications of the maxim in the context of a departmental enquiry are that: -

a) EO/IA is not a complainant himself
b) He is not a witness to the act of misconduct
c) He is not related to any of the parties to the witness, and
d) He is not to act as a prosecution witness.
The second maxim, "Audi Alteram Partem" implies that the accused employee is to be given a reasonable opportunity of being heard before a penalty is imposed against him. The concept extends throughout the disciplinary proceedings, and would essentially mean that:

a) The accused employee is given a proper notice of the proceedings, so that he can prepare his defence,
b) he is provided reasonable opportunity to explain his side of the case
c) he is given a fair opportunity for defending himself by producing his witness and documents in support of his plea
d) he is given proper opportunity to rebut evidence, and cross-examine the witness produced by the prosecution.

The application of the principles of natural justice, as built in Para 521(10) of Sastry Award and Regulation 19.1 of 1st BPS of 1966(as modified from time to time), cl.10, 11,12 of the settlement dated 10.04.2002 and as read (interpreted) in such provisions by the various Courts are as follows:

a) The accused/ delinquent employee will be presumed innocent until he is proved guilty.
b) The accused employee should be informed, in clear terms, of the charges levelled against him
c) The employee should be given a proper notice and be permitted a reasonable time, so that he can make arrangements for his defence.
d) No enquiry should be conducted by a person who is a party to the case either directly or indirectly
e) The EO/IA should act in good faith. He should not suffer from any improper motive. He must treat both the contending parties before him equally, giving neither of them an advantage not enjoyed by the other
f) The EO/IA should not give evidence in the enquiry he is conducting
g) The evidence in support of the charges should normally be taken in the presence of the charged employee, and he should be given proper opportunity of adducing all relevant evidence on which he relies. No material against him should be relied upon without the employee being given an opportunity of explaining them
h) The witness against the accused employee should be examined in his presence, and he should have the opportunity to cross-examine the witnesses deposing against him. He should similarly be allowed to examine the witnesses presented by him.
i) The EO/IA can refuse to let a person appear as a witness only on bona fide grounds similarly, he can refuse to admit a document only if he considers it irrelevant to the case.
j) The EO/IA should not refuse adjournments sought on reasonable grounds by the charged employee
k) There should not be excessive and unjustifiable delay in initiating and completing the action, and
l) The quantum of punishment should be decided only after giving a copy of the EO/IA's report to the charged employee so that he may exercise the option of making further submissions, if he so desires.
m) It should be ensured that the punishment imposed (or proposed to be imposed) is not grossly disproportionate with the nature of the offence or misconduct.

Before the case of UOI vs. Ramzan Khan, AIR 1991 SC 471: 1991 Lab I C 308, the courts interpreted that in view of the 42nd amendment to the Constitution, an employee is not entitled to be heard before the imposition of penalty and thus there was no need to supply a copy of the enquiry report and call for explanation. In fact the service rules were amended to delete the requirement of supply of enquiry report copy to the delinquent employees. This has now been changed.

In Ramzan Khan Case, The Supreme Court held that PRINCIPLES OF NATURAL JUSTICE required that the enquiry officer’s report must be supplied and explanation be called for from the individual before imposing penalty. Later in the case of Mg. Director, ECIL vs. Karunakar, AIR 1994 SC 1074: 1994 Lab I C 762, in which Supreme Court stated that “the right to receive the EO’s report and to show cause against the findings in the report was independent of the right to show cause against the penalty proposed. The two rights came to be confused with each other because as the law stood before the 42nd amendment, the two rights arose simultaneously only at the stage when a notice to show cause against the proposed penalty was given. The Court held that “the first right is the right to prove innocence. The second right is to plead for either no penalty or a lesser penalty, although the conclusion regarding the guilt is accepted. It is the second right, which was taken away by the 42nd amendment.... The employee’s right to receive a copy of the report is thus a part of the “reasonable opportunity to defend himself in the first stage of the enquiry. If this right is denied to him, he is in effect denied the right to defend himself and to prove his innocence in the disciplinary proceedings.”

Though the right of a civil servant to receive EO’s report and to submit his explanation is part and parcel of the right of “reasonable opportunity” flowing from Article 311(2), the Supreme Court expanded the scope of the principle beyond the frontiers of what was originally intended. The implications of Ramzan Khan Case are as follows:

1. The principle is applicable from the date judgment of the case delivered (20.11.1991) and not retrospectively.
2. The principle has no application where the enquiry is conducted by the DA himself, and
3. Even in the matters arising after the cut-off date (20.11.1991), it is not automatic that a punishment is to be set aside on the grounds of non-supply of enquiry report. Thus the Court said that it is not an open license for the dishonest and the guilty to take advantage of this and go scot free, unless they show the "prejudice" caused to them by the failure on the part of the EO.

Earlier, in the case of Olga Tellis Vs. M.C. of Mumbai, AIR 1986 SC 180, the constitution bench of Supreme Court had stated that "the proposition that notice need not be given of a proposed action because, there can possibly be no answer to it, is contrary to the well recognised understanding of the real import of the rule of hearing. That proposition overlooks that justice must not only be done, but must manifestly be seen to be done. In another case, S.L. Kapoor vs. Jagmohan, AIR 1981 SC 136, the Court said, "The non-observance of natural justice is itself prejudice to any man and proof of denial of justice is unnecessary.

In the case of State Bank of Patiala vs. S.K. Sharma, AIR 1996 SC 1669 (flow chart follows at the end of this Chapter); the Supreme Court has expanded the principle of "test of prejudice". It was held that mere violation of any statutory provision does not automatically result in setting aside
of an order of punishment. It is necessary to examine as to whether such a provision is conceived in the interest of the individual or in public interest. A provision made in the case of an individual can be waived and in such a case he cannot allege violation of such a provision. Similarly if such a provision were not a substantive provision, but only a procedural, no right would flow out of the same. Thus, more stringent tests are be examined by a writ Court when procedural violation is alleged.

Yet another theory called “Useless formality Theory” has emerged. This was discussed in the case of M.C. Mehta vs. Union of India AIR 1999 SC 2583 and expanded in the AMU Vs. Mansoor Ali Khan, AIR 2000 SC 2783. It was said in that case that courts need not grant a relief, if granting of such a relief is a useless formality”. But this was stated to be rather the exception to the rule.

The net result is that the courts are assuming more and more “primary role” rather than “secondary” role in the disciplinary matters. Thus the courts are now going into the question of facts to satisfy themselves as to whether any “real prejudice” is caused to accused or any useful purpose would be served by granting relief on account of admitted violation of principles of natural justice and to adjudicate the matter on merit.

FLEXIBILITY OF THE PRINCIPLES

The principles of natural Justice broadly constitute the foundation on which administrative action on disciplinary matters should proceed. These principles have, in fact, become implied terms in every contract of employment and should be complied with. However, these can be waived if they are specially excluded, negatived or varied by any law, contract, settlement, award, standing orders or service rules. As it has been observed, the rule of natural justice is only the handmaid of justice and is a means and not the end; compliance in spirit or substantial compliances is enough (Union of India and another vs. P. K.Roy and others: AIR 1968 SC 850). If the totality of the circumstances satisfies the court that the party visited with an adverse order has not suffered from a denial of reasonable opportunity, the court should decline to be punctilious or fanatical as if the rules of natural justice were sacred scriptures (Instrumentation Ltd Vs. Presiding Officer, Labour court and another: 1988 II LLJ 222)

The real test whether the principles of natural justice have been complied with or not lies in seeing whether the non-observance of any of these principles has resulted in miscarriage of justice or has defected the course of justice (*State of UP vs. Om Prakash Gupta: AIR 1970 SC 679). In fact, no fetish of the principles of natural justice should be made when no prejudice has been caused (S R Patel V. Chairman, Bank of Baroda and another: 1977 II LLJ 409). If the affected party gets reasonable opportunity for presenting his case then the requirements of natural justice are substantially fulfilled and no grievance can be made of infringement of the rules of natural justice by reference to definition of natural justice or citations of natural justice given in different cases from time to time (* Suresh Kushy George Vs. University of Kerala: AIR 1969 SC 198).

The principles of natural justice are not flexible rules (* M/S Bharat Barrel & Drum Mfg.Co vs. L.K.Bose and others: AIR 1967 SC 361). They may be varied to suit the needs, the necessities and requirements of varying peculiar situations by different types of authorities and tribunals. What particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the enquiry is held and
the constitution of the tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principles of natural justice had been contravened, the court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case (* A K Kraipak vs. Union of India and others: AIR 1970 SC 150)

SUM AND SUBSTANCE

The principles of natural justice have been pithily put as vocate (call), interrogate (question) and judicate (decide judiciously). Indeed, the sum and substance of the principles of natural justice is notice, reasonable opportunity for defence, unbiased consideration of the submission and solemn judgement. These are the basic requirements and they represent the minimum protection of the rights of an individual against any arbitrary procedure or misuse of power. Therefore, while taking action against an erring employee, it is necessary for every Disciplinary Authority to ensure observance of the following:

(i) The employee proceeded against is clearly informed of the charges levelled against him;
(ii) He gets a reasonable notice of the case he has to meet;
(iii) He is given opportunity of adducing all relevant evidence on which he relies;
(iv) Evidence in support of the charges is normally taken in his presence;
(v) He is given the chance to cross-examine the witness or witnesses examined in support of the charge;
(vi) No material is relied upon against him without his being given an opportunity of explaining;
(vii) An enquiry is conducted by a person who is neither directly nor indirectly a party to the case;
(viii) The enquiry officer acts in good faith and records his findings with reasons thereof in his report;
(ix) There is no excessive and unjustifiable delay in initiating and completing the action; and
(x) The punishment imposed is not grossly disproportionate with the nature of the offence or misconduct.

The principles of natural justice, although not laid down in any positive law, have become a corollary to our judicial system, political institutions and democratic way of life. The traditional English Law, as discussed, recognises two principles of natural justice viz. ‘no man shall be a judge in his own cause’ and ‘both the sides must be heard’. However, with the rapid development and growth of Constitutional law as well as Administrative law in our country, a third principle, has been evolved and this is ‘speaking order’ or ‘reasoned decisions’. Keeping in views the expanding horizon of the principles of natural justice, the Supreme Court has ruled that the requirement to record reasons can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities (* S N Mukherjee Vs. Union of India: AIR 1990 SC 1984 / * Maneka Gandhi Vs. Union of India: AIR 1978 SC 597). This principle should be substantially observed before punishing with these principles as a consequence of a departmental action. The effect of non-compliance with these principles is that the resulting action becomes untenable.
## 19. WORKMEN STAFF: DISCIPLINARY AUTHORITY STRUCTURE


<table>
<thead>
<tr>
<th>Office/Branch</th>
<th>Appointing/ Disciplinary Authority (not below the rank of AGM)</th>
<th>Appellate Authority (not below the rank of DGM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. All departments at State Bank Bhavan and other Corporate Centre Departments/offices at Mumbai</td>
<td>AGM (Office ADMINISTRATION) at State Bank Bhavan</td>
<td>GM (CS &amp; OL)</td>
</tr>
<tr>
<td>ii. All departments at CBD Belapur.</td>
<td>AGM (Office ADMINISTRATION) at CBD Belapur</td>
<td>DGM (C&amp;CS), CBD Belapur</td>
</tr>
<tr>
<td>iii. Other Corporate Centre establishments outside Mumbai/ Navi Mumbai</td>
<td>Officer-in-charge of Office Administration at the Department/ Establishment or the Head of the Department/ Office concerned not below the rank of AGM. In cases where the Head of the Department/ Office is below the rank of AGM, the controlling authority of the Department/ office not below the rank of AGM</td>
<td>Controlling Authority of Disciplinary / Appointing Authority not below the rank of DGM</td>
</tr>
</tbody>
</table>

### B. Local Head Office and its administration

i) All departments at LHO  
AGM (Administration) of the network having local branches AGM of the establishment. In cases where the Head of the establishment is below the rank of AGM, the controlling authority of the establishment not below the rank of AGM

DGM & CirDO

DGM & CirDO at LHO. In case the departmental head is below the rank of an AGM and, is reporting direct to the DGM & CirDO, LHO, the Appellate Authority will be GM of concerned network.

### Branches under LHO

i) Branches headed by DGMs  
AGM (Accounts and Administration). In cases

DGM of the Branch
where accounts and Admn. Is headed by an officer below the rank of AGM, the senior most AGM at the Branch

WORKMEN STAFF: DISCIPLINARY AUTHORITY STRUCTURE
(As per CDO: P&HRD-IR: CIR: 7 dated 07.06.2006 & P&HRD- IR/ 48/2008-09 dated 20.08.2008) (continued from previous page....)

C. Administrative Unit (AU)
i) All sections at AU and staff posted in regions at Zonal Office/ On-locale regions. AGM(Administration) at ZOs. DGM (NCM)
Where position of AGM (Operations) does not exist, Regional Manager of one of the Region in the module as approved and designated by Circle CGM.
Office/ Branch Appointing/ Disciplinary Authority (not below the rank of AGM) Appellate Authority (not below the rank of DGM)

C. Administrative Unit (AU)

Branches in Administrative Unit headed by
i) AGM rank officer AGM of the Branch DGM (NCM)
ii) SMGS IV or below. As well as branches under On-locale Regional Offices AGM (Administration) at Zonal Office. Where position of AGM (Operations) does not exist, Regional Manager of the Region controlling the branch.

Offices/ establishments in Administrative Unit (Viz. RACPC, SECC, SMECC, TFCPC, LCPC, CCPC, CACs, OSF-HL, MPSF, SARC, CPPC, ACPCs, Locker Centres, Home Centres, etc.) and other offices that will be opened under further roll out of BPR initiatives in future.
SMGS V or below AGM (Administration)/ Regional Manager of one of the Regions as approved and designated by Circle CGM.

D. Departments under Business Groups other than NBG viz. CAG, Mid corp. , SAMG etc.
i) Administrative Offices at Mumbai, including State Bank Bhavan AGM (OAD) at State Bank GM (CS & OL)
Branches/ Offices under Business Groups other than NBG viz. CAG, Mid-Corps., SAMG etc. located away from State Bank Bhavan.
i) Headed by GM Chief Operating Officer (COO) Controlling
Any other AGM designated by concerned Strategic Banking Unit CGM if COO is not posted or is below the rank of AGM / Any other AGM designated by concerned Strategic Banking Unit CGM if COO is not posted or is below the rank of AGM

WORKMEN STAFF: DISCIPLINARY AUTHORITY STRUCTURE
(As per CDO: P&HRD-IR: CIR: 7 dated 07.06.2006)
e-Circular Sl. No: 95/2006-07
(continued from previous page....)

ii) Headed by DGM

Chief Operating Officer (COO)/ Any other AGM designated by concerned Strategic Business Unit CGM if COO is not posted or is below the rank of AGM

DGM of the Branch

iii) Headed by AGM

AGM of the Branch/ Office

Controlling authority of Appointing/ Disciplinary Authority not below the rank of DGM

iv) Headed by SMGS IV and below

Senior most AGM at controlling office/ AGM designated by the CGM of the Business Group.

Controlling authority of Appointing/ Disciplinary Authority not below the rank of DGM
### 20. DELEGATION OF ADMINISTRATIVE POWERS

**SBI OFFICERS' SERVICE RULES 1992: RULE 3 (1) (h)**

**Circular No**

CDO/P&HRD-PM/25/2005-06, Tuesday, July 19, 2005

&

CDO/ P& HRD-IR/ 48/2008-09 dated 20.08.2008

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<table>
<thead>
<tr>
<th>Grade/ Scale of the Officer</th>
<th>Disciplinary Authority (for both Minor and Major Penalties)</th>
<th>Appellate Authority</th>
<th>Reviewing Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>For Disciplinary Proceedings</strong></td>
<td><strong>Minor Penalty [other than Rule 67 (e)]</strong></td>
<td><strong>Major Penalty [including penalty under Rule 67 (e)]</strong></td>
<td><strong>Minor Penalty [other than Rule 67 (e)]</strong></td>
</tr>
<tr>
<td>Scale I &amp; II</td>
<td>DGM (NCM)</td>
<td>GM</td>
<td>CGM</td>
</tr>
<tr>
<td>Scale III</td>
<td>GM</td>
<td>CGM</td>
<td>CGM</td>
</tr>
<tr>
<td>Scale IV &amp; V</td>
<td>GM</td>
<td>CGM</td>
<td>AC</td>
</tr>
<tr>
<td>Scale VI &amp; VII</td>
<td>GE/ DMD &amp; CDO</td>
<td>CHRC</td>
<td>CB</td>
</tr>
<tr>
<td>TEGSS I</td>
<td>MD (To be specified by Chairman)</td>
<td>ECCB</td>
<td>CB</td>
</tr>
<tr>
<td>TEGSS II</td>
<td>Chairman</td>
<td>ECCB</td>
<td>CB</td>
</tr>
</tbody>
</table>

**For Suspension**

| Scale I & II | DGM (NCM) | GM | CGM | CHRC |
| Scale III/IV/V | GE/DMD & CDO | MD (To be specified by Chairman) | ECCB |
| Scale VI & VII | TEGSS I | CHAIRMAN | ECCB |
| TEGSS II | CHAIRMAN | ECCB |
2. for the above purpose: (contents of CDO/P&HRD-PM/25/2005-06, Tuesday, July 19, 2005
a) In respect of Officers posted in Branches in Circles (Mid Corporate Group/Stressed Assets Management Group/Corporate Accounts Group, DGM refers to DGM of the Branch/Module/DGM (MC - Sales Hub) (as the case may be), GM refers to GM 1 / 2 of the Circle/GM of Mid Corporate Region/GM (SAMG)/GM (CAG-Branch) under whose administrative control the officer is working. For officers working in CAG Branches that are being headed by DGM, GM refers to GM (OL&CS) at Corporate Centre. For Officers posted in offsite centers of Mid Corporate Group, DGM refers to DGM (MC-Sales hub) and GM refers to GM of Mid Corporate Region.

b) For Officers working in LHO i.e., departments under the direct control of the Chief General Manager, including training establishments, Zonal Offices, Data Processing Centres and other departments/establishments as may be created as part of the LHO Centre and Departments under the General Managers including those on deputation to Regional Rural Banks (RRBs), DGM refers to the Circle Development Officer (CirDO) and GM refers to the senior General Manager posted in the Circle.

c) For Officers working in Mid Corporate Region, DGM refers to the senior most DGM in the concerned Mid Corporate Region and GM refers to GM of the Mid Corporate Region under whose administrative control the officer is working.

d) For officers working in Central Office establishments outside Mumbai, DGM/GM refers to the DGM/GM of the department where the officer is posted. If no DGM/GM is posted or if the officer is posted at Central Office establishments or Group or SBU headquarters at Mumbai, including deputations to Associates & Subsidiaries / outside organizations but excluding RRBs, DGM refers to DGM (Personnel Management) and General Manager refers to General Manager (OL&CS) at State Bank Bhavan.

e) Chief General Manager will mean Circle CGM/CGM (CAG)/CGM (MCG)/CGM (SAMG). CGM for Staff College/Academy will mean the Principal of the College/Academy and for Inspection & Audit Department, CGM will mean CGM (I&A), CGM (Credit Audit) for Credit Audit Department. For Central Office and all its remaining establishments including departments under Group Executives and Staff Functionaries at the Corporate Centre including deputations to Associates & Subsidiaries / outside organizations but excluding RRBs, Chief General Manager will mean CGM (Personnel & HRD).

f) If the Circle CGM/CGM (CAG)/CGM (MCG)/CGM (SAMG)/Principal of the College/Academy/CGM (I&A)/CGM (Credit Audit) has not been posted or if posted but not joined or if he is away on official duty or on leave for more than 7 days, then the Chief General Manager (P&HRD) will be the Appellate Authority or Reviewing Authority as the case may be. Likewise, in the absence of CGM (P&HRD), the Chief General Manager (A&C) at Central Office will exercise the powers of Appellate Authority or Reviewing Authority, as the case may be.
g) Group Executive (GE) will mean the respective Group Executive and includes SBUs under the business group in which the officer is working. For all other officers in TEGS VI and TEGS VII, DMD & CDO is the Disciplinary Authority.

h) Reviewing Committee (RC) will mean a committee of three Chief General Managers to be nominated by the Chairman. Quorum will be of two members.

i) Appellate Committee (AC) will mean a committee of three Chief General Managers who will be nominated by the Chairman but will be different from the members of the Reviewing Committee above. Quorum will be of two members.

j) CHRC refers to Central Office Human Resources Committee at Corporate Centre. The quorum for CHRC will be 4 members. However, the members who were associated in passing the order under appeal or under review will not participate in the deliberations of the CHRC.

k) If an officer against whom disciplinary proceedings are contemplated has ceased to work in the Branch/Circle/Office where the irregularities took place consequent upon transfer/deputation there from, and, for the reason that relevant records/documents are in the custody of the earlier controlling authority, or any other person considered expedient to complete the proceedings, all decisions in regard to the disciplinary proceedings contemplated or initiated against the officer will be taken by the relative Competent Authorities of the Branch/Circle/Office where the irregularities took place as if the officer was posted at the Branch/Circle/Office. In case the disciplinary proceedings are contemplated after the migration of the account from one group to the other, the competent authority for initiation of disciplinary proceedings shall be the appropriate authority for the officer(s) where the account is presently housed. Due to Circle redesign and formation of Strategic Business Units, there may be cases where the earlier positions no longer exist. In such cases, the present set up of Disciplinary Authority / Appellate Authority / Reviewing Authority i.e., where the account is presently housed, will be the Competent Authority.

4. Authority to impose penalty: In terms of Rule 68 (1) (ii) of SBI Officers’ Service Rules, the Disciplinary Authority or any Authority higher than it may impose any of the penalties in Rule 67 on an Officer. Provided that where the Disciplinary Authority is lower in rank than the Appointing Authority in respect of the category of officers to which the officer belongs, no order imposing any of the penalties specified in clause (e), (f), (g), (h), (i) & (j) of Rule 67 shall be made except by the Appointing Authority or any authority higher than it on the recommendations of the Disciplinary Authority.

5. Dy. Managing Director & Corporate Development Officer has been authorized to identify amongst the designated Disciplinary Authority/Appellate Authority i.e., DGM/GM/CGM, who shall be the appropriate authority in respect of officers in JMG S I to TEGS VII, under the rules, where it is not specially provided.
DISCIPLINARY AUTHORITY AND APPELLATE AUTHORITY
TECHNICAL OFFICERS (FARM SECTOR)/ OFFICERS (MARKETING & RECOVERY)-FARM SECTORS ON CONTRACT BASIS
REF: CDO/P& HRD-PM/33/2006-07 DATED 26.09.2006
E-CIRCULAR SL.NO 341/2006-07

<table>
<thead>
<tr>
<th>CATEGORY OF OFFICER</th>
<th>DISCIPLINARY AUTHORITY</th>
<th>APPELLATE AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Officer (Farm Sector)</td>
<td>GM of the Network under whose administrative control the officer is working</td>
<td>CGM of the Circle</td>
</tr>
<tr>
<td>Officer (Marketing &amp; Recovery)</td>
<td>GM of the Network under whose administrative control the officer is working</td>
<td>CGM of the Circle</td>
</tr>
</tbody>
</table>

21. SBI GENERAL REGULATIONS, 1955
(Amended Regulation 55, approved by Central Board at its meeting dated August 25, 1988)

55 (l): Save as provided in sub-rule (2), and as may be directed by the Central Board, a Local Board may exercise all the powers of the State Bank in respect of the staff serving in the areas in its jurisdiction.

(2)(a): The Appointing and/or Promoting Authority for various categories/ grades of officers and employees shall be such as the Executive Committee may by general or special order designate from time to time.

(b): No officer or employee of the Bank shall be dismissed, discharged, removed or retired from the service of the Bank or reduced to a lower grade or post or to a lower stage in a time scale by any authority lower than the Appointing Authority.

Explanation:
For the purpose of the class (b), the term "Appointing Authority" shall mean and include the authority who has been designed as such in respect of such class or grade of officers or employees concerned, as the case may be, belonging at the time when such an order is passed or any proceedings leading to such order or termination is initiated.

(c): Nothing in this regulation shall affect the powers of a Disciplinary Authority or notified authority under any award, Settlement under the Industrial Disputes Act, 1947 governing, affecting or regulating the service conditions of workmen of the Bank and for the purpose of clause (b) above, the appointing authority shall be deemed to have been substituted by such Disciplinary Authority.
22. CHARGE-SHEET

Charge-sheet is a generic nomenclature for a Charge-Memo/Memorandum, Articles of Charge or Statement of Imputation of Lapses in a disciplinary proceeding. It is a letter or notice addressed to an employee, who is being proceeded against departmentally, setting out the details of charge/s against him. An employee should not normally be punished unless he has been issued a charge sheet and called upon to show cause why the action should not be taken against him. The object of issuing a charge sheet is to provide opportunities to the concerned employee to defend himself in terms of the principles of natural justice.

It is generally a practice to call for an explanation or issue a notice prior to the serving of a charge sheet. This is normally done with a view to arriving at a decision based on the facts and prevailing circumstances about initiation of disciplinary action, or not. There is, however, no mandatory provision for issuing a letter to the delinquent employee, calling for explanation (in the case of Award staff, the phrase “show cause notice” means “charge sheet “- See Third BPS of ’79-prior to the serving of charge sheet.

The disciplinary proceedings begin with the serving of charge sheet. All other administrative action generally taken prior to the serving of charge sheet will not be a part of the disciplinary proceedings. The Disciplinary Authority, issues a charge sheet. However, a person other than the Disciplinary Authority/Appointing Authority can also issue charge sheet provided he has been authorised under the Rules.

The charge sheet should be specific and should set out all the relevant particulars. It should convey the exact nature of the alleged offence by giving details, like the nature and place of incident, the date and time, etc. There should be no verbosity. It should not contain any unnecessary matter. The use of words like ‘etc.; ‘any other document’, and soon should be avoided. Any fault either in regard to the details about the alleged offence or the wordings of the charges may make the charge-sheet vague and may vitiate the entire proceedings. A vague charge sheet may, however, be changed, modified or amended subsequently. It can also be withdrawn and a fresh charge sheet issued instead.

Vide, Corporate Centre letter No. CDO/PM/1421/CIR/82 dated 11th Feb 2000, articles of charge, together with a statement of allegations on which they are based, list of documents, and witnesses relied on, and as far as possible, copies of such documents and statements of witnesses, if any, shall be communicated in writing to the officer. The charge sheet should essentially contain the following ingredients:

a) The details about the facts constituting the charge
b) A reference to the relevant conduct rules or code of conduct under which the particular omission or commission has been defined as a misconduct
c) The details in regard to the employee’s previous record in case the past records are to be relied upon
d) The specific time-limit within which the concerned employee is required to submit his reply to the charge-sheet;
e) Adherence to any other stipulation in the Conduct Rules or Code of Conduct specifically provided for by the Organisation while issuing the charge sheet.

The service of a charge sheet should be done in a proper manner, since any defect in this regard may imply that it has not been served at all. A proper service may involve handing over the charge sheet personally to the accused employee and obtaining his signature or thumb impression on the duplicate copy of the communication. In the event of the employee refusing to accept the charge sheet, an endorsement to that effect should be made on it duly witnessed by at least two persons.

When the charge sheet cannot be served in person it should be served as per clause 16 of settlement dated 10.04.2002 for Award Staff and as per Rule 69(4) of SBIOSR (1992). Evidence of service i.e. the postal receipt of Registration must be kept in record. When the registered notice is received back with the postal department’s noting “refused to accept” or any other such remarks, the charge sheet can be deemed served. The cover containing the communication in such cases should be retained un-opened as an evidence of service of the charge sheet. In certain situations when the charge sheet has come back undelivered with remarks like ‘left’ or ‘not found’, it may be displayed on the Notice Board.

It is to be ensured before the charge sheet is served on the Award Staff and the officials in the grades of Scale I & II, where the Disciplinary authorities are Assistant General Manager (Administration) and the Deputy General Manager (NCM) respectively, it must be vetted by the Deputy General manager (Vigilance) at the Local Head Office. Similarly, in case of officials in the grades of Scale III & IV in which cases the General Manager of the respective Network is the Disciplinary Authority; the charge sheet should be sent along with First Stage reference papers. This will ensure that the charge sheets are vetted at Corporate Centre and the process of issuing charge sheet will not get delayed. (Ref: VIG/ GEN/3224 dated 26.11.2008)

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23. ENQUIRY OFFICER/ INQUIRING AUTHORITY

(EO/IA)

The authority appointed to enquire into allegations against a charge-sheeted employee, under the provisions of the Awards, is called an Enquiry Officer (EO). In the case of supervising staff, governed by the Officers’ Service Rules, however, the authority is known as “Inquiring Authority” (IA). The duties and responsibilities in both the cases are generally similar, and as such, for the purpose of our discussions, the term “EO/IA” will be used interchangeably.

The primary responsibility of the EO/IA is to ascertain facts. While doing so, he should act with the detachment of a judge and should be seen as an impartial and unbiased person with an open mind. He should strictly confine himself to the allegations levelled, and the evidence produced for substantiating or refuting them, and come out with his findings. In short, he, while discharging his responsibilities of a fact-finding mission should ensure that the charge-sheeted employee gets a proper hearing and the principles of natural justice are adhered to, in letter and spirit.

Who can be an EO/IA?

The Disciplinary Authority (DA), Appointing Authority (AA) or any higher authority can be the EO/IA in a departmental enquiry. The concerned authority can appoint another person to hold enquiry as its delegate. The EO/IA should not:

1. himself be a complainant or a victim of the incident of the alleged misconduct
2. be related to any of the party to the enquiry
3. be an eye-witness to the incident
4. prejudge the issue
5. have any personal interest in the act of misconduct
6. have any bias in favour of one person or the other
7. import his personal knowledge on any matter connected with the enquiry

Thus, while deciding about the selection of an EO/IA, the following general guidelines may be kept in mind.

a) Any person superior in rank or a public servant or any other person can be appointed as EO/IA as provided under the Rules. While there is no legal bar in appointing a junior official as an EO/IA, the Bank generally appoints, as a matter of policy, an Officer who is at least one rank senior in scale to the charge-sheeted person.

b) Any person who is a complainant himself, an eyewitness to the incident of misconduct or one who has close relationship to one of the parties to the enquiry cannot act as EO/IA. The EO/IA should not be personally interested in the case. He should not be biased in favour of any of the parties in any manner, and should not attempt to prejudge the case. He should stay the proceedings and refer the matter to the Disciplinary Authority for further orders if an allegation of bias is made against him. He should not put himself in the position of a prosecutor and should function with the detachment of a judge.

c) While the EO/IA is a delegate of the Disciplinary Authority, he is not an agent of the latter; and as such, not subject to the directions of the Disciplinary Authority or his own superior
officers in the conduct of the day-to-day enquiry. Being a delegate himself, he cannot further delegate his responsibility of conducting enquiry to any body else, suo moto.

Outsider as an EO/IA

In the normal situation, an official from within the organisation conducts an enquiry. There are, however, instances, like unavailability of suitable officers, complications concerning the issues under inquiry, requiring specialised assistance and advice from the CVC (Central Vigilance Commission), when the Disciplinary Authority appoints an outsider as EO/IA. The appointment of an outsider as an EO/IA is not violative of the principles of natural justice, and cannot be objected to, so long as the EO/IA does not apparently have any personal animosity against the charge-sheeted person, as he has no authority to suggest or impose penalties. In fact, departmental enquiries can legally be conducted by any outsider, considered competent enough to inquire into allegations fairly and impartially, and in terms with the laid down guideline. Thus, a lawyer, a third party or the CDI (Commissioner of Departmental Inquiries) appointed at the instance of the CVC can be appointed as EO/IA.

Order of appointment

The EO/IA should check up to ensure that his order of appointment issued by the Disciplinary Authority is properly worded and signed by the competent authority and should verify if the enclosures to the charge-sheet and other records are received. The Order of appointment as EO/IA should normally have the following enclosures:

a) a copy of the Order of Appointment of PO,
b) a copy of the charge-sheet, Articles of charge and/or Statement of imputation of lapses,
c) a copy of the Written Statement of defence, if any, submitted by the charge-sheeted person,
d) a list of documents by which and witnesses by whom the charges are proposed to be substantiated,
e) a copy of Statement of witnesses, if any, and
f) the evidence proving delivery of the charge-sheet

Change of an EO/IA

The EO/IA should not normally be changed mid-way while conducting the enquiry. There may however be reasons to go for another EO/IA in case the first one has died, resigned, posted to a far off place on account of administrative exigencies, prolonged sickness, or for some other reasonable ground. While appointing another EO/IA, the Disciplinary Authority should invariably record his decision with specific reasons for the change. The new EO/IA should not make de novo enquiry, and should instead begin the enquiry only from the stage it has been left by the earlier EO/IA. He may however call for examination of documents afresh or call for the evidence from an already-examined witness, wherever he finds himself unable to understand or correlate the issues.

The functions as also the powers of the EO/IA, entrusted with the task of inquiring into allegations of misconduct, are discussed separately in the latter chapters.
24. FUNCTIONS OF IA/ EO:

IA/ EO is a delegate of the Disciplinary Authority, but not subject to his orders/ instructions or those of the superior authority in the administrative hierarchy. IA has three-fold role:

1. To document
2. To analyse
3. To come to conclusion whether a charge has been proved or not

The various functions expected to be performed by the IA/EO, stage to stage wise are given here below:

(1) There should be a proper order of appointment issued by the Disciplinary Authority in respect of the inquiry in his favour and the Inquiry Officer should check up the order to satisfy himself that it is properly worded and signed by the competent authority.

(2) He should check up whether the enclosures to the charge memo and other records are received.

(3) Venue of inquiry should normally be the place where witnesses/documents are readily available, but any other place can be fixed according to the requirements of the case and convenience of the parties.

(4) A daily order sheet should be maintained where the day – to – day transaction of business including date and time, venue of inquiry and brief particulars of progresses of inquiry should be recorded.

(5) Representations received from both sides should be kept in separate files. A gist of representations and requests and orders passed thereon should be recorded in the Daily Order representations and requests and orders passed thereon should be recorded in the Daily Order sheet.

(6) At the preliminary hearing, the Inquiry Officer should ask the charged employee whether he pleads guilty to any or all of the Articles of charge, he shall record the plea, sign the record and obtain the signature of the charged employee. He shall return a finding of guilty in respect of those articles of charge to which the charge to which the charged employee pleads guilty.

(7) At the preliminary hearing, he should apprise the charged employee, the Defence Assistant, if any, and the presenting officer, of the procedure of the inquiry and draw up a programme in consultation with them.

(8) The charged employee may be asked whether he would admit the genuineness and authenticity of the listed documents, and admitted documents may be marked as Exhibits straightaway. This would obviate the necessity of examining witnesses to prove them.

(9) Inquiry officer should ensure that the charged employee is given facilities to inspect the documents listed in the charge and furnish copies of statements of listed witnesses, if already recorded, and ensure that the same is provided to the CSE at least 3 days before their cross examination begins.
(10) He should arrange for production of documents required by the charged employee for his defence. He can reject the request to summon documents considered not relevant to the inquiry, or non-existent documents, and in such a case, he should record reasons for rejecting the request. Where the competent authority claims privilege, he is bound by such decision and he cannot demand their production.

(11) Depositions of witnesses may be recorded in a narrative form. Wherever considered necessary, the question and answer may be recorded verbatim. The statement should be read over to the deponent and corrections if any made in the presence of both sides. The signature of witness should be obtained on each page and the Inquiry Officer should also sign on each page. At the end, the Inquiry Officer should record the following certificate:

"Read over to the witness in the presence of the charged officer and admitted by him as correct/Objection of the witness recorded."

If the witness deposes in a language other than English and the deposition is recorded in English, the deposition should be translated in the language in which it is made and read over to the witness and a certificate recorded as follows:

"Translated and read over to the witness in _____ (language to be mentioned) and admitted by him to be correct."

(12) No other witness or outsider shall be allowed during the examination of each witness.

(13) Combined statements of two or more witnesses should not be recorded. Separate statement of each witness should be recorded.

(14) During the examination-in-chief of a witness, the Inquiry Officer should see that the witness understands the question before answering. If he gives evidence in a language other than English, it shall be correctly translated into English and recorded, unless recorded in the language spoken.

(15) Leading questions, i.e., questions suggesting answers to the witness should not be allowed in chief-examination or re-examination, unless such questions relate to matters which are introductory or undisputed or which have already been sufficiently proved.

(16) The Inquiry Officer may permit the party calling a witness to treat him as hostile and cross-examine him, when there is anything on record or in the testimony of the witness or in his behaviour or demeanour which satisfies him that the witness is not desirous of telling the truth. In such a case, the Inquiry Officer should discuss the evidence of such hostile witness while rejecting or accepting it, in the inquiry report.

(17) Inquiry Officer may put such questions, as he deems fit, to witnesses for obtaining clarification on any point, but he shall not cross-examine witnesses.
(18) Enquiry Officer may record the demeanour of the witnesses wherever considered necessary and discuss it in his report.

(19) Where a number of eyewitnesses to an incident are cited in the charge sheet, there is no obligation to call all of them. Presenting Officer has discretion as to which of them should be called and the Inquiry Officer cannot interfere with his discretion unless it is of the view that such evidence is necessary in the interests of justice.

(20) Charged employee can examine himself as a witness on his own behalf in which case he can be subjected to cross-examination on behalf of the Disciplinary Authority. Here it is the duty of the EI/IA to forewarn the CSE that he will be allowed at his request and that it is not forced by the PO.

(21) Enquiry Officer can reject the request to call any witnesses cited by the delinquent, if their examination is considered irrelevant or vexatious and only to cause delay or embarrassment to a particular witness.

(22) Enquiry Officer has no power to compel the attendance of witnesses and production of documents, unless the provisions of the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 are applicable and specifically extended to the inquiry.

(23) To call the witnesses, the head of the department of office may be requested.

(24) Venue of inquiry should normally be the place where witnesses/documents are readily available, but any other place can be fixed according to the requirements of the case and convenience of the parties.

(25) If bias is alleged against the EO, he must report the allegation against him and await orders of competent authority.

(26) Adjournment may be granted where there are weighty reasons and the Enquiry Officer is satisfied about the genuineness and bona fides of the request. Reasons for rejecting the request for adjournment should be recorded and a mention made in the Daily Order Sheet.

(27) Enquiry Officer is well within his right to regulate the inquiry in such a manner as to cut out undue delay, but in the process cannot refuse oral or documentary evidence relevant to his case which the charged employee wants to lead in his defence. He can check and control the cross-examination of witnesses, if made in irrelevant manner.

(28) Where, during the course of the inquiry, the Inquiry Officer is succeeded by another Enquiry Officer, the successor shall proceed with the inquiry from the stage at which it was left by the predecessor, unless he considers it necessary to recall and re-examine any of the witnesses already examined.

(29) Enquiry Officer should not take any extraneous material not relevant to the charge or material not brought on record in the inquiry, into consideration. He should not look into the preliminary enquiry report or report of investigation by the police or any other record or
documents, when they are not part of the record of inquiry. He should not consult any legal
or other officer and rely on his advice. He should not make any reference to any such
advice in the inquiry report. He should not import his personal knowledge into the inquiry. If
it is established that material has been relied upon behind the back of the charged
employee without disclosing it to him, the inquiry proceedings will be vitiated.

(30) Findings on the charges should be based entirely on the evidence adduced during the
inquiry.

(31) For any decision taken and orders passed on any matter in the course of the inquiry,
cogent reasons should be given in writing, with justification and placed on record.

(32) Enquiry Officer should discuss and assess the evidence, oral and documentary, on record
and give reasons for the findings arrived at by him.

(33) He should give his findings on each charge.

(34) The approach of the Enquiry Officer in arriving at a decision on any issue should be that of
a reasonable man taking a reasonable view of the matter.

(35) He should just do what is "lawful" without being "legalistic".

(36) Inquiry Officer cannot and should not recommend penalty

Dos and DON’T FOR IA/EO VIDE ANNEXURE TO CC P&HRD.
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Do’s for Enquiry Officers (EO):
1. Be clear about the scope and functions as an Enquiry Officer (EO). An
Enquiry Officer should basically enquire into the truth of the charge against
the official and nothing else.
2. Be unbiased, fair, just and judicious and harbour no personal enmity/grudges against the
chargesheeted employee (CSE).
3. Be interested in seeking justice and fair play in the process.
4. In the course of enquiry proceeding ensure that both sides get even handed approach from EO
which is deemed as just and reasonable opportunity for both.
5. Draw up a positive programme in consultation with the parties.
6. Allow adjournments for reasonable reasons only and record reasons therefor.
7. Be serene and even handed during hearings.
8. Ensure previous statements of listed witnesses are made available to the CSE well in time for
cross-examination, at least three days before examination starts.
9. Protect the witnesses from any unfair treatment during examination.
10. Ensure that the witness understands the question put to him before he answers and see that
the answers given in vernacular is properly translated in English and recorded.
11. Recall a witness for re-examination only if it is absolutely necessary in the
interest of justice.
12. Watch the demeanor of the witness while deposing and make a note of that.
13. Use your powers judiciously to put such questions to a witness as to bring out the truth so that you have a fair and clear understanding of the whole case.
14. Exercise powers to give judicious orders on point of objections raised during the course of enquiry.
15. Finding must be based upon evidence adduced during the enquiry and which the other party has had the opportunity to refute, examine and rebut.
16. Draw inferences as a rational and prudent person would do considering the oral/ documentary evidence, noting whether what was said or done was consistent with the normal probability of human behaviour.
17. Base your conclusions on a report which looks reasonable. Clearly indicate in the report the relation between the imputations, evidence and conclusions.
18. Conclusions should be logical and have probative value.
19. After signing the report, EO ceases to be functus-officio and cannot make any changes or offer comments, clarifications etc.

Don’ts for Enquiry Officers (EO):
1. Don’t be interested either in the CSE as proved guilty or being exonerated.
2. Don’t let any undue delay takes place.
3. Don’t allow parties to dominate the proceedings.
4. Don’t allow lengthening the agony of the CSE.
5. Don’t indulge in loose talk or give your views at any stage.
6. Don’t consult others behind the back of the CSE.
7. Don’t hold the ex-parte proceedings if the CSE who is under suspension is unable to do so on account of non-payment of subsistence allowance.
8. Don’t refuse the CSE to rejoin the ex-parte proceedings from the point of time.
9. Don’t allow the questions those are considered irrelevant or are malicious or likely to cause annoyance to the witnesses during cross-examination.
10. Don’t allow leading questions during the examination stage.
11. Don’t allow production of new evidence to fill a gap in the evidence, but only allow where there is inherent lacuna or defect in the evidence originally produced.
12. Don’t bring in any extraneous matter which has not appeared either in the Articles of charges or in the statement of imputations or the evidence adduced at the enquiry and against which the charged employee had no opportunity to defend himself.
13. Don’t indulge in unnecessary hair splitting arguments about the letter of the rule/ instructions but confine to the misconduct and whether the charge of misconduct is made out against the CSE.
14. Don’t summarise the versions of both the sides and then select one.
15. Don’t fail to follow the principles of natural justice during the course of the enquiry.
16. Don’t overstep your role. It is not your role to condemn the CSE or suggest a deterrent punishment.
25. PRESENTING OFFICER (PO)

Presenting Officer (PO) is a representative, an agent and a nominee of the competent authority. His primary function is to present the case of the management before the EO/IA in a logical and convincing manner with a view to establishing the charges against the charge-sheeted person. While the appointment of a Presenting Officer is not obligatory, as a matter of practice, he is invariably appointed at the time of appointment of an EO/IA. It may be clarified that where no PO is appointed, the examination of witnesses by EO/IA will not vitiate the enquiry. The charged employee, however, has no right to insist that the PO must be appointed. The reason is that the appointment or otherwise of the Presenting Officer does not affect his defence in any manner.

1. The Presenting Officer (PO) represents management in a role akin to that of a Defence Representative (DR). Just as the DR would strive to ensure that the charge-sheeted person is absolved of the charges, the PO has the duty to make endeavour to prove the charges to the satisfaction of the EO/IA. As he is the counterpart of the DR, he should be given the same facilities as are admissible to the latter. The EO/IA in such cases merely acts as an impartial judge.

2. The DA must ensure that the PO is furnished with the details of the case. No information or document having bearing on the case should be withheld from him. It is very essential to brief him adequately regarding the case, especially on the weak and controversial points so as to enable him to think of the ways and means to meet the deficiencies. Since the PO represents the management he cannot but be partisan and partial. He should prepare himself very carefully for the job, with the sole objective of proving the charges levelled by the management and should familiarise himself with all the technicalities of the case. He should meet the prosecution witnesses in advance and discuss with them the strategy that he would like to adopt during the enquiry. He should also show the witnesses the statements recorded by them earlier, so that they may refresh their memory, but the PO should not insist that his witnesses say something which is not a fact as the fundamental objective of a departmental enquiry is to get at the truth.

3. The Presenting Officer should study all the documents (listed and others) and try to reconstruct in his mind each step in the event/transaction involved. For scrutinising, he should scrutinise the part played by the charge-sheeted person and others. For each such step, he should see which of the oral and documentary evidence is necessary and adequate to present the case. He should make a thorough study of each element of the event and transaction, and each incidence of misconduct attributed to the charge-sheeted person.

4. During the course of the enquiry the Presenting Officer should keep himself calm and composed. He should not develop any animosity towards the charge-sheeted person or his representative. He should show utmost courtesy and respect to the EO/IA and render him all possible assistance. He should remain alert and make sure that the enquiry proceeds on the right lines. Whenever any attempt is made by the defence to deviate or to bring in irrelevant issues, he should intervene. His
most crucial task is to present the oral and documentary evidence on behalf of the management in a proper sequence and then to cross-examine the witnesses presented by the defence with a view to demolishing their testimony. After the examination and cross-examination of the witnesses is over, he should present his arguments either orally or in writing, highlighting the evidence of the prosecution witnesses which supports the charge and pointing out the contradictions and fallacies of the evidence of the other side. While summing up, he should give cogent arguments drawing specific attention to the points, which prove the charge and explain with reasons why the evidence, which appears to be going against the charge, should be rejected. Finally, he should give clear and convincing justification on the basis of which he expects the EO/IA to hold the charges as proved. The Presenting Officer should, however, never get himself emotionally involved in the case, nor should he express personal happiness or unhappiness over the EO/IA's eventual findings.

5. The investigating officer or a prosecution witness should not ordinarily be appointed as Presenting Officer (Bank has also issued instructions in this regard, recently). If there is a need to present the Investigating Officer, he may be called as a management-witness. Can the Presenting Officer be a witness? The general rule is that the PO cannot be a prosecution witness. But there appears to be no objection in the Presenting Officer being examined as a defence witness on request of the charge-sheeted person where his request is considered to be relevant to the EO/IA. In such cases, another person may be appointed as the Presenting Officer for the purpose of his cross-examination.

6. The Disciplinary Authority is expected to supply the following documents to the Presenting Officer:
   - A copy of the Articles of Charge and the statement of the imputation of misconduct
   - A copy of the Statement of Defence, if any, submitted by the charge-sheeted person in reply to the charge sheet.
   - Copies of earlier statements of witnesses mentioned in the list of witnesses
   - The evidence proving the delivery of charge sheet to the charged employee
   - A copy of the order appointing the EO/IA.

Dos and DON'T FOR PRESENTING OFFICERS VIDE ANNEXURE TO CC P&HRD.
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Do’s for the Presenting Officers (PO):
1. Receive the following documents from the Disciplinary Authority; (i) a copy of the Articles of Charge and the Statement of the imputation of misconduct;
   (ii) a copy of the Statement of Defence, if any, submitted by the chargesheeted person in reply to the chargesheet; (iii) copies of earlier statements of witnesses mentioned in the list of witnesses;
(iv) the evidence providing the delivery of chargesheet to the charged employee; (v) a copy of the order appointing the EO/IA.

2. Be furnished with the details of the case. No information or document having bearing on the case should be withheld from him.

3. Be briefed adequately regarding the case, especially on the weak and controversial points so as to think of the ways and means to meet the deficiencies.

4. Prepare carefully for the job, with the sole object of proving the charges levelled by the management and familiarize with all the technicalities of the case.

5. Meet the prosecution witnesses in advance and discuss with them the strategy likely to be adopted during the enquiry.

6. Show the witnesses the statements recorded by them earlier, so that they may refresh their memory.

7. Study all the documents (listed and others) and try to reconstruct in mind each step in the event/transaction involved.

8. Scrutinize the part played by the chargesheeted person and others. For each such step, see which of the oral and documentary evidence is necessary and adequate to present the case.

9. Make a thorough study of each element of the event and transaction, and each incidence of misconduct attributed to the chargesheeted person.

10. During the course of the enquiry, keep calm and composed.

11. Show utmost courtesy and respect to the EO/IA and render him all possible assistance.

12. Remain alert and make sure that the enquiry proceeds on the right lines. Whenever any attempt is made by the defence to deviate or to bring in irrelevant issues, intervene.

13. Present the oral and documentary evidence on behalf of the management in a proper sequence and then cross-examine the witnesses presented by the defence with a view to demolishing their testimony.

14. After the examination and cross-examination of the witnesses is over, present arguments either orally or in writing highlighting the evidence of the prosecution witnesses which support the charges and pointing out the contradictions, inconsistencies and fallacies of the evidence adduced by the other side.

15. While summing up, give cogent arguments drawing specific attention to the points, which prove the charge and explain with reasons why the evidence, which appears to be going against the charge, should be rejected.

16. Give clear and convincing justification on the basis of which the EO is expected to hold the charges as proved.

17. Never get yourself emotionally involved in the case, nor express personal happiness or unhappiness over the EO eventual findings.
Don’ts for the Presenting Officer (PO):
1. Don’t develop any animosity towards the chargesheeted person or his representative.
2. Don’t insist on your witnesses to say something that is not a fact as the fundamental objective of a departmental enquiry is to get into the truth.
3. Don’t be impolite, arrogant and indecent in behavior.
4. Don’t hobnob with the Defence Representative (DR).
5. Don’t allow the presence of those not directly concerned with the case, including those from CBI, Police etc. in the course of deposition.
6. Don’t demand adjournment unnecessarily.
7. Don’t contact the defence witness before or after the enquiry.
26. DEFENCE REPRESENTATIVE (DR / DA)

In terms of the principles of natural justice the charge-sheeted person is entitled to have another employee of the Bank as his Defence Representative, subject to the relevant rules. An officer, for instance, cannot take in hand more than three cases, as a defence representative. The charge-sheeted employee has no right, as a matter of principle, to ask for a particular employee as his defence representative, if the controlling authority is unable to spare his services for the purpose. The charge-sheeted person cannot, similarly, demand the assistance of an employee who is dealing with the case in his official capacity. However, an employee is normally not required to seek permission for acting as a DR of the charge-sheeted employee. The latter is also not required to obtain permission for taking an employee as his defence representative.

The charge-sheeted person should be allowed to engage a legal practitioner or a lawyer as defence representative where the Presenting Officer is one such person (CVC also have issued instructions on this). A prosecuting officer, a law graduate or a person having training in legal field, under normal circumstances, is considered as a legally trained mind. Where the charge-sheeted person is pitted against a legally trained mind, any refusal to grant permission to be represented through a legal practitioner or lawyer will tantamount to denial of reasonable opportunity, and will be a violation of the principle of natural justice. The engagement of a lawyer should therefore be allowed in such cases. In cases of complicated nature, similarly, it is advisable to permit engagement of a legal practitioner as defence representative in the interest of justice and fair play.

A charged Award employee in the Bank, in terms of the Cl.12 of the settlement dated 10th April 2002, shall be permitted to be defended:

a. by a representative of a registered union of bank employees **of which he is a member on the date first notified for the commencement of the enquiry**

b. where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed, or

c. at the request of the said union by a representative of the State Federation or all India Organisation to which such union is affiliated**; or

d. with the Bank's permission, by a lawyer.

** the italicised portion is applicable to Associate Banks & nationalised Banks who were signatory to the 1st BPS of 1966.

Though there are few stipulations in the Service Rules governing the role of the defence representative in an enquiry, the following DOs and DON'Ts can be taken as broad guidelines for the defence:
**DOs:** The defence representative should:

a) always keep a copy of the conduct rules and the rules governing disciplinary proceedings with him

b) have the complete file of the case in hand for ready reference

c) check charge sheet for inherent defects, contradictions, etc.

d) draft reply for the charge-sheeted person

e) examine the appointment letter of EO/IA and PO

f) ensure that the EO/IA is not biased

g) be courteous and respectful to the EO/IA and Presenting Officer

h) accompany the charge-sheeted person during inspection of documents, files, etc.

i) remain present when the mandatory questions are put to charge-sheeted person

j) keep his cards close to his chest

k) be present throughout the period of enquiry

l) get his legitimate objections duly recorded in the proceedings

m) raise objections to putting up of leading questions by the Presenting Officer while presenting a witness

n) cross examine the management witness properly

o) raise objection to irrelevant documents and unnecessary witnesses

p) put up the defence witness and conduct examination-in-chief, properly

q) put up the defence documents, and ensure that these are not disallowed without reasonable grounds

r) resist new evidence after the enquiry is closed

s) ensure to get a copy of the written brief from the PO before submitting the charge-sheeted person’s written brief

t) request for accompanying the charge-sheeted person for personal hearing

u) keep abreast with the laws relating to the issues involved and departmental enquiries
DON'Ts: The Defence Representative should ensure NOT TO:

a) take up issues on behalf of the charge-sheeted person which are unethical and immoral
b) be impolite, arrogant and indecent in behaviour
c) contact the prosecution witness before or after the enquiry
d) make utterances in despair or allow the charge-sheeted employee to utter such words
e) hob-nob with the PO, nor should he allow the EO/IA to hob-nob with the former
f) allow the EO/IA to do his own investigation at the back of the charge-sheeted employee
g) unnecessarily and without foundation level allegations of bias against the EO/IA
h) examine the charge-sheeted person in his defence
i) demand adjournment unnecessarily
j) allow presence of those not directly concerned, including those from CBI, police, etc. in the course of the deposition
k) allow cross examination of charge-sheeted person by the EO/IA

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27. WITNESSES FOR DOMESTIC ENQUIRY

The evidence of witnesses usually assumes special significance in domestic enquiries. While the provisions of the Criminal Procedure Code, the Civil Procedure Code or the Evidence Act, strictly speaking, do not apply to the departmental or domestic enquiry proceedings, the fundamentals of these Statutes in relation to obtaining evidence of witnesses do have a bearing on such proceedings. The need for strict adherence to the principles of natural justice in dealing with domestic enquiries cannot therefore be overemphasised.

There are instances when the EO/IA, in the absence of any specific provision in the standing orders of a good number of organisations, finds himself in a predicament as to whether or not the list of witnesses should be supplied to the charge-sheeted person? Incidentally, there are provisions under CPC and Cr PC about furnishing the list of witnesses to the charged person. Even in proceedings against a public servant under Article 311 of the Constitution, the accused is, in the name of fair and reasonable opportunity to him is supplied with the particulars of the evidence proposed to be adduced against him. It is, in view of this, advisable that while giving particulars of charges, the charge-sheeted person is broadly given an indication of the names of persons likely to be called for giving evidence, to ensure that he is afforded all possible opportunity to defend himself. It may however be noted that giving this information even at a later stage will not vitiate the enquiry. Please refer Clause 12 (a) of the settlement dated 10-4-2002 and Rule 68.2 (iii) and Rule 68.2 (x) (iv) of SBIOSR (1992)

The EO/IA is not precluded, if he thinks fit and equitable in the circumstances of the case, from examining the witnesses who have not been named in the list or documents supplied to the charge-sheeted person. In situations like this, the latter may seek some more time to prepare his case for cross-examination at a subsequent date. The requests for such an adjournment should normally be acceded to. However, if the employee does not opt to make a grievance at the appropriate time, this objection would not be available to him, unless he could show that his case was badly prejudiced on account of non-supply of the name of witness in advance.

The initiative to ask for the list of witnesses should come from the charge-sheeted person himself. While the charge sheeted person should invariably be granted time for preparing his notes for cross examining a new witness called without giving him prior notice, it has also been held that even refusal by the management to supply the list of witness would not amount to refusal of opportunity to defend if the facts of the case are not in dispute.

In certain cases, the EO/IA has to deal with very delicate situations while receiving evidence in domestic enquiries. In such eventualities, he should tailor the proceedings in such a fashion as might look beneficent to the employee. Sometimes, the management-representative while supplying the list of witnesses to the defence makes a request that the charge-sheeted person is made to furnish the list of his witnesses also. The EO/IA may refuse to grant the request, as it is not a reasonable one, and since it also prejudices the case of the workman in relation to his defence. He should
not insist on the charge-sheeted person disclosing his defence in advance. This is against
the spirit of criminal jurisprudence as well.

**Relevant Judgements**

**EO/IA can put classificatory questions to witnesses**

*Manchandani Electricals and Radio Industries Ltd. Vs Workmen, 1975 (I) LLJ SC 391*

Refusal to supply copies of statements of witnesses recorded during preliminary enquiry
and documents mentioned in the charge sheet and merely allowing inspecting the
documents and taking notes and rejecting request for engaging steno where 38 witnesses
were examined and 112 documents running into hundreds of pages produced, amounts to
denial of reasonable opportunity.

*Kashinath Dikshita vs. Union of India, 1986 (2) SLR SC 620*

Even if the charged employee admits the charges, the facts of misconduct should be
established with documentary/oral evidence.

*Natwarbha S Makwana Vs. Union Bank of India: 1985 II LLJ 297 (Guj.HC)*

**Examination of Witnesses:**

The broad guidelines in respect of examination of witnesses are indicated below:

a) The EO/IA has no power to compel the attendance of witnesses and production of
documents, unless there are specific provisions in the Rules. Action can, however,
be taken against official witnesses for failure to appear before the close of the
evidence on behalf of the Disciplinary Authority

b) The EO/IA may himself summon defence witnesses by writing to the employer and
not merely leave it to the charge sheeted person to produce them. He can reject
the request to call any witness cited by the delinquent if the latter’s examination is
considered irrelevant or vexatious or it amounts to causing harassment or
embarrassment

c) Where a number of witnesses to an incident or any aspect of the incident is
referred to in the course of the inquiry; there is no obligation on the part of the
EO/IA to call all of them. The PO has a discretion as to which of them should be
called and the EO/IA cannot interfere with his discretion, unless it is shown that
there is some oblique motive for not examining them

d) The EO/IA should not permit recording of joint statement of two or more witnesses.
Separate statements should be recorded from each individual witness in the case.
It should also be ensured that no other witness or outsider should be allowed
during the examination of a witness

e) The EO/IA may permit the charge sheeted person to examine himself as a witness
in his own behalf in which case the latter can be subjected to cross-examination
on behalf of the Disciplinary Authority

f) Depositions of witnesses may be recorded in a narrative form. Wherever
considered necessary, question and answer may be recorded verbatim. The
statement should be read over to the deponent and corrections if any made in the
presence of both sides. The signature of witness should be obtained on each page
and the EO/IA should also sign on each page. At the end, the EO/IA should record the following certificate:

*Read over to the witness in the presence of the charged officer and admitted by him as correct. / Objection of the witness recorded.*

**g)** The EO/IA should ensure that the previous statements recorded during preliminary enquiry, investigation, court-trial, etc. are not relied upon, unless those witnesses are produced for examination and cross-examination.

**h)** During the examination of a witness the EO/IA should see that the witness understands the question before answering. If he gives evidence in a language other than the language in which it is being recorded, it should be correctly translated into the language of inquiry, and properly recorded, unless recorded in the language spoken. If the witness deposes in a language other than the language of the inquiry, and the deposition is recorded in language of inquiry, the deposition should be translated in the language it is made and read over to the witness and a certificate be recorded as follows:

*“Translated and read over to the witness in ………. (language to be mentioned) and admitted by him to be correct.”*

**a)** The EO/IA may put such questions as he deems fit to the witness for obtaining clarification in any point, but he should not cross-examine the witness.

**Examination-in-Chief**

The process of examination of a witness in the course of a departmental enquiry by the party who has brought him for evidence is known as ‘examination-in-chief’ of the witness. The purpose of the examination is to elicit information from the witness in relation to the charges, so that the case of the party bringing in the party is proved. It has, therefore, to be relevant, pertinent and focused. EO/IA should not allow leading questions in the course of examination-in-chief, unless such questions relate to matters which are introductory or undisputed, or which have already been proved. A leading question is one wherein the suggestive answer is indicated in the question itself.

**Cross-examination**

The examination of a witness by the opposing party is called ‘cross-examination of witness’. The leading questions can well be put during cross-examination. So far as the industrial worker is concerned, he has a right to cross-examine the witnesses against him during inquiry proceedings after charge sheet. The canons of natural justice enjoin that a charge sheeted person who has a right to cross-examine the witnesses must know, beforehand the names of such witnesses together with a brief statement as to the nature of evidence they would give in the proceedings.

**Re-examination**

The examination of a witness subsequent to the cross-examination by the party, who called him, is called re-examination of witness. While cross-examination of witness need
not be confined to the facts to which the witness testified in the examination in chief, the re-examination shall be directed to the explanation of matters referred to in the cross-examination, and if any new matter is introduced with the permission of the EO in the re-examination, the opposite party may further cross examine upon that matter.

**Hostile Witness**

a) The EO/IA may permit the party calling a witness to treat him as a hostile witness, and allow him to cross examine the witness, when there is something on record or in the testimony of the witness or in the behaviour or demeanour which satisfies him that the witness is not willing to tell the truth. In such a case, the EO/IA should make it a point to discuss the evidence of such hostile witness in the enquiry report, while rejecting or accepting it,
28. INQUIRY PROCESS

The inquiry process starts with the appointment of the EO/IA. The various stages involved in the process are -

1. Issue of the Notice of Inquiry
2. Holding of Preliminary Inquiry
3. Holding of the Regular Inquiry
4. Examination of witnesses
5. Examination of documents
6. Adjournments
7. Ex-parte Inquiry
8. Submission of oral / written brief
9. Findings and submission of Report

1. Notice of Inquiry

a) The EO/IA, soon after he is appointed, should fix up a date for the preliminary hearing, and give a formal notice to the charge sheeted person calling him to appear for the enquiry. A copy of the notice is generally endorsed to the Presenting Officer. It may be noted here that the charge-sheeted person should be given reasonable time for making preparations and arranging his co-worker for the defence. There should therefore be sufficient time lag between the issue of the notice and the date of enquiry.

b) The notice should give specific information about the time, date and venue of the enquiry. If the notice already sent is vague in respect of these points, he should give a fresh notice in unambiguous terms.

c) If the charge sheeted person refuses to accept the notice, it should be recorded and duly witnessed by two persons, including the person entrusted to serve the notice. In such cases, the notice should be sent under Registered Post AD. The acknowledgement received should be kept on records. However, if the postal authorities return the notice on the ground that the addressee has refused to accept it, the EO/IA should preserve the cover in original containing the remarks of the postal department without opening it. The serving of the notice, in that case, could be presumed, unless it is proved otherwise. If, however, the notice is returned undelivered with remarks like ‘left’, ‘not known’, ‘not found’, etc., one cannot take this to be a proper serving of notice. The cases of Nathuna Ram Vs Union of India 1989 CAT (Calcutta) and Sidramappa Vs Divisional Commissioner (Karnataka HC) are the cases in point. (Please refer clause 16 of Memorandum of Settlement dated 10.04.2002 and Rule 69(4) of SBIOSR).

2. Preliminary Hearing

a) The EO/IA cannot proceed with the enquiry when there is a specific order of stay issued by Court. While there is no legal bar in parallel continuation of both departmental enquiry and judicial prosecution on the same set of allegations, in the case of bank employees
governed by the Awards, however, If within the pendency of the proceedings thus instituted he is put on trial such proceedings shall be stayed pending the completion of the trial. (Clause 4 of Memorandum of Settlement dated 10th April 2002) (The Chandigarh High Court has also interpreted the Sastry Award / Settlements and observed that if criminal trial does not end within a period of one year of its commencement and the chargesheet against the employee is pending, concurrent departmental enquiry can be revived and brought to conclusion.)

b) At the preliminary hearing, the EO/IA should apprise the charged employee, the defence assistant, if any, and the PO, of the procedure of the inquiry and draw up a programme in consultation with them.

c) It may be noted here that while the provisions of the Evidence Act and Cr. PC are not applicable in a departmental enquiry, the spirit of the enactment need to be followed.

d) He should, at the preliminary hearing, ask the charge sheeted person, one by one, whether the latter pleads guilty to any of the article/s of charge. The EO/IA should record the plea of the charge-sheeted person, sign the record and obtain the signature of the employee. He should return a finding of ‘guilty’ in respect of those articles of charge to which the charged employee pleads guilty.

e) The charged employee may be asked whether he would admit the genuineness and authenticity of the listed documents and admitted documents may be marked as exhibit straightaway. This would obviate the necessity of examining the witnesses in respect of those documents, to prove them.

f) Once the preliminary hearing is conducted, there is no need for the EO/IA to give any further notice of the next date of inquiry. The date for the main hearing can be fixed by him and noted down in the records of the proceedings. This will constitute advice regarding the next date of hearing.

g) The venue of inquiry should normally be the place where witnesses and documents are readily available, but any other place can also be fixed according to the requirements of the case and convenience of all the parties, particularly the defence.

Relevant Judgement
Change of the venue of enquiry at short notice where the charged employee could not keep his witnesses present is violative of the principles of natural justice

Murari Mohan Deb vs. The Secretary to the Govt of India and Others
1985 II LLJ 176 (SC)

3. Regular Hearing
The regular hearing begins with the Presenting Officer taking the initiative to substantiate the charges levelled against the charge-sheeted person. The process usually begins with the prosecution producing its witness for examination (Examination in Chief) by the Presenting Officer. The witness is then available for examination (Cross Examination) by the opposing party, viz., the defence.

On the scheduled date, time and venue fixed for the regular hearing the PO should bring with him the documents he is relying upon to prove the charges. He should also produce his witnesses and their statements, if any. There are two types of witnesses. For Bank witnesses who are posted at
other branches or offices, he should advise their controlling authority for their relief at the appropriate time. In case of the witnesses who are not in the employment of the Bank, the PO should contact them and request them to be present at the date, time and venue of the inquiry. The travelling expenses, etc. of the bank employees will be borne by the Bank and those of private parties can also be paid, if such a request is made by the witnesses. In case of outsiders, the PO should obtain prior approval from the controlling authority if TA/DA is to be paid to them, but in exceptional circumstance, the PO can pay these bills to a reasonable extent and obtain ex-post facto sanction from the controlling authority.

It is most important to note that whenever private witnesses are for deposition, their examination-in-chief as well as cross examination should be completed on the same day. The venue of the inquiry preferably should be the place at which the misconduct was committed to facilitate the witnesses to be readily available. The venue of inquiry can also be fixed at any other place with the mutual consent of all the parties but such place should be relevant vis-à-vis the place of misconduct or availability of witnesses, etc.

4. Examination of Witnesses

1. The PO would first lead evidence through examination of witnesses and production of the documents to prove the charges levelled against the employee. The following procedure should normally be followed in presenting bank’s case:

2. If the documents, presented by the PO in the inquiry proceedings have been admitted by the charged sheeted person, this fact should be recorded in the register of inquiry proceedings and then these documents are not required to be proved.

3. Documents not admitted are required to be substantiated through the witnesses who had executed the documents. Other witnesses can also testify the genuineness of the documents, if they are dealing with the documents. The same point can be testified by several witnesses, but it is the PO who will decide whether he needs to produce one or more witnesses for testifying the documents. He is to decide how the alleged charges can be substantiated.

4. The cross examination of the bank’s witnesses is done either by the charged-sheeted person or his defence representative. The cross-examination is permitted after the examination-in-chief of the witnesses is over. It should relate to relevant facts. Cross-examination can relate to facts that may not have been testified during the examination-in-chief but should only relate to the charges mentioned in the charge sheet. Further, there may be a need for re-examining a witness by the party presenting him. On a request made by the concerned party, the enquiry officer may permit re-examination of a witness. In such an event, the re-examination should be confined only to those issues that came up during the examination-in-chief, or cross-examination. No new issue can be brought up during re-examination.

5. There may be occasions, when a request is made by one of the parties to present a witness not listed earlier, the EO/IA may allow this, but all such witnesses should be made available to the opposite party for cross examination, if the latter so demands. The EO/IA also, can in the course of the proceedings, put such questions to the witnesses, as he considers necessary to ascertain the facts. He should however, not cross-examine the
witnesses. It is a normal practice for the EO/IA to question the charge-sheeted employee generally on the circumstances appearing against him for getting at the truth.

**Examination of documents:** On the question of examination of the documents, the EO/IA should ensure the following:

a) EO/IA should ensure that the charged employee is given all facilities to inspect the documents listed in the charge and is furnished copies of statements of listed witnesses.

b) He should arrange for production of documents required by the charged employee for his defence. He can reject the request to summon documents considered not relevant to the enquiry and in such a case he should record reasons for rejecting the request. Where the competent authority claims privilege, he is bound by such decision and he cannot demand their production.

c) The EO/IA may in his discretion allow the PO to produce evidence not included in the list and may himself call for new evidence or recall and re-examine any witness in such a case he shall make available to the charged employee a list of the further evidence and allow him to inspect the documents and adjourn the inquiry. He may also allow the charged employee to produce new evidence, if he is of the opinion that production of such evidence is necessary in the interest of justice.

d) EO/IA should examine the charged employee on the circumstances appearing against him in the evidence on record to enable him to explain them. EO/IA cannot cross-examine the charged employee or put incriminating questions. Arguments may be heard on both sides. Where written briefs are submitted, it is necessary that a copy of the brief of the PO is furnished to the charged employee before the latter is asked to submit his own. EO/IA is well within his right to regulate the Inquiry in such a manner as to cut down undue delay, but in due process cannot refuse oral or documentary evidence relevant to his case which the charged employee wants to lead in his defence.

4. **Adjournment**

It is common for a departmental enquiry to be adjourned for time to time for certain valid reasons. The usual grounds for adjournments are a) sickness of one of the parties, or failure to attend the enquiry on account of sickness, b) an exigency arising suddenly c) arranging presence of a witness or production of a document, and d) consultations.

Adjournments are granted or refused at the discretion of the EO/IA. It is incumbent on the part of the EO/IA to record the reasons for granting or not granting adjournments. His decision cannot be challenged or there be an appeal against such decisions to a superior authority.

It has however been observed that in many instances, adjournment is requested on flimsy and unacceptable reasons, and as a consequence, avoidable delay is caused. Care should therefore be taken to ensure that adjournments are not granted as a matter of routine. If it is suspected that a charge-sheeted person is trying to obtain frequent adjournments on ground of sickness, he may be directed to get himself examined by the Bank’s Medical Officer and/or through duly nominated panel of Medical Practitioners to ensure that he is not buying time. Long adjournments should also not be granted under normal situations.
Sometimes, the charge-sheeted employee seeks adjournment on the plea that his defence representative has not come. If the other participants are present, the inquiry may be continued, disregarding the plea of the charged employee. It is in fact the latter’s responsibility to ensure presence of the defence representative, and in case the defence representative is absent, he should defend himself.

In certain cases, the charge-sheeted employee claims that the date fixed for the inquiry is not convenient to his representative as the latter would be preoccupied with union or association meetings, negotiations, election, etc. While a request for change of dates on such grounds alone is normally not tenable, it is for the EO to decide if the reason given is a valid one, and if the request can be accepted.

5. RECORDING OF ENQUIRY PROCEEDINGS:
The EO would normally record the inquiry proceedings himself. In certain instances, a steno/typist is provided to assist the recording. The recording should invariably be made verbatim in the first person. While there is no compulsion to report the proceedings in the charge sheeted person’s own language, the present practice generally acceptable is to record the proceedings either in English or, Hindi or the language of the State.

Both the parties, the EO and the witness, who gave the evidence, should sign each page of the proceedings.

6. INSPECTION OF SITE
In certain cases, it becomes imperative for the EO to inspect the site of the incident either on his own or at the request of the parties, before arriving at his conclusion. It is advisable, in such cases, to give notice to all those concerned prior to making the inspection, so that if any of them wishes to be present during the inspection, they may be so permitted. The EO may seek his own clarification at the inspection site for getting his doubts dispelled. It is noteworthy that the fact about the inspection of site having been done should invariably be mentioned in the proceedings.

7. Ex parte Inquiry
Whenever the charge-sheeted person deliberately avoids attending the inquiry or boycotts the same, it is open for the EO to proceed ex-parte. The circumstances leading to an ex-parte inquiry may be as under:
(a) When the charge sheeted person, despite notices, fails to attend the inquiry without submitting valid reasons for having done so, and/or
b). When the charge sheeted person walks out of and boycotts the enquiry proceedings consequent to certain rulings given by the Enquiry Officer, or
c). when the charged sheeted person makes a request for an adjournment, and the request is disallowed by the EO, but the latter subsequently is absents himself.

In the event of the EO deciding to go ex parte, he has to ensure the following:
1. He should record in the proceedings about the opportunities given and adjournments granted to the charged sheeted person,
2. While the PO, as usual, should be called upon to lead the evidence first, and prove the charges, the EO has the added responsibility to see that the absence of the charge
sheeted person does not lead to the latter’s interest being ignored. The prosecution should not exploit the absence of the charge-sheeted person to have a cakewalk. The EO has therefore to fully satisfy himself about the facts by putting relevant questions to the witnesses and get clarification before arriving at the conclusions/ findings,

3. The EO has to be quite careful to see that there is no lacunae in the inquiry, and the formalities are strictly and properly observed, and all necessary evidence is produced and recorded,

4. A copy of the daily proceedings of inquiry should invariably be sent to the charge sheeted person on an on-going basis, irrespective of the fact that he was absent at any stage/s of inquiry. This serves two purposes: The charge sheeted person is kept posted with the progress so that he can intervene if he so desires, and that he can exercise the option to re-join at any stage in the middle of the proceedings. He cannot under the circumstances claim that he was not given a hearing.

8. Submission of oral or written brief

Soon after the inquiry is concluded, the EO should ask the PO and the DR, if they wish to submit an oral or written brief. While the oral brief can be written down in the proceedings itself (and the signatures of all concerned obtained), in the event of the parties requesting to make a written brief, they should be allowed some time, depending on the number of charges, to present the brief. The PO may also be asked to furnish a copy of the brief to the DR direct, for the latter to prepare his brief, and submit it to the EO at the earliest, generally within seven days or so.

9. Findings and Submission of Report

The task of the EO comes to a logical conclusion only after he has made his findings and submitted his report to the DA. The report should be comprehensive, complete, clear and unambiguous. The EO should give his findings, supported by proper evidence and reasons as to whether the charge, to his independent judgment, is proved or not proved. He should not give benefit of doubt to the delinquent. The events subsequent to the incident/s in the charge sheet should not be considered in the findings nor should the findings be outside the scope of the charge. The EO should ensure against offering his recommendations for imposition of penalty.

Next chapter discusses in detail the role of the Enquiry Officer regarding arriving at his findings and preparation of the Inquiry Report.
29. FINDINGS OF THE ENQUIRY OFFICER
(EVALUATION/ASSESSMENT OF EVIDENCE)

After the conclusion of the enquiry proceedings (remember that calling for & submitting the written briefs by both the sides, is part of the inquiry proceedings), the next logical step for the EO is to arrive at and record his findings along with reasons. This process is a must and any failure to do so would introduce a serious infirmity into the inquiry and render it invalid in law, as the principles of natural justice would demand that EO gives reasons for arriving at the specific conclusions and it also facilitates the judicial scrutiny at a later date, if the CSP opts for that.

The findings must be based on the relevant evidence and not on conjectures, surmises or suspicion. In the absence of the corroborative evidence on a particular issue, however, the EO should give his own reasons for accepting or rejecting a particular contention. The EO, while recording his findings, should be careful enough to deal only with the charges as framed in the charge sheet and should not take note of extraneous matter. It is obligatory on his part to consider all the material on record and to ensure against giving his findings on an assumption of a fact. The findings should be arrived at strictly on the basis of the evidentiary value of the material / statements / records made / produced during the course of that inquiry conducted by him and no further.

EVALUATION/ASSESSMENT OF EVIDENCE:

It is the job of the Enquiry Officer to assess / appraise or evaluate the evidence on record, before giving his findings on the charge/s. For this purpose, he needs to know and learn the broad principles for assessing evidence; otherwise he will not be in a position, to defend the enquiry report or the grounds for coming to his conclusions. Having the knowledge of such process is essential for the Management representative also to effectively put forward the material witnesses and documents to be produced from his own side as also to put doubts in the mind of the Inquiry officer relating to the arguments put forward by the defence side, or while cross-examining the defence witnesses, or for raising legitimate objections at appropriate stage during enquiry, or for addressing management arguments, and raising proper pleas at proper stage. This Chapter is devoted to the broad principles to be applied for assessing evidence both oral as well as documentary.

Standard of Proof in Departmental Enquiries:

Though strict rules of evidence act are not applicable to departmental enquiries, yet the findings have to be based on acceptable evidence and not on mere suspicion or presumptions. It is well settled principle that disciplinary proceedings through a departmental inquiry are quasi-judicial in character and any conclusion to be reached by EO/IA must be on the basis of acceptable evidence. It is true that the enquiry held by the departmental authorities is not governed by the strict and technical rules of evidence.

The standard of proof in departmental proceedings is thus that of "preponderance of probabilities" and not of "proof beyond reasonable doubt". Naturally, therefore, the standard of proof varies in each proceeding according to the gravity of the charge. What is the appropriate degree of probability that is required in a given case depends on what is at stake. Even in a domestic enquiry, suspicion cannot take the place of proof (Union of India v. H.C. Goel AIR 1964 SC 364).
In Padmanav vs. Union of India, 1987(1) SLR 503, A Cuttack CAT case, the applicant was facing charge of misappropriation of money by forging the signatures of the payees on the money order. The applicant had put up the defence that he had sent some other person for delivering the money order and had no personal knowledge as to whether the amount was actually paid. Prosecution did not produce any handwriting expert to prove the forgery was committed by the applicant. The Hon'ble Court said that the payee was an interested witness, to get the payment twice. Thus adverse inference was drawn against Prosecution case for failure to produce some handwriting expert.

Before dealing with the contentions canvassed, we may remind ourselves of the principles in point, crystallised by judicial decisions.

The minimum requirement of principles of natural justice is that the Tribunal should arrive at its conclusions on the basis of some evidence i.e. of some evidentiary value in respect of the charge. Suspicion cannot be allowed to take the place of the proof in domestic enquiries. (H.R. Goel AIR 1964 SC 364)

In punishing the guilty, scrupulous care must be exercised that the innocent are not punished. This applies to departmental proceedings also. (Nand Kishore vs. State of Bihar, 1978 SLJ 591 (SC).

In Departmental Enquiries the burden of proof is on the management and it cannot be shifted on the accused:
In the Vaidyanathan case of 1987 (4) SLJ (CAT) 931, the accused was charged with leaking a question paper, as a copy of the paper was found in his house, but the copy was not compared with the original. So no evidence was led in the enquiry that the copy seized in his house was a copy of the question paper. EO/IA in his findings stated that there was no necessity to compare the original with the one recovered, so long as the charged official did not produce any evidence that it was a different paper for some other purpose.

CAT observed that the EO/IA had placed the onus of proof on the CSO to establish that what was recovered was in his house was not a copy of the question paper of the University, whereas it was actually the duty of the PO to prove with reference the documentary evidence and the evidence adduced by the witnesses that what was seized was a copy of the University question paper. It is apparent that in the enquiry, the charge against the applicant is not proved, being not based on valid evidence.

Hear-say evidence:
The word 'hear-say' is used in various senses. Sometimes it means whatever a person is heard to say; sometimes it means whatever a person declares on information given by someone else.

The Privy Council in the case of Subramaniam v. Public Prosecutor, 1956 (1) W.L.R stated "Evidence of a statement made to a witness who is not himself called as a witness may or may not be hearsay. It is hearsay and not admissible when the object of evidence is to establish the truth of what is contained in the statement. It is not hearsay and is admissible when it is proposed to establish by evidence, not the truth of the statement but the fact that it was made. The fact that it was made quite apart from its truth is frequently relevant in considering the mental state and conduct thereafter of the witness or some other persons in whose presence the same was made."
The Supreme Court also referred to its earlier observations in case of State of Haryana v. Rattan Singh, AIR 1977 SC 1512 to the following effect:

It is well settled that in a domestic enquiry, the sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has “reasonable nexus and credibilty”.

Further, in the Supreme Court decision in Jagannath Prasad Sharma v. State of UP, (AIR 1961 SC 1245 reconsidered). The Full Bench ventured to illustrate the position as under and observed thus:

"If half a dozen persons go to the office of the Roadways and complain that the conductor of a certain bus collected fare from them but did not issue to them tickets and if later on the passengers are not examined as witnesses, findings of guilt based solely upon the complaint given by the passengers would amount to a finding based on pure hear-say and involve violation of principles of natural justice. On the other hand, where a bus is checked and it is found that tickets have not been issued to several passengers and the passengers say in the presence of the conductor that they paid the fare, the EO would be justified in acting upon the evidence of the checkers stating these facts, even though the passengers themselves are not-examined as witnesses. A finding of guilt arrived at by him would not be based on pure hear-say.

In a later case also (Sarup Singh v. State of Punjab, 1989 (3) SU 80 (P&H HC), a learned single Judge, binding himself to the ratio of aforesaid Full Bench Judgement, upheld the dismissal of a bus conductor on the basis of evidence of two inspectors who had conducted the “raid” on the bus, being corroborative of each other’s evidence, and also of their earlier report sent immediately after the raid.

In this case, even the names and addresses of the passengers were not made available to the charged official (conductor). The statements given by the passengers were in writing, and perhaps countersigned by conductor also, though he may be disputing their version. Thus identities of passengers must also be established, even if they are not examined before the enquiry officer. This is only one aspect of the matter. The other aspect may be the passengers being interested witnesses, to save their own skin, may give false statements implicating the conductor- which is not un-common in actual practice.

Evidence of Hostile witness
It is the settled position of law relating to hostile witnesses. The previous law on this subject was that the evidence of a hostile witness has to be rejected in its entirety and this is no more the law prevalent in the field. The latest settled position of law is that the evidence appearing in the deposition of a particular hostile witness can be used in favour of or against a particular party. (989 (1) STJ (CA1) 564 (Cuttack Bench). In the instant case, however, the Hon’ble Bench noted that the statement of the witness, who was declared hostile, was full of irreconcilable discrepancies and prevaricating statements seriously telling upon his veracity and creditability, and therefore, that witness had completely discredited himself. So his evidence had to be kept out from consideration.
Evidence is to be "weighed and not "counted"

The testimony of a single witness, if believed, is sufficient to establish any fact. It is the quality and not the quantity of evidence which is important. A decision may be based upon the evidence of a single witness. However, it all depends upon the facts of each case and the nature of evidence. (ESIC v. Subharaya Adiga, 1988-II-LLN-452) (Karnataka HC) (DB).

Material witness and complainant:
It is not necessary to produce the complainant before the enquiry officer if his complaint (written or verbal) is otherwise proved, say, where the person to whom complaint was made gives his evidence to that effect, to prove that complaint was actually made, and not to prove that complaint was true. But in some cases, non-examination of the complainant may be fatal to the case.

In yet another case, where the complainant was not examined formally before the enquiry officer, the charged official had produced a letter from the complainant that she did not make complaint against him of her free consent, but under coercion. The request made by the CSO for production of the original complaint letter was also rejected by the EO. Though proceedings were initiated under minor penalty proceedings, it was held that without formal evidence of complainant-the charges being grave (of outraging her modesty)-the findings of the Disciplinary Authority that the charge has been proved could not be sustained, (V. Mayakrishnan v. Director of Postal Services, 1990 (2) SLR 228 (CAT: Madras).

VITAL DOCUMENTS' PRODUCTION:
If the management or prosecution does not produce the documents, which are vital for reaching any conclusion, the management's or prosecution’s case has to fail.

In a case where allegation against the charge-sheeted conductor was that he misappropriated the amount of fare collected from the passengers on the ground that the amounts mentioned in the carbon copy were less than the pencil copy, but despite the request of the charge-sheeted employee, both the copies were not produced on the ground that they were not available, the only irresistible conclusion would be that the management has failed to establish the charge. (Bihar State Road Transport Corporation Vs. IT, 1985-I-LLN-382) Patna HC.

Where the charge of embezzlement against the employee was sought to be substantiated on the basis of photocopies of certain entries in concerned pass book, but the employee while denying the allegations, requested the management to produce the original documents, and stated that the photostat copies were fabricated, but it was not acceded to. The Supreme Court of India observed that the evidence produced by management was very scrappy indeed, and finding was without basis. (Makhan Singh v. Narainpura Co-Op. Agricultural Service Society', 1987-II-LLN 404) (SC).

Where no evidence is adduced by management on a particular fact alleged against the employee, that fact will be treated as "not proved"

A disciplinary proceeding is quasi-judicial in nature, and if no evidence about the existence of a particular fact is adduced during the course of enquiry, that fact cannot be utilised against the employee. The reason for this is that had there been evidence about the fact, the charged officer might have offered an explanation. (Haribash Mallik v. Union of India, 1990 (2) ATJ 268) (Cuttack Bench).
Un-rebutted or consistent statement of a witness is to be preferred to a statement of another witness full or inconsistencies and contradictions

A consistent and un-rebutted (where no question were asked to a witness on any particular aspect of his statement) statement of a witness cannot be ignored by the enquiry officer. Where not a single question was put to the witness by the Presenting Officer or the Enquiry Officer, Inquiry Officer cannot give a finding that be was not speaking the truth. In case of inconsistent statement, it cannot be accepted in its entirety, and either a part of it going in favor of the department or the other part going in favour of the charged official has to be accepted. So in preference to such a statement, it is better to accept un-rebutted and consistent statement of the other witness. (Ashok Kumar v. State of UP, 1986 (4) SU (CA1) 437 (Allahabad Bench).

Enquiry officer should not take into account any extraneous material (which is not part or evidence recorded in the enquiry) for giving his findings. If the enquiry officer relies upon extraneous material while giving his findings, the enquiry report stands vitiated. The extraneous matter cannot be used even for the purpose of meeting the points raised by the applicant in his defence. (P. Munuswamy v. Supdt. of Police, 1987 (1) SLR 632) (Mad- CAT).

Where an extraneous material has entered into the findings, it cannot be said as to what extent that factor has weighed with the EO/IA and the DA, or that without this factor entering into consideration, whether the findings of the enquiry officer would have been the same or not, being based on other relevant factors.

The findings cannot be based upon the personal knowledge of the EO/IA or the DA ( Mangai vs. Director of Social Welfare (1988) 6 ATC 356) (Madras).

Where findings are arrived at, by excluding relevant material and taking into account irrelevant material the findings have to be treated as "perverse". (AJ. Vaswani v. UOI, 1983-II-LLN-510) (Calcutta HC).

Enquiry Officer cannot rely on a statement of prosecution witness recorded by the Presenting Officer. (H. Munuswamy case) (supra).

The extent or weightage to be attached to previous statements recorded earlier:

The statement made under Section 164 Cr.P.C. can be looked into during the DP is for the purpose of deciding the probative value of other evidence although the person making such a statement has not been examined in the disciplinary proceedings (B.C. Basak v. IDBI, 1983 (3) SLR 119) I i (Calcutta HC).

For assessing the evidence, "tape record or speech" is to be evaluated like any other document; tape recorded talk is admissible in departmental enquiries

"It was held in the case of ( AIR 1975 SC 1788), that the tape records of speeches are "documents" as defined in Section 3 of the Evidence Act which stand on the same footing as photographs and they are admissible in evidence on satisfying the following conditions:
(a). The voice of the person alleged to be speaking must be duly identified by the maker of the record or by others who knew it

(b). Accuracy of what was actually recorded has to be proved by the maker of the record and satisfactory evidence, direct or circumstantial, has to be there so as to rule out possibilities of tampering with the record.

(c). The subject matter recorded had to be shown to be relevant according to the rules of relevancy found in the evidence act. (As noted in Giasuddin v. Union of India, 1987 *"(1) ATJ 305") (Guwahati).

Once the tape recorded speech is not objected to by the charged official and is admitted into evidence, it is not necessary to record verbatim into the enquiry proceedings whatever is recorded in the cassette, as tape record becomes a part of the record of enquiry proceedings. It is open to anybody to play the record and ascertain about its contents. (Giasuddin’s case).

ENQUIRY REPORT WRITING:
While writing the Report, the EO/IA has to keep in mind the following factors:

1. the general demeanour of the witnesses who tendered evidence,
2. the status and official position of the witness and if he is a non official, the social position,
3. the circumstances in which the witness was placed in connection with the misconduct of the accused;
4. the records, grounds or merits of facts or the opinion of the witnesses;
5. the degree of the inference, if a fact is inferred from another fact as regards admissibility, direct and circumstantial evidence on the same
6. the EO/IA should also consider the consistency of the statements with the normal probabilities of human behaviour

While the conclusions of the EO cannot be challenged so long as they are supported by evidence on record, it is necessary that the EO guards himself against pitfalls generally on the following nature:

a). ERRORS OF FACTS: - Quite often the findings are based on extraneous matter or are in respect of an act, which does not technically amount to a misconduct. Similarly, giving findings on a charge not disclosed in the charge sheet will also not stand the scrutiny of law

b). PERVERSE FINDING: - The finding of the EO is open to challenge if it can be proved that the report is not based on any evidence or is entirely opposed to the whole body of evidence adduced before the EO. Certain judicial decisions have established the proposition that if the conclusion reached by the EO in domestic inquiry is found to be perverse in the strict legal sense, that would justify industrial adjudication to examine the merits of the disputes.

c). DISHONEST INTENTION, VICTIMISATION, ETC.: - Any dishonest intention of the EO in giving an adverse finding in collusion with the management or otherwise, if established, will render the inquiry vitiated.

The findings of the EO should be a self-contained document - in the form of a report- containing in brief, the allegations, the substance of the evidence adduced by both the sides during the course of the inquiry and the conclusions of the EO. The report is not expected to be exhaustive.
as for example is the case of court's judgement. Minor inconsistencies in the evidence are not enough to vitiate the report. The law expects the EO to give a clear finding as to whether the charges levelled against the CSP stands proved or not. The theory of benefit of doubt has no place in departmental inquiries. Departmental proceedings are not on the same footing as criminal proceedings and therefore the doctrine of benefit of doubt has no application. Further, the EO should not give a finding outside the scope of the charge sheet. The report, to put it briefly, should basically be a statement of reasons and should ordinarily contain:

- short recital of the case
- the charges against the CSP
- the evidence adduced in support of the charge
- the defence of the CSP
- any other relevant matter
- EO's finding on each charge as to whether the charge, in his judgement, has been proved or not,
- Conclusions

To sum up, the EO/IA should compile the report keeping the following points in mind:

a) The report should be a complete and self sufficient document so that one can get to know the entire case without reference to any other document
b) In writing the report the EO/IA should not use his own knowledge. The decision of the EO/IA should be based upon the enquiry records and he should not import his own knowledge while writing the report
c) the findings of the EO/IA should not be arbitrary or based on extraneous consideration
d) the EO/IA should not consider the facts not on record of enquiry
e) the EO/IA cannot omit from consideration any material on record
f) the EO/IA should not consider the events subsequent to the incident for which an employee is charged
g) the EO/IA is not to give benefit of doubt
h) the EO/IA should not decide what should be the appropriate penalty
i) the EO/IA should give a finding beyond the scope of the charge

Relevant Judgements

Report of EO/IA must be reasoned one and discuss evidence. Failure renders termination illegal

Anil Kumar vs. Presiding Officer 1985 (3) SLR SC 26

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### 30. DOMESTIC INQUIRY vs. COURT TRIAL

The important points of difference between domestic enquiry and the judicial trial are briefly indicated below:

<table>
<thead>
<tr>
<th>DOMESTIC INQUIRY</th>
<th>COURT TRIAL</th>
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<tbody>
<tr>
<td>The presiding officer, generally an officer from the Bank, is known as Enquiry Officer or Inquiring Authority. While he is not a professional in conducting enquiries, he is expected to be unbiased. Oath taking is not necessary while conducting a departmental enquiry.</td>
<td>The presiding officer, the Judge, is a professional. He is impartial. Oath-taking is an essential ingredient in the court trials.</td>
</tr>
<tr>
<td>The EO/IA does not possess power to summon any witness for giving a deposition.</td>
<td>The Judge has the power to summon any witness he considers relevant for giving evidence in the court-trial. Lawyers are freely engaged to defend the accused.</td>
</tr>
<tr>
<td>We do not generally allow lawyers to be engaged in a Departmental Enquiry. However, if the Presenting Officer is a legally trained mind or where the case is a complicated one requiring expert handling, a lawyer may be engaged with the permission of the Bank for Award Staff.</td>
<td>The members of public, the press and others are freely given access to the court-room for witnessing the judicial trial.</td>
</tr>
<tr>
<td>In a departmental enquiry no members of public are allowed. The enquiry is a private affair, attended by only those having a direct relevance to the proceedings.</td>
<td>The standard of proof of evidence in the Court of law is in terms of the Indian Evidence Act, and therefore very strict. The guilt is pronounced only when the evidence produced is &quot;beyond all reasonable doubt&quot;.</td>
</tr>
<tr>
<td>In a departmental proceedings, the standard of proof is not very rigorous and the findings are made on the principle of 'preponderance of probability'.</td>
<td>The judge is authorised to pronounce sentence or impose a punishment if he finds the accused guilty.</td>
</tr>
<tr>
<td>The EO/IA is a delegate of the Disciplinary Authority, and has no authority to impose a penalty. He is not even expected to suggest the type or quantum of penalty.</td>
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31. DECISION REGARDING PUNISHMENT
(ROLE OF D.A. / A.A.)

In a disciplinary proceeding, punishment is imposed for an act of misconduct, not in order to seek retribution or give vent to a feeling of wrath, but to correct the fault of the employee concerned by making him more alert in future and to hold out a warning to the other employees to be careful in the discharge of their duties so that they do not expose themselves to similar punishment.

The Disciplinary Authority, on receipt of the Inquiry report, has to take an independent view as to whether the charge is established or not. If he has reasons to come to a conclusion that the charge/s is/are proved, he has to take a decision in regard to the imposition of punishment on the CSP. However, before deciding about the nature and quantum of punishment, he should carefully consider the inquiry report and satisfy himself that the inquiry has been conducted properly in a fair and impartial manner and is not perverse and that the CSP has been given all reasonable opportunities to defend his case. Any violation of the principles of natural justice at any stage of the proceeding will make the enquiry vitiated and consequently the punishment liable to be quashed. He should further ensure that the findings are based on the records of the inquiry proceedings. Where the DA feels that the findings of the EO/IA are perverse or conflicting, or are not totally based on the evidence on record, he may differ with the findings of the EO/IA and draw his own inference and conclusion. It is for the DA to consider whether to agree with the conclusions of the EO/IA or not. (Please refer to CC instruction: NBG: P &HRD: IR: spl: 307 dated 09.11.2004 at the end of Chapter 4 for the instructions regarding this.)

If the past bad record of the charged employee is to be considered for the purpose of determining the quantum of the penalty, he should be informed of the same and given a chance to explain. This should he done at least at the stage of show cause notice. In the case of persons to whom Article 311 (2) applies, the past record should be made the subject matter of specific charge in the charge sheet itself.

It may not be out of place to mention that while in the case of the members of the Award staff the factors to be considered before awarding punishment have been laid down, in settlement dated 10.04.2002); in the case of the supervising staff such factors have not been clearly specified. However, the principles of natural justice governing the Award staff are also applicable in the case of officers. These general principles need to be kept in view by the Disciplinary Authority while proposing punishment for the delinquent. These are summed up as follows:

1. to weigh and examine the entire set of evidence put up in the course of the inquiry for ensuring that the inference drawn by the EO/IA in his finding is reasonable and just,
2. to examine the nature and gravity of the misconduct proved against the employee,
3. to consider the aggravating and/or extenuating circumstances that may exist,
4. to establish the previous record, if any, of the CSP & to see if a sympathetic view can be taken in the event of an unblemished record
5. To see if the employee is genuinely repentant
6. To verify the nature of punishment usually inflicted for an identical misconduct so that consistency & uniformity in action could be ensured and whimsical decisions could be avoided
7. to ensure that the punishment is generally commensurate with the gravity of the misconduct
8. To ascertain whether the effect of punishment is demoralising on the staff and the morale &
general level of discipline in the bank is considerably affected.

It may be clarified in this connection that while the Disciplinary Authority is not bound to discuss all
contentions and give detailed reasons for the conclusion he has arrived at, he is expected to apply
his mind to the inquiry records, independently. The order of punishment is not vitiated if the
Disciplinary Authority consults other officers; so long as the order passed by him shows that he
applied his mind to the facts of the case. If the Disciplinary Authority agrees with the findings of
EO/IA, generally he need not give any reason for his agreement.

Punishments for Award staff members

1. Gross Misconduct {Please refer Clause 6 of settlement dated 10.04.2002 }
2. Minor Misconduct {Please refer Clause 8 of settlement dated 10.04.2002 }

Penalties for Supervising Staff:

In case of Supervising Staff (unlike the Award staff where the misconduct is first categorised as
gross/ minor misconduct) the penalties are prescribed as Minor /Major penalties in terms of Rule 67
of SBIOSRs-1992

SECOND SHOW CAUSE NOTICE AND HEARING:

In terms of settlement dated 10.04.2002 (clause 12), the Disciplinary Authority after taking a
tentative decision about the quantum of punishment, addresses a communication, commonly known
as the second show-cause notice to the concerned employee informing him the nature of the
proposed punishment and calling upon him to show cause within a stipulated time- as to why the
proposed punishment should not be imposed on him. The employee, instead of submitting his
written reply to the show cause notice, may be asked to appear before the Disciplinary Authority, in
case the employee so desires. This is called 'personal hearing'. Before this stage, the enquiry report
and the proceedings of the enquiry may also be handed over to the concerned employee, to reply to
the show cause notice (or at the time of personal hearing) to enable him to put forward his reasons
and other extenuating circumstances, if any, which according to him would justify the Disciplinary
Authority in either dropping the charges or taking a lenient view about the quantum of punishment to
be imposed. At the time of personal hearing the employee should not be permitted to re-open the
departmental enquiry. However, he can be represented by his defence counsel or by any other
person. (The CSE can be represented by his defence counsel in the personal hearing)

In case the employee does not avail himself of the opportunity of personal hearing or submitting his
written statement to the second show cause notice granted to him, the DA may proceed further in
the matter on the basis of the material available on record.

While deciding about the final punishment to be imposed on the CSE, the DA should take into
account all the relevant points raised by the former at the time of personal hearing or his written
submission in reply to the show cause notice. If the employee adduces valid and convincing
reasons justifying lighter punishment, the DA after considering all the aspects of the misconduct,
should pass the final order. The punishment order should be in the form of speaking order, i.e. the
Authority making the order has to give reasons for arriving at the decision, though of course, the
nature and the elaboration of the reasons for arriving at the decision will necessarily depend on the facts of each case. The final order should clearly indicate that the DA has considered the Inquiry Report, inquiry proceedings, other aggravating or extenuating circumstances, if any, and in case of the Award staff, the submissions made by him in response to the Second Show Cause Notice. It should indicate that the final decision regarding the awarding the punishment has been taken only after consideration of all the aforesaid factors. Since the disciplinary proceedings are quasi judicial in nature, it is necessary that the order issued by the DA should have the attributes of a judicial order. The decision in regard to the quantum of punishment should be reached according to the law and it should not be the result of caprice, whim or fancy or reached on the ground of the policy of expediency. In other words, the authority exercising disciplinary powers should issue self-contained, speaking and reasoned order. Furnishing of speaking order eliminates arbitrariness and ensures application of mind.

Personal Hearing for Supervising staff: In view of the Hon’ble Supreme Court Judgment in the case of Shri. Ranjit Kumar Chakraborty and till such time the case of Kamal Kishore Prasad is finally decided, as an interim measure, it has been decided that "The Appointing Authority while deciding on the punishment to the officer for the proved misconduct must give a personal hearing to the delinquent officer before imposing any major penalty under Rule 68 (3) iii of SBIOSR. Where the disciplinary Authority and the Appointment Authority are the same, the Disciplinary Authority will give personal hearing to the delinquent officer before imposing any major penalty. (Ref. Per Management Dept – Human Resouces, Corporate Center Letter No. CDO:PM: 12: SPL: 903 dated 21,10,2010

SPEAKING ORDERS

Handing out punishment involves an exercise of judgment. By the very nature, a quasi judicial authority is not expected to pass a very elaborate order with minute details, as is generally the case with the court judgments. The need for the speaking order is felt so that the application of mind could be inferred and the incidence of “perverse” findings stopped. Therefore, it will suffice if a brief note containing the process of arriving at the conclusions by the competent authority is clearly spelt out and recorded and documented.

It is now settled law that where an authority makes an order in exercise of a quasi judicial function it must record its reasons in support of the order. The supposed distinction between quasi-judicial and administrative decisions was further narrowed down by A.K. Kriapak case (AIR 1970 SC 70). Thus, the main consideration is that the authority has to act fairly, that is, in resonance with the fundamental principles of substantive justice. Thus, the Competent Authority empowered to act as punishing authority is expected to act fairly, justly, transparently, with application of mind and also keeping all the relevant factors in view while taking such a decision. He must see that the justice is not only done but also appears to have been done.

In his capacity as a quasi-judicial authority, his decisions are subject to the scrutiny of the judicial review. It can be possible only if the said authority clearly shows that only relevant considerations have gone into the decisions; that the conclusions drawn by the said authority are based on logically probative material and that the decision has been arrived at, independently by him. In short, this
entire process is required to be documented so that if need be, Court of writ jurisdiction can go into the matter and satisfy itself that the aggrieved party is not left to the whims of the competent authority. It is therefore the requirement that the aggrieved employee is issued and informed of the decision in the form of a “speaking order”. Speaking order therefore can simply be stated as the recorded decision along with the reasons given therefor.

In a recent case of UTI Vs. AAIFR (2002 C. Cases 2) Justice Arijit Pasayat (then CJ of Delhi High Court) succinctly summarized the importance of giving speaking orders.

“We are unable to accept the stand of the counsel for the respondent that though reasons have not been indicated, yet they are inherent.”

The duty to give reasons entails a duty to rationalize the decision. The reasons therefore help to structure the exercise of discretion, and also explain why a decision is reached. It requires one to address one’s mind to the relevant factors, which ought to be taken into account. Further, furnishing reasons allow the affected party to know why the decision was reached. In CB Gautam Vs UOI 1993 199 ITR 530, Supreme Court observed that the obligation to record reasons and convey the same to the party concerned operates as a deterrent against possible arbitrary action by the quasi judicial or executive authority invested with the judicial powers. The reasons when given provide a glimpse into decision-making process and assist the forum where the order is assailed to gauge the transparency of the process. The reasons are the harbingers between the mind of the decision makers to the controversy in question and the decision or conclusion arrived at.

The principles of Natural justice demand that decision should be passed on some evidence of a probative value. The object underlying the rules of natural justice is to prevent miscarriage of justice and secure fair play in action. The most compelling consideration for disclosure of reasons in support of an order or decision is that the same ensures proper application of mind reduces the possibility of casualness and minimizes qualms and caprice and thereby serves to provide legal protection to a person against arbitrary action/conduct. The major judicial concern for requiring reasons is that if the decision reveals the “inscrutable face of the sphinx” it can by its silence virtually renders it impossible for the courts to perform their appellate function or exercise of power of judicial review in agitating the validity of the reasoned decision. Where the statute or regulation provides the right of appeal from a decision, reasons are necessary to enable the affected person to exercise that right effectively. A right to reason in this situation is inferred by necessary implication from the provisions of appeal.

In Ram Kumar vs. St. of Haryana, JT 1987 (3)SC 357, The Supreme Court has clearly stated that if DA accepts the inquiry report, he need not adduce any reasons for passing a speaking Order. But later, by its famous judgement (ECIL: 1993 DELJ 202), SC stated that the DA will have to pass a speaking order in case some new points/ issues have been raised by the CSE in his representation, which he had not raised before the Enquiry officer.

**SALIENT FEATURES OF SPEAKING ORDER:**

The Speaking Order should show that,

1. Decision is supported by reasons.
2. The explanation of the charged official/employee is considered on each item of charge.
3. The Competent Authority has applied his mind while making his recommendations, and/or passing the order:
4. The Competent Authority has taken into account only relevant matters and not been actuated by any extraneous considerations.

Besides, the fact that the "Speaking order" is a necessity for the legal purposes, it helps the administration to know its own shortcomings and gives an opportunity to ensure that the right conclusions are arrived at. It helps, for example the Appointing Authority to know what are the consequences of the different penalties and how rigorous they would be in some circumstances. Also, it would guard against giving of "ineffective" penalty in some cases.

It will therefore be important to take into account all the factors stated here below and incorporate them in the "speaking Orders".

SUSPENSION & TREATMENT OF PERIOD: IN SPEAKING ORDER

1. How will the period of suspension of the employee be treated?
2. Are there any statutory provisions or discretion vested?
3. Whether the statutory provisions have presumptive clauses built in or otherwise?

PENALTY PROVISIONS: RULE 67 OF SB IOSRs-'92: IMPLICATIONS
(a). CENSURE (67-a) has the effect of rendering the "first" promotion held under 'Sealed Cover Procedure' rendered as in-fructuous.

(b). WITHHOLDING OF INCREMENT [Rule 67 (b)] cannot be enforced from retrospective date and only future increments can be withheld (2001-II-LLJ 407 AP HC).

1. The penalty of withholding of increment takes effect from the date of increment accruing to the officer after issue of the punishment order, it cannot affect the increment which was due prior to the issue of the punishment, even though it may not have been actually been drawn due to the officer being on leave or other administrative reasons.
2. If the employee has reached the maximum pay in the time scale, there is no point in giving punishment of withholding / stoppage of increment/s
3. It is clarified that an order of withholding of increment for a specified period implies withholding of all the increments admissible during that specified period and not the first increment only.
4. It is further clarified that where an order of penalty purports to withhold the "next increment" for a specified period, it implies that all the increments falling due during that period would be withheld, because without getting the next increment, an officer cannot get the increment falling after the "next increment".
5. If it is intended that only one increment should be withheld over a specified period, it should not be stated in the order that the 'next increment' be withheld for a specified period. The proper course of action in such a case would be to specifically order that "one increment" be withheld for a specified period. Such an order shall have the effect of withholding one increment only over a specified period and the officer concerned will be able to draw the subsequent increments falling during the period, of course, depressed by the one increment which has been withheld.
(c). WITHHOLDING OF PROMOTION (67.c):
In the absence of uniformity of approach amongst the DAs, the penalty of "withholding of promotion" was being interpreted as:
1. Withholding of promotion for a prescribed period from the date of eligibility
2. Withholding of promotion for a prescribed period from the date of such promotion
3. Withholding of promotion for a prescribed period
4. Withholding of promotion without mentioning any period etc.

With a view to bringing about uniformity of approach, it has been decided by the Bank that penalty of "withholding of promotion" would mean "withholding of eligibility for promotion" for the period prescribed by the DA in his order imposing such punishment. In other words, if a DA imposed the penalty of Withholding of promotion for a prescribed period, it would amount to withholding of promotion to the grade/scale to which she/he is due, for the period specified, from the date she/he has become eligible.

EXAMPLE:

A JMGS-I officer is due for promotion to MMGS-II, with effect from 01.11.2006 and as a result of the Disciplinary proceedings initiated against him, the DA had imposed a punishment of withholding promotion for a period of 2 years, the effect of punishment on the officer's promotion would be that he would not be considered eligible for promotion to MMGS-II for the years 2006 & 2007 and will be considered only for the promotion starting on 01.04.2008.

Likewise, if an officer's promotion results in respect of the years, 2005, 2006 & 2007 have been kept under sealed cover and a penalty of "Withholding of promotion for a period of 2 years" is imposed, the sealed covers in respect of the years 2005 & 2006 will be cancelled and the one for year 2007 will be given effect by opening that sealed cover and findings acted upon.

(d). RECOVERY OF LOSS (67.d): The important considerations are as follows:
1. Loss has to be quantified and established, if it is proposed to be recovered.
2. In the case of proceedings relating to recovery of pecuniary losses caused to the organization by negligence or breach of orders by an officer, the penalty of recovery can be imposed only when it is established that the Government servant was responsible for a particular act or acts of negligence or breach of orders or rules and that such negligence or breach caused the loss.
3. In the case of loss caused to the organization, the competent Disciplinary Authority should correctly assess in a realistic manner the contributory negligence on the part of an officer, and while determining any omission or lapse on the part of an officer, the bearing of such lapses on the loss must be considered and the extenuating circumstances in which the duties were performed by the officer, shall be given due weight.
4. The amount of recovery of loss ordered as a measure of penalty can be reduced by the punishing authority at any later stage if it is found that the amount of loss sustained by the Government is less than that originally calculated. If, however, the loss is subsequently found to be nil, the case has to be reviewed by the competent authority for imposing an
appropriate penalty. That authority will not, however, be competent to impose a penalty higher than that of recovery.

5. As is well known the penalty of recovery from pay is a special type of penalty which cannot be awarded in all types of misconduct. This penalty clearly prescribes that the penalty of recovery from pay of the whole or part of the loss caused by the Government servant to the Government by negligence or breach of orders on his part can be awarded to him. Thus, the rule itself makes it clear that this penalty can be awarded only in a case where it has been established that the negligence or breach of orders on the part of a Government servant has led to the loss of the department. Government instructions were also issued in the past bringing the special provision of the rule to the notice of all concerned, but it has been observed that the requirement of the rule could not be properly appreciated by most of the Disciplinary Authorities. In a Court case, an order of penalty of recovery has been set aside on the ground that the Disciplinary Authorities merely established certain lapses on the part of the Government servant without explaining the acts leading to the loss and the manner in which lapses on the part of the Government servant had a link with the loss sustained by the department. No appeal has been filed in the case, as it was found that it would not be possible to sustain the order of the penalty of recovery which was not consistent with the rule referred to above. A number of frauds or misappropriations are committed and it is not always possible to recover the entire amount of loss from the real culprit. In some cases, it is not even possible to locate the real culprit and accordingly it becomes impossible to take action against the subsidiary offenders with the primary object of recovering loss sustained by the department. It should be clearly understood by all the Disciplinary Authorities that while an official can be punished for good and sufficient reasons, the penalty of recovery can be awarded only if the lapses on his part have either led to the commission of the fraud or misappropriation or frustrated the enquiries as a result of which it has not been possible to locate the real culprit. It is therefore obligatory that the charge sheet should be quite elaborate and should not only indicate clearly the nature of lapses on the part of the particular official but also indicate the modus operandi of the frauds and their particulars and how it can be alleged that but for the lapses on the part of the official, the fraud or misappropriation could have been avoided or that successful enquiries could be made to locate the stage at which the particular fraud had been committed by the particular person. This will enable not only the accused official to submit a defence against the charge but also to explain how the lapses had not contributed to the loss in any manner. The Disciplinary Authority is also required to give a clear finding in the punishment order on both these points. If it is not done, the order, awarding the penalty of recovery will be liable to be set aside. The Heads of Circles and Administrative Offices etc. are requested to bring these instructions to the notice of all concerned so that the disciplinary proceedings for a penalty of recovery may not suffer from a procedural flaw.

6. Monetary limit: It is clarified for the information of all concerned that recovery from pay as a punishment for any pecuniary loss caused by a Government servant by negligence or breach of orders should not exceed one-third of basic pay (i.e., excluding dearness pay or any other allowances) and should not be spread over a period of more than three years. In other words, the recovery should not exceed one year’s basic pay in any case.
7. The Case of Officials Due To Retire Shortly.-In case of recovery of loss imposed on a Government servant as a measure of penalty, the recovery from pay should be effected in the normal course. If during the course of recovery, the official retires from service and a balance is still outstanding for recovery, the amount so outstanding cannot be adjusted against the gratuity without following the procedure laid down in Art. 351-A, CSRs. (Rule 9 of C.C.S. Pension e.g. cases where a Government servant is due to retire shortly and the amount of loss caused by a Government servant cannot be recovered in full because of his impending retirement, the final punishment order should not be passed and the case referred to the Directorate for initiation of action under Article 351- A of the C. S. R. Along with the record of disciplinary proceedings.

(e). REDUCTION TO A LOWER STAGE IN TIME SCALE OF PAY….. GRADE OR POST 67.e):
1. Reduction to a (number) of stage in the pay scale and the specified time for which the same will be done are two different things and that distinction must be clearly brought about.
2. There is no bar for the number of stages an officer can be reduced to, but the period for which such reduction will operate cannot exceed more than 3 years.
3. In no case, this penalty should be harsher in its implication (monetary or otherwise) than the penalty given under Rule 67.f.
4. It is without cumulative effect. Therefore, the full restoration of all the stages will take place, at one point, as soon as the period of rigour is over.
5. This punishment cannot adversely impact the pensionable service of the officer.
6. The annual increments falling due during the rigour period will not be released from time to time, but rather they will be released after the period of rigour is over. An example is given at the end of the chapter.

(f). Save as provided in (e) above, reduction to a lower stage in time scale of pay.............
(67.f):
1. It should be seen that this penalty is scrupulously imposed and its actual impact is not less than the penalty imposed under Rule 67.e. There are no clear guidelines in this regard, but at Zonal Office/LHO/Corporate Center levels, there must be a critical understanding of such issues, as there is a likelihood of any officer being handed out a minor penalty under Rule 67.e, challenging the same on the ground of discrimination.
2. There is no bar on the number of stages an officer can be reduced to, and also no bar on the period for which such reduction can operate.
3. The period for which the penalty can be imposed has to be specified in the order.
4. It must be clearly stated whether the officer will earn increments during the period or not.
5. It must also be stated whether on the expiry of the said period (specified), the reduction will or will not have the effect of postponing the future increments of pay.
6. If the punishment order is silent on any aspect of this penalty, it will be presumed that the authority was inclined to pass the benevolent interpretation in favour of the officer. So, if not
stated expressly in the punishing order, it will be presumed that restoration will take place at the earliest point of time.

7. This punishment can adversely impact the pensionable service of the officer, as this is not a bar in the Rule 67(f).

8. A question has been raised as to how the penalties imposed on a Government servant are to be implemented when the punishment awarded to him against the earlier proceedings is already current. In other words, when the first penalty imposed against the Government servant is of a lower grade and the second penalty of higher grade is imposed against him during the currency of the first penalty, the normal procedure should be that when any disciplinary case crops up during the currency of an earlier penalty, the DA should clearly indicate in the punishment order whether the two penalties should run concurrently or the subsequent penalty should be implemented after the expiry of the first penalty. It has been decided that where, however, such a specific mention has not been made, the two punishments should run concurrently and the higher penalty, even though ordered later, should be implemented immediately and after the expiry of its period, if the currency of the period of earlier punishment, i.e. lower punishment, still continues, then the same may be implemented for the balance period. In this context an example may bring the point home.

9. Supposing an official was punished vide order, dated 1st December, 1997 with reduction to the minimum of the stage of Rs. 425 in the scale of pay Rs. 425-640 for a period of four years with effect from 1st January, 1998. Another punishment order against him was issued on 28th June, 1998 inflicting the penalty of reduction from L.S.G. scale (Rs. 425 -640) to time-scale (Rs. 260 - 480) at the stage of Rs. 396 for a period of three years with effect from 1st July, 1998. In this case, it would be observed that the currency of the first penalty is from 1-1-1998 to 31-12-2001 and that of the second punishment, i.e., higher one would become effective from 1-7-1998 and would last up to 30-6-2001. For the balance period, i.e., from 1-7-2001 to 31-12-2001, the first penalty which is deemed to be running concurrently would be implemented.

(g). REDUCTION TO A LOWER GRADE OR POST (67. g):

1. The Speaking Order must contain the direction as to:
2. The date from which it will take effect and where the reduction is proposed to be imposed for a specific period, the period (.....year(s)/ ...... month(s)) the penalty will be operative.
3. The extent to which the penalty will remain in force and whether the same will postpone the future increments or not (after the restoration of pay) should be mentioned*.
4. The order should also state whether the penalty will affect the "Seniority" of the employee.
5. When the Officer will become due for promotion to the grade (he was in, before the penalty was imposed (no. of years or the date in future).
6. Whether the officer will earn the increments for the intervening period or not.
7. Whether the employee will have his future increments postponed or whether they will be restored upon the end of the rigorous period.
8. An employee cannot be reduced to a post or grade lower than his substantive grade/post. A directly recruited officer or officers who have been recruited in a particular grade, cannot
be given a punishment of reduction to lower grade, i.e. the grade in which they have never worked.

9. Reduction should not be to a lower post of such nature that it may not be possible for the official to regain his higher post if work & conduct later justify his promotion. Reduction to a (number) of stage in the pay scale (67.f) and the specified time for which the same will be done are two different things and that distinction must be clearly brought about.

10. A person cannot be handed out a punishment which would reduce him to a lower cadre/grade or scale than the one in which he joined, initially. Thus, a JMGS-I officer who joined as a probationary officer cannot be made a clerk if the punishment given is to bring him down to a lower grade/scale/cadre.

11. A JMGS-I officer, promoted as a Trainee Officer, but who joined as a clerk, cannot be reverted to sub staff cadre. He can be reverted only to substantive cadre as a clerk.

12. The period of reduction to a lower grade/scale should not be for unlimited period, unless the intention is expressed for that.

13. It should also be stated whether on re-promotion, an official will regain his original seniority in the higher grade/scale assigned to him prior to the imposition of the penalty.

14. The date from which it (reduction to a lower scale/grade) will take effect and in cases where the reduction is proposed to be imposed for a specified period, the period (in terms of years and months) for which the penalty shall be operative, must be stated very clearly.

15. It should also be noted that the reduction may be for an unspecified or an indefinite period and in cases where no period has been specified in the order of penalty, the conclusion is that the penalty is for an unspecified period.

16. The extent (in terms of years and months), if any, to which the period referred to at (a) above shall operate to postpone future increments on restoration after the specified period.

17. The period specified under (above) shall in no case exceed the period specified under sub-clause (a) above.

(h). COMPULSORY RETIREMENT (67.h):
Compulsory retirement is not considered as punitive in nature. If the punishment of "Compulsory Retirement" (67.h) is proposed, it has to be verified and ensured that the employee has completed the pension-able service/age criteria etc.

(i) REMOVAL FROM SERVICE: RULE 67(i)
It should be resorted to as a punishment where, deprivation of pension benefits, consequent upon termination of employment of an officer, may work too harshly on him. That is the reason for providing ‘Compulsory Retirement’ as a punishment contradistinctive of the other two, viz., ‘Removal from Service’ and ‘dismissal’, when all the three have the ultimate object of snapping or severing the ‘employer-employee’ relationship between the Bank and the Officer. Therefore, the penalty of compulsory retirement need, not be imposed or insisted upon except in suitable cases, where officers have,

(i). Completed 20 years of pensionable service and
(ii). Attained the age of 50 years, or Completed 25 years of pensionable service.
In other cases, ‘Removal from Service’ or ‘Dismissal’ may be resorted to by the Bank depending upon the facts and circumstances of the case.

In its import and purpose, ‘Removal from Service’ is punitive. If, for any reason or reasons, dismissal is too harsh, and there is no case for an officer to be compulsorily retired, he may be removed from the service of the Bank.

In its broad implication, ‘Removal from Service’ in the Supervising Staff Service Rules is the same as ‘discharge’ under clause 6(d) of settlement dated 10.04.2002. An employee, when discharged under the said paragraph, is entitled to a notice or pay in lieu of notice – this assumption is wrong. In spite of the words used, in this paragraph, viz., ‘have his misconduct condoned and he be merely discharged’, discharge here is punitive, not requiring any notice or pay in lieu thereof. Here ‘discharge’ is not ‘discharge simplicitor’ which is dealt with in paragraph 522(1) of the Sastry Award. Therefore, ‘removal from service’ of an officer under this rule does not call for any notice or pay in lieu of notice.

(j): DISMISSAL (67.j): Dismissal is the extreme penalty given to an official whose misconduct is considered to be of very serious nature.

(k): GRATUITY: Disciplinary Authority while awarding penalties under Rule 67(h), 67(i), 67(j) should record in his speaking order the effect of gratuity or otherwise the act of gratuity will follow.

************************************************
32 EFFECT OF PUNISHMENT

The mechanism involving meting out the appropriate punishment in appropriate cases and uniform application of the yardsticks in the process has always remained as one of the most elusive issues, primarily because of the lack of proper appreciation / understanding of the provisions by the officials of Vigilance/ DP Department, who are entrusted with the responsibility to guide/ advice/ recommend to the Disciplinary Authority, for the latter to discharge his quasi-judicial role. In the same breath, this issue has constantly been the bone of contention by the aggrieved officials. By the very nature of this process, the benefit always accrues to the delinquent employee because the courts expect that the punishing order should not only be self-explicit, proportionate, equitable but also logical and as the framer of the rules, the employer owes the responsibility to ensure that the rules are applied in letter and spirit.

This chapter attempts to explain the various nuances of the considerations, their implications and the caveats to be exercised so that unscrupulous employees do not make a mockery of the entire process, by taking undue advantage of the loopholes and the lack of application and gaps in the procedure to be followed. Excess punishment is as bad as inadequate punishment, which is perceived as symptomatic and also as fallout of "permissive work culture", perpetuated by the management for its own weaknesses. It puts premium on wrong doing because the wrong doer knows that he will be let off.

The Disciplinary Authority has to give a great deal of thought while deciding the quantum of punishment to be inflicted upon the employee. Any punishment, other than warning or 'Censure', will have two-fold effect on the employee, viz., monetary loss and career loss. Therefore, the punishment awarded should be reasonably commensurate with the gravity of the misconduct committed. While drafting the speaking order, it should be ensured that the proposed punishment is conveyed in clear, specific and unambiguous terms, leaving no scope for any misinterpretation at the implementation stage. It should be further ensured that the punishment is neither shockingly disproportionate to the misconduct committed nor too lenient.

Where the proposed punishment would result in monetary loss, it is desirable to work out the approximate loss that the employee is likely to suffer to enable the Disciplinary Authority to take a fair view. As any punishment is likely to result in monetary loss, career loss and affect the superannuation benefits, it is further desirable to keep in mind the effect of punishment while drafting the final order.

It would be desirable that where minor penalty is imposed, it is not harsher than the major penalties in its actual impact. (Compare Rule 67 (e) vs. (f))

Where it is not easy to decide whether to initiate minor penalty proceedings or major penalty proceedings, when we are not very sure, it is desirable to initiate the latter, as after initiating minor penalty proceedings, major penalties cannot be imposed. However, where major penalty proceedings are initiated, minor penalties can be imposed or the official can even be let off without any punishment on the conclusion of the proceedings.
Where an employee was already placed under suspension, on conclusion of disciplinary proceedings, the speaking order should state how the period of suspension should be treated. (refer Clause 12 (b) of Settlement dated 10th April 2002.)

Any punishment imposed on an employee has to be recorded in the service sheet of the employee. In respect of officers, a copy of the speaking order should be kept in the service file.

Finally, but foremost, the Disciplinary Authority should keep the principles of natural justice in mind while giving the final orders.

**MINOR PENALTIES:**

67(a): Censure: Reprimand or hostile criticism and rebuke. It affects the promotion of the official which is held in the sealed cover. (Only first sealed cover is rendered in fructuous).

67(b): Withholding of increments of pay with or without cumulative effect: It is only prospective in effect.

**AN EXAMPLE:**

If for instance, an increment due on 1.11.2008 to an officer, who is drawing a salary of Rs.27,300/- p.m., is withheld for one year, he will not get any increment on that date (i.e. 1.11.2008) but as from 1.11.2009, he will draw Rs. 28,900/= p.m. (i.e. he will be granted two increments of Rs. 800/- each) if the punishment is without cumulative effect / Rs 28,100/=if the punishment is with cumulative effect. (i.e. the withhold increment will be withheld permanently)

In the above example, if the increment is withheld for 6 months, he will draw his pay as under:

<table>
<thead>
<tr>
<th>Date</th>
<th>Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.11.2008</td>
<td>Rs. 27,300=</td>
</tr>
<tr>
<td>01.05.2009</td>
<td>Rs. 28,100=</td>
</tr>
<tr>
<td>01.11.2009</td>
<td>Rs 28,900=</td>
</tr>
</tbody>
</table>

If with cumulative effect then on

<table>
<thead>
<tr>
<th>Date</th>
<th>Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.05.2009</td>
<td>Rs 27,300=</td>
</tr>
<tr>
<td>01.11.2009</td>
<td>Rs 28,100=</td>
</tr>
</tbody>
</table>

**RULE 67(c): WITHHOLDING OF PROMOTION:**

It means withholding of the "eligibility" for promotion, which could mean any past promotion also, for which a candidate may be due to be considered. For example:

i) An officer in JMGS-I was due for promotion to MMGS-II w.e.f 01.04.06. The Disciplinary Authority has imposed the punishment of withholding of promotion for a period of 2 years. The official will not be considered for promotion for the financial year 2006-07 and 2007-08. He would be eligible for promotion w.e.f. financial year 2008-09.
ii) Likewise, if an officer’s promotion results in respect of the years, 2004-2005, 2005-2006 and 2006-2007 have been kept under sealed cover and a penalty of “Withholding of promotion for a period of 2 years” is imposed, the sealed covers in respect of the years 2004-2005, 2005-2006 will be cancelled and the one for year 2006-2007 will be given effect by opening that sealed cover and findings contained therein acted upon.

NOTE: To avoid any scope for misinterpretation, the speaking order should be specific with dates/stages/amount/contingencies etc.

67 (d): RECOVERY OF LOSS FROM PAY or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the Bank by negligence or breach of orders.

RULE 67 (e): REDUCTION TO A LOWER STAGE IN TIME SCALE OF PAY FOR A PERIOD NOT EXCEEDING 3 YEARS, WITHOUT CUMULATIVE EFFECT AND NOT ADVERSELY AFFECTING THE OFFICERS’ PENSION:

It will be in the fitness of the things to ensure that the effective rigor of punishment is higher under Rule 67 (f) [as compared to Rule 67 (e)], so that the bias or non-application of mind is not reflected or alleged.

While imposing the penalty, the Disciplinary Authority should take into account the age of the official, the service he had put in and the remaining service, to ensure that it will not adversely affect his pension. (Please also see CC letter No. VIG/GEN-153/2262 dated 5th May 2001, towards the end of the book)

As the reduction in time scale has no cumulative effect, the pay of the official would be automatically restored to the level where he would have reached but for the punishment, taking into consideration the number of stages by which the pay was reduced.

It is clarified by Corporate Centre, that in the absence of any direction, the officer will not be eligible for any increments during the period of reduction. Here ‘eligible for any increment’ is considered as “releasing the increment” as the reduction is without cumulative effect.

EXAMPLE – I:

Salary Scale: 10000-470/6-12820-500/3-14320-560/7-18240

Present Pay : Rs 14320/= 

PENALTY: Reduction by 4 stages for 3 years without cumulative effect

Status of increment: not earned during the rigour period

Effect of Penalty

Immediate Reduction: Rs 14320- Rs 1500 (Rs.500x3) – Rs 470/-
Rs 12,350/= 

At the end of the 01st year Rs 12,350/= 
At the end of the 02nd year Rs 12,350/= 
At the end of the 03rd year Rs 16,000/= 
(Rs 14,320/= + Rs 560/x 3= Rs 14,320/= + Rs 1,680/=)

i.e. the official will receive the same basic if there would have been no punishment)
EXAMPLE II:

Salary Scale: 10000-470/6-12820-500/3-14320-560/7-18240
Present Pay: Rs 14320/=  

PENALTY – Reduction by 2 stages for 3 years without cumulative effect. 
Status of increment: not earned during the rigour period 
Immediate reduction Rs. 14,320/= - (Rs 500/=x2) = 13,320/=  
At the end of 1st year = 13,320/=  
At the end of 2nd year = 13,320/=  
At the end of 3rd year 14,320/= + Rs560x3 = 16,000/=  
(Thus, at the end of the rigor period after three years, his basic pay will be restored at the level at which he would have been, had no such punishment been inflicted upon him).

**MAJOR PENALTIES: RULE 67(f):**  
*Save as provided in (e) above, reduction to a lower stage in time scale of pay, of a specified period, with further directions as to whether or not the officer will earn increments to pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments to pay.*

The amendment to the erstwhile Rule No. 67 (f) was made with a view to enlarging the number of penalties that could be imposed on an officer. With this in view, it was split into three parts. While the penalty of reduction to a lower grade or post was retained as Rule No. 67(g), reduction to a lower stage in time scale of pay was broken into two parts viz., under Rule No. 67(e) and Rule 67(f). The distinction between the two rules is as under:

<table>
<thead>
<tr>
<th>Rule No. 67(e)</th>
<th>Rule No. 67(f)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) The period of rigor has been limited to 3 years.</td>
<td>a) The rigor is for a specified period* (preferably for more than 3 years). But it can be less than 3 years too, provided it is having bigger financial implication when seen from the angle of cumulative effect/ withholding of annual increments for the intervening period. The Statement of loss will reflect this.</td>
</tr>
</tbody>
</table>
| b) The reduction is without cumulative effect. | b) It may be with/ without postponement effect but contains further directions as to:  
1. Whether or not the official earns increments to pay during the period of such reduction: and  
2. On the expiry of such period, the reduction will or will not have the effect of postponing the future increments. |

1. It may be observed that Rule No. 67(f) gives option to the Disciplinary Authority to impose the penalty in a more severe form than Rule No. 67(e) as well as within the Rule 67(f) itself, depending upon the gravity of the charges proved and taking into account other extenuating factors.
2. *It has been clarified by the Central Office that specified period is distinct and separate from the number of stages lowered.*

Therefore, there can be four combinations of punishments under the rule from which the Disciplinary Authority can choose for imposing a penalty on an officer. They are:

<table>
<thead>
<tr>
<th>Types of Case</th>
<th>Condition Set: I</th>
<th>Condition Set: II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type: I</td>
<td>Increment: earned</td>
<td>Postponement: No</td>
</tr>
<tr>
<td>Type: II</td>
<td>Increment: not earned</td>
<td>Postponement: No</td>
</tr>
<tr>
<td>Type: III</td>
<td>Increment: earned</td>
<td>Postponement: Yes</td>
</tr>
<tr>
<td>Type: IV</td>
<td>Increment: not earned</td>
<td>Postponement: Yes</td>
</tr>
</tbody>
</table>

These combinations are in the order of increasing severity. To amplify, the following example may be looked into:

**EXHAUSTIVE ILLUSTRATION:** (Source: IBA Personnel Department letter No CIR/PD/78/m1/2006-07/977 dated May 27, 2006)

**ILLUSTRATIONS:: IMPLICATIONS OF PENALTIES**

Pay scale suppose 19400 – 700/1 – 20100 — 800/10 – 28100/1
Basic pay before punishment: 20900

Suppose, Date of yearly increment: 01st September

Date of Punishment: 01.02.2010

Punishment: Reduction in pay by two stages in the time scale for a period of five years

*It has been clarified by the Central Office that specified period is distinct and separate from the number of stages lowered.*

The following four stages are considered in the example

<table>
<thead>
<tr>
<th>Types of Case</th>
<th>Condition Set: I</th>
<th>Condition Set: II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type: I</td>
<td>Increment: earned</td>
<td>Postponement: No</td>
</tr>
<tr>
<td>Type: II</td>
<td>Increment: not earned</td>
<td>Postponement: No</td>
</tr>
<tr>
<td>Type: III</td>
<td>Increment: earned</td>
<td>Postponement: Yes</td>
</tr>
<tr>
<td>Type: IV</td>
<td>Increment: not earned</td>
<td>Postponement: Yes</td>
</tr>
<tr>
<td>Annual Date of Increment : ADOI</td>
<td>Date of Punishment : DOP</td>
<td></td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Date/s</strong></td>
<td><strong>Running Scale</strong></td>
<td><strong>Increment: earned Postpone-ment: No</strong></td>
</tr>
<tr>
<td>01.09.2009</td>
<td>20900</td>
<td>20900</td>
</tr>
<tr>
<td>01.02.2010 DOP</td>
<td>20900</td>
<td>19400</td>
</tr>
<tr>
<td>01.09.2010 On ADOI</td>
<td>21700</td>
<td>20100</td>
</tr>
<tr>
<td>01.02.2011 After 1 yr of DOP</td>
<td>21700</td>
<td>20100</td>
</tr>
<tr>
<td>01.09.2011 On ADOI</td>
<td>22500</td>
<td>20900</td>
</tr>
<tr>
<td>01.02.2012 After 2 yrs of DOP</td>
<td>22500</td>
<td>20900</td>
</tr>
<tr>
<td>01.09.2012 On ADOI</td>
<td>23300</td>
<td>21700</td>
</tr>
<tr>
<td>01.02.2013 After 3 yrs of DOP</td>
<td>23300</td>
<td>21700</td>
</tr>
<tr>
<td>01.09.2013 On ADOI</td>
<td>24100</td>
<td>22500</td>
</tr>
<tr>
<td>01.02.2014 After 4 yrs of DOP</td>
<td>24100</td>
<td>22500</td>
</tr>
<tr>
<td>01.09.2014 On ADOI</td>
<td>24900</td>
<td>23300</td>
</tr>
<tr>
<td>01.02.2015 After 5 yrs of DOP</td>
<td>24900</td>
<td>24900</td>
</tr>
<tr>
<td>01.09.2015 On ADOI</td>
<td>25700</td>
<td>25700</td>
</tr>
<tr>
<td>01.09.2016 On ADOI</td>
<td>26500</td>
<td>26500</td>
</tr>
</tbody>
</table>

** As a result of postponement effect after reduction in pay by two stages the subsequent basic, on expiry of punishment period of 5 years, will be always be two stages lower than the running scale (i.e. Rs 24900- Rs.800x2= Rs 23300/=) or Basic Pay after reduction Rs 19400+ Increment for last 5 yrs of punishment (Rs 700 + 800x4)= Rs 23300/=.
RULE 67(h): COMPULSORY RETIREMENT:
It should be resorted to as a punishment where deprivation of pension benefits, consequent upon termination of employment of an officer, may work too harshly on him. That is the reason for providing ‘Compulsory Retirement’ as a punishment in contradistinctive to the other two, viz., ‘Removal from Service’ and ‘dismissal’, when all the three have their ultimate object of snapping or severing the ‘employer-employee’ relationship between the Bank and the Officer. Therefore, the penalty of compulsory retirement need not be imposed or insisted upon except in suitable cases, where officers have,
- Completed 20 years of pensionable service and attained the age of 50 years,
- Or Completed 25 years of pensionable service.

In other cases, ‘Removal from Service’ or ‘Dismissal’ may be resorted to by the Bank depending upon the facts and circumstances of the case.

RULE 67(i) – REMOVAL FROM SERVICE
In its import and purpose, ‘Removal from Service’ is punitive. If, for any reason or reasons, dismissal is too harsh, and there is no case for an officer to be compulsorily retired, he may be removed from the service of the Bank.

In its broad implication, ‘Removal from Service’ in the Supervising Staff Service Rules is the same as ‘discharge’ under Clause 6(d) of the Memorandum of Settlement dated 10th April 2002
<table>
<thead>
<tr>
<th>Date/s</th>
<th>Running Scale</th>
<th>Minor</th>
<th>Minor</th>
<th>Major</th>
<th>Major</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ex-Post Facto Basic Pay</td>
<td>3300</td>
<td>3300</td>
<td>3300</td>
<td>3300</td>
<td>3300</td>
</tr>
<tr>
<td>Punishment given say on , 20.04 1995</td>
<td>-----</td>
<td>3180</td>
<td>2820</td>
<td>3180</td>
<td>3180</td>
</tr>
<tr>
<td>ADOI (01/06/95)</td>
<td>3420</td>
<td>N/R</td>
<td>N/R</td>
<td>N/R</td>
<td>N/R</td>
</tr>
<tr>
<td>POR over on 19.4.96</td>
<td>---</td>
<td>N/R</td>
<td>N/R</td>
<td>YES¹</td>
<td>N/R</td>
</tr>
<tr>
<td>Increment Released on 20.04.96</td>
<td>---</td>
<td>N/R</td>
<td>N/R</td>
<td>3300</td>
<td>N/R</td>
</tr>
<tr>
<td>ADOI (01/06/96)</td>
<td>3540</td>
<td>N/R</td>
<td>N/R</td>
<td>3420</td>
<td>N/R</td>
</tr>
<tr>
<td>POR over on 19.4.97</td>
<td>--</td>
<td>N/R</td>
<td>YES²</td>
<td>N/A</td>
<td>N/R</td>
</tr>
<tr>
<td>Increment Released on 20.04.97</td>
<td>---</td>
<td>N/A</td>
<td>3540</td>
<td>N/A</td>
<td>N/R</td>
</tr>
<tr>
<td>ADOI (01/06/97)</td>
<td>3660</td>
<td>N/R</td>
<td>3660</td>
<td>3540</td>
<td>N/R</td>
</tr>
<tr>
<td>POR over on 19.4.98</td>
<td>---</td>
<td>Yes³</td>
<td>Already Over</td>
<td>Already Over</td>
<td>N/R</td>
</tr>
<tr>
<td>Increment Released on 20.04.98</td>
<td>---</td>
<td>3660</td>
<td>N/A</td>
<td>N/A</td>
<td>N/R</td>
</tr>
<tr>
<td>ADOI (01/06/98)</td>
<td>3780</td>
<td>3780</td>
<td>3780</td>
<td>3660</td>
<td>N/R</td>
</tr>
<tr>
<td>POR over on 19.4.99</td>
<td>Already Over</td>
<td>Already Over</td>
<td>Already Over</td>
<td>YES⁴</td>
<td></td>
</tr>
<tr>
<td>Increment Released on 01.06 99</td>
<td>3900</td>
<td>3900</td>
<td>3900</td>
<td>3780</td>
<td>3900</td>
</tr>
</tbody>
</table>
### STAFF: SUPERVISING
### EFFECT OF PUNISHMENT ON PROMOTION
Ref: CDO/PM/14/SPL/4408 dated 22.10.97
ADM/CM/6040-A dated 29.01.92
ADM/CM/737-A dated 18.02.91

<table>
<thead>
<tr>
<th>Rule NO. 67</th>
<th>Penalty</th>
<th>Debarment policy</th>
<th>Sealed Cover Procedure Effect (w.e.f. 01.03.1983)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>Censure</td>
<td>No bar for Promotion</td>
<td>1st Sealed Cover not given effect to. Remaining, if any, will be given effect to, one by one.</td>
</tr>
<tr>
<td>b.</td>
<td>Withholding of increments</td>
<td>Not considered for promotion for the period the increment(s) is/are withheld</td>
<td>Sealed Cover not acted upon</td>
</tr>
<tr>
<td>c.</td>
<td>Withholding of Promotion</td>
<td>Means withholding the eligibility for promotion. Not considered for the period specified from the date of first eligibility</td>
<td>Thus if the result has been kept under Sealed Cover, say for '96, '97 &amp; '98. If this penalty is awarded for two years, '96 &amp; 97, SCs will be not given effect to &amp; '98 will be opened.</td>
</tr>
<tr>
<td>d.</td>
<td>Recovery of Pecuniary Loss</td>
<td>Not considered for promotion till the amount of pecuniary loss specified is fully recovered</td>
<td>Sealed Cover not acted upon</td>
</tr>
<tr>
<td>e.</td>
<td>Reduction to a lower stage in time scale</td>
<td>Not considered for promotion till the pay is restored to the level before the punishment was inflicted</td>
<td>Sealed Covers will become in fructuous</td>
</tr>
<tr>
<td>&quot;MAJOR&quot; PENALTIES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td>Reduction to a lower stage in time scale</td>
<td>Not considered for promotion till the pay is restored to the level before the punishment was inflicted</td>
<td>Sealed Covers will become in fructuous</td>
</tr>
<tr>
<td>g.</td>
<td>Reduction to a lower Grade or Post</td>
<td>The period for which the official is not eligible for promotion is determined by the Appropriate Authority, on the circumstances of each case</td>
<td>Sealed Covers will become in fructuous</td>
</tr>
<tr>
<td>h.</td>
<td>Compulsory Retirement</td>
<td>Results in cessation of service</td>
<td>Results in cessation of service</td>
</tr>
<tr>
<td>I</td>
<td>Removal from service</td>
<td>Results in cessation of service</td>
<td>Results in cessation of service</td>
</tr>
<tr>
<td>J</td>
<td>Dismissal</td>
<td>Results in cessation of service</td>
<td>Results in cessation of service</td>
</tr>
</tbody>
</table>
Officers: Rule 67 of the Officers Service Rules, as amended with effect from the 15th July 1996 (Cir. No. CD0PM/15/96-97 dated 11.1.1997)

Any punishment imposed on an employee has to be recorded in the service sheet of the employee. In respect of officers, a copy of the speaking order should be kept in the service file.

EFFECT OF DEATH ON APPEAL AGAINST PENALTY OF DISMISSAL ETC.


* The Government of India (Ministry of Law & Justice), based on the judgement of various courts earlier in the matter have come to the conclusion that the appeal process will not stand abated automatically on the death of the delinquent official and it will be open to the legal heirs or representative/s to have the matter agitated.

The matter was further examined by the Corporate Centre, to decide whether the above will apply only to the penalty of dismissal or will also cover other punishments like reduction of increment etc. they have been advised that the principle would be that except in those cases where on the death of the party, the relief claimed, if granted, would be nugatory (where the course of action dies with the death of the person), the dispute can be continued by the legal heir/s / representative/s. Accordingly the legal heirs have the right to agitate the issue for continuance of the appeal proceedings for the purpose of ascertaining the financial gains that they would get as the legal heirs of the deceased form the bank.

The Legal Heirs/ representative/s of the deceased may have to file an appeal separately for opening the appeal proceedings within the limitation period. The bank can initiate legal proceedings within the limitation period for recovery of the loss caused by the deceased employee, if any, against his assets by impleading the Legal Heirs.
EFFECT OF PUNISHMENT: AWARD STAFF

Clause: 06: Punishment for Gross Misconduct

An employee found guilty of gross misconduct may:

a. be dismissed without notice; or
b. be removed from service with superannuation benefits i.e., Pension and/ or Provident Fund and Gratuity as would be due otherwise under the Rules and Regulations prevailing at the relevant time and without disqualification from future employment; or
c. be compulsorily retired with superannuation benefits i.e. Pension and/ or Provident Fund and Gratuity as would be due otherwise under the Rules and Regulations prevailing at the relevant time and without disqualification from future employment; or
d. be discharged from service with superannuation benefits i.e. Pension and/ or Provident Fund and Gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment; or
e. be brought down to lower stage in the scale of pay upto a maximum of two stages; or
f. have his increments stopped with or without cumulative effect; or
g. have his special pay withdrawn; or
h. be warned or censured or have an adverse remark entered against him; or
i. be fined.

(a) Dismissal without notice: For imposing punishment of dismissal and discharge, compliance with section 33 of the Industrial Disputes Act is a must in cases where any proceeding is pending and any workman connected in such dispute is to be dismissed or discharged by way of punishment, for misconduct connected with the dispute or not or where a protected workman is dismissed or discharged, who is concerned with such dispute, for any misconduct.

Certain acts of misconduct, such as fraud, may involve the bank in financial loss. The bank with specific speaking order can recover its loss from bank’s contribution to the employee’s provident fund, gratuity and the bonus, provided the employee is dismissed from service because in such circumstances the employee concerned is not entitled for these. On the other hand, if the Disciplinary Authority, instead of dismissal, gives the punishment of discharge as per clause 6(d), the bank cannot recover its loss. The Disciplinary Authority should, therefore, keep that aspect in mind. (Source: A Banker’s Handbook on Discipline & Disciplinary Action by L H Bhide)

Section 33 (Industrial Disputes Act). CONDITIONS OF SERVICE, ETC., TO REMAIN UNCHANGED UNDER CERTAIN CIRCUMSTANCES DURING PENDENCY OF PROCEEDINGS.
- (1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall, - (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service

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applicable to them immediately before the commencement of such proceeding; or

(b) For any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman, - (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman: Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute - (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation: For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being a member of the executive or other office-bearer of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application such order in relation thereto as
it deems fit:

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

b. Be removed from service with superannuation benefits: Removal from service is punitive. It is lesser harsh than dismissal. For Superannuation benefit please refer chapter 34.

Eligibility for Pension in case of removal: To become eligible for sanction of pension, the removed employee should have completed 20 years of pensionable service with 50 years of age or 25 years of pensionable service irrespective of age. If the removed employee does not fulfill any one of these criteria he will not be eligible for pension. (Refer: Rule 23(i) (a) and 22 (i) (d) of State Bank of India Employees Pension Fund Rules)

Gratuity; as per the provision of payment under Payment of Gratuity Act, 1972

c. Be compulsorily retired from service with superannuation benefits: While providing the punishment the Disciplinary Authority should ensure that the employee concerned receives the superannuation benefits as per the provision of pension rules and payment of Gratuity Act, which are not essential for removal or discharge.

d. Be discharged from service with superannuation benefits; please refer (a) dismissal without notice above and chapter 34. While inflicting punishment of Discharge the Disciplinary Authority should take into consideration clause 12(c) of the settlement dated 10.04.2002.

e. Be brought down to lower stage in the scale of pay up to a maximum of two stages: Penalty to lower stage in the scale of pay up to a maximum of two stages can be imposed.

Explanation furnished to be corrected. Relates to 6 (f)

If an employee's increment is to be withheld, the speaking order in writing withholding the increment should also mention whether it will have the effect of postponing future increments (clause 85 of Sastry Award)
For example;

Case I.

Basic pay of an employee on the date of punishment (DOP): Rs. 10000/=  

Date of punishment is 01.01.2007 & punishment is imposed to bring down by two stages lower in the scale of pay as on the date of punishment  

Two previous Increment Rs. 200/= each.  

Increment status: Not withheld  

Future increment: No postponement and anniversary date of increment (ADOI): 01st April of each year  

Basic Pay as on 01.04.2006: Rs 10000/=  

Basic pay as on 01.01.2007 due to punishment = Rs. 9600/=  

Basic Pay as on 01.04.2007 = Rs. 9800/= (As per ADOI Rs 10200/=)  

Basic pay as on 01.01.2008 = Rs 9800/=  

Basic Pay as on 01.04.2008 = Rs 10000/= (As per ADOI Rs 10400/=)  

Basic pay as on 01.01.2009= Rs. 10400/=  

Basic pay as on 01.04.2009 = Rs 10600/= (As per ADOI Rs 10600/=)  

Case II  

Basic pay of an employee on the date of punishment (DOP): Rs. 10000/=  

Date of punishment is 01.01.2007 & punishment is imposed to bring down by two stages lower in the scale of pay as on the date of punishment  

Two previous Increment Rs. 200/= each.  

Increment status: withheld for two years  

Future increment: No postponement  

Anniversary date of increment (ADOI): 01st April of each year  

Basic Pay as on 01.04.2006: Rs 10000/=
Basic pay as on 01.01.2007 due to punishment = Rs. 9600/=

Basic Pay as on 01.04.2007 = Rs. 9600/= (As per ADOI Rs 10200/=)

Basic pay as on 01.01.2008 = Rs 9600/= 

Basic Pay as on 01.04.2008 = Rs 9600/= (As per ADOI Rs 10400/=)

Basic pay as on 01.01.2009 = Rs. 10400/= 

Basic pay as on 01.04.2009 = Rs 10600/= (As per ADOI Rs 10600/=)

Case III

Basic pay of an employee on the date of punishment (DOP): Rs. 10000/= 

Date of punishment is 01.01.2007 & punishment is imposed to bring down by two stages lower in the scale of pay as on the date of punishment

Two previous Increment Rs. 200/= each. 

Increment status: Not withheld

Future increment: postponed

Anniversary date of increment (ADOI): 01st April of each year

Basic Pay as on 01.04.2006: Rs 10000/= 

Basic pay as on 01.01.2007 due to punishment = Rs. 9600/= 

Basic Pay as on 01.04.2007 = Rs. 9800/= (As per ADOI Rs 10200/=)

Basic pay as on 01.01.2008 = Rs 9800/= 

Basic Pay as on 01.04.2008 = Rs 10000/= (As per ADOI Rs 10400/=)

Basic pay as on 01.01.2009 = Rs. 10400/= 

Basic pay as on 01.04.2009 = Rs 10600/= (As per ADOI Rs 10600/=)

Case IV

Basic pay of an employee on the date of punishment (DOP): Rs. 10000/=
Date of punishment is 01.01.2007 & punishment is imposed to bring down by two stages lower in the scale of pay as on the date of punishment

Two previous Increment Rs. 200/= each.

Increment status: withheld for two years

Future increment: postponed

Anniversary date of increment (ADOI): 01st April of each year

Basic Pay as on 01.04.2006: Rs 10000/= 

Basic pay as on 01.01.2007 due to punishment = Rs. 9600/= 

Basic Pay as on 01.04.2007 = Rs. 9600/= (As per ADOI Rs 10200/=) 

Basic pay as on 01.01.2008 = Rs 9600/= 

Basic Pay as on 01.04.2008 = Rs 9600/= (As per ADOI Rs 10400/=) 

Basic pay as on 01.01.2009 = Rs. 10000/= 

Basic pay as on 01.04.2009 = Rs 10200/= (As per ADOI Rs 10600/=) 

In case of Case III & IV, the effect would be that the employee would reach the maximum of the salary scale two years late as brought down to lower stage in the scale of pay up to a maximum of two stages.

f. Have his increment/s stopped with or without cumulative effect: The Disciplinary Authority must clearly state how many increments he proposes to stop, such as three or four increments etc. It would be wrong to say that he gives punishment of stoppage of all future increments. The number must be clearly stated.

In case of Award staff, a workman found guilty of misconduct, whether gross or minor, shall not be given more than one punishment in respect of any one of the charges (clause 9)

For example, say there are four charges which have been found to be proved and the Disciplinary Authority gives punishment as follows:-

Charge No. 01 proved: stoppage of two increments

Charge No. 02 proved: stoppage of two increments

Charge No 03 proved: stoppage of one increment
Charge No 04 proved: stoppage of one increment

If the stoppage of increments is made cumulative, it will mean in all six increments are stopped. If it is not cumulative and the punishment is concurrent then the highest number of increments stopped as punishment for any one of the charges would be the number of increments in effect stopped for all the charges i.e. two in the above illustration. If the order of the Disciplinary Authority is silent in this regard, it will appear that the stoppage of increment will have cumulative effect. (Source: A Banker’s Handbook on discipline and Disciplinary Action by L H Bhide)

While giving the punishment of stoppage of increments, the Disciplinary Authority should keep in mind the provisions of Para 85 of the Sastry Award and states clearly whether it will have the effect of postponing future increments. Postponement of future increments means that the increment/s which is/are stopped are lost permanently, so that when one increment is stopped the employee will get his next increment not on the next usual date but one year thereafter; if two increments stopped after two years and so on. The effect would be that the employee would reach the maximum of the salary scale as many years late as the number of increments stopped. Only increments which may fall due in future can be stopped.

While awarding punishment, the speaking order in writing withholding the increment should also mention whether it will have the effect of postponement of future increment.

For example:

Present Basic pay of a charge sheeted employee as on 01.12.2006: Rs. 10000/=

Punishment: Stoppage of three increments: Rs560/3

Date of Punishment: 01.01.2007

Annual date of increment (ADOI): 01.06.2007

Case I: Increment postponed:

Basic pay as on 01.12.2006 = Rs 10000/=

Basic Pay as on 01.01.2007 due to punishment: Rs 10000/= 

Basic Pay as on 01.06.2007 (ADOI) = Rs 10000/= (Original Rs 10560/=without punishment)

Basic Pay as on 01.06.2008 (ADOI) = Rs. 10000/= (Original Rs 11120/= without punishment)

Basic Pay as on 01.06.2009 (ADOI) = Rs 10000/= (Original Rs 11680/= without punishment)

Basic Pay as on 01.06.2010 (ADOI) = Rs 10560/= [Original Rs 12650/= (Increment slab 970/1) without punishment]
Case II: Stoppage of 3 increments and increment not postponed

Basic pay as on 01.12.2006 = Rs 10000/=  
Basic Pay as on 01.01.2007 due to punishment: Rs 10000/=  
Basic Pay as on 01.06.2007 (ADOI) = Rs 10000/= (Original Rs 10560/= without punishment)  
Basic Pay as on 01.06.2008 (ADOI) = Rs. 10000/= (Original Rs 11120/= without punishment)  
Basic Pay as on 01.06.2009 (ADOI) = Rs 10000/= (Original Rs 11680/= without punishment)  
Basic Pay as on 01.06.2010 (ADOI) = Rs 12650/= [Original Rs 12650/= (Increment slab 970/1) without punishment & as future increment not postponed]

If the order of the Disciplinary Authority is silent in postponement of increment, it will appear that the stoppage of increment will have the effect as case I (One) above i.e. the employee will reach the maximum of the salary scale as many years late as the number of increments stopped.

g. Have his special pay withdrawn: The special pay of a workman found guilty of any charge can be withdrawn by way of punishment. This provision will enable the Disciplinary Authority to take away the functions or duties which attract special pay and also withdraw the special pay as a punishment. This punishment is particularly suitable in certain cases where the misconduct is in connection with the performance of such special functions or duties or which makes the workman concerned, in the opinion of the Disciplinary Authority, unsuitable to perform those functions or duties.

h. Be warned or censured or have an adverse remark entered against him: The punishment itself is self explanatory. The only implication is to note in the service record of the employee.

i. Be fined: With regard to imposition of fine as a form of punishment, Sastry Award in Para 565 has made the following observations and directions:

"The power to levy a fine as a form of punishment need not be altogether taken away. It was recognized in the model standing orders framed by the Government of Bombay in relation to the banking industry under the provisions of Local Industrial Relations Act. It is also recognized in the Payment of Wages Act, 1936. While we appreciate that this form of punishment should, in course of time disappear, we are not satisfied that we should withhold recognition of this method of punishment at the present stage. It has a place and serves a purpose in a graded scale of varying punishments. Where a comparatively minor breach of discipline is repeated in spite of a warning given on the first occasion the imposition of a small fine will be appropriate. We are, however, of opinion that this power should be exercised in very rare cases and generally in the case of the subordinate staff only. The Staff Regulations of the Reserve Bank of India do not contain a provision for the imposition of fines. The Imperial Bank of India and some of the major Exchange Banks also do not impose fines. Even where some Banks exercise the power, the amounts of fines imposed, generally are very small. The objection of the employees to the form of punishment is"
that it takes away a portion from their already small subsistence wage. There is force in this contention. We trust that this form of punishment will gradually disappear and will become obsolete. However, for the present, we recognize the same but subject to the following limitations:-

(1) No fine shall be imposed on a workman until he has been given an opportunity of showing cause against the fine.
(2) Every Bank must keep a register of fines and make the appropriate entries therein. Such Register shall contain a brief note of the charge against the employee, the explanation offered by him, the finding and amount of fine levied on him.
(3) The total amount of fine which may be imposed in any one calendar month on any workman shall not exceed an amount equal to ½ anna in the rupee of the salary and allowances payable to him in respect of the period.

Explanation: Punishment in the form of stoppage or postponement of increments does not fall under this head.

It is to be appreciated that Sastry Award had recognized the imposition of fines in case of repetition of a breach of discipline in spite of a warning given on the first occasion. While imposing fine as punishment, care has to be taken to comply with Payment of Wages Act, 1936 or other legal legislations in the State relating to recovery of fines.

Note: The imposition of fine as a punishment has almost disappeared in the Banks in practice.

Clause 8: Punishment for Minor Misconduct

An employee found guilty of "Minor Misconduct" may:

a) may be warned or censured; or
b) have an adverse remark entered against him; or
c) have the increment stopped for a period not longer than six months.

The punishment in (a) and (b) above is having almost the same effect of 6(h) narrated in this chapter.

(c): Have the increment stopped for a period not longer than six months

For example:

Basic pay of an employee as on 31.12.2006:Rs. 10000/=  
Next increment Rs. 560/2 and annual date of increment (ADOI) is 01.07.2007

Date of punishment 15.01.2007 and punishment is stoppage of increment for a period of six months w.e.f 01.07.2007 as only future increment can be stopped.
Pay as on the date of punishment i.e.15.01.2007: Rs. 10000/=  

Pay as on 01.07.2007 (due ADOI): Rs. 10000/= (If punishment would not have been affected the basic pay would have been Rs 10560/=)  

Pay as on 01.01.2008 (period of rigor is over): Rs 10560/=  

Pay as on 01.07.2009: Rs. 11120/=  

**Note:** No punishment can be imposed with retrospective effect unless so provided in the Service Rules. Bipartite Settlements only contemplate the imposition of penalty of retrospective dismissal in case of conviction of workman for offence involving moral turpitude with effect from the date of conviction as per clause 3(b) of Memorandum of Settlement dated 10.04.2002.

**IMPORTANT QUESTIONS ON IMPLICATION OF PENALTY**

**EFFECT OF PUNISHMENT ON DATE OF INCREMENT**  
(13.2.1.1 OF AHMEDABAD CIRCLE SRB’98, PAGE 179)

**Question:** What will be the date of increment when penalty of reduction to a lower stage in the time scale is imposed by the competent authority on any date other than the first date of the month and in terms of the order of direction is given that the date of increment will be shifted to anniversary date of the date on which the punishment order is served?

**Answer:** In such cases there are two aspects which have to be kept in mind: One, the date of next increment and second, the effect of the rigour for the purpose of promotion.

When the penalty of reduction to a lower stage in the time scale is imposed and the relative order spells out that the date of increment will be shifted as stated above, the next increment will be payable for the first day of the anniversary month in which the punishment order is served. This is because the annual increment is effective from the first day of the month in accordance with the provisions in Rule 5(1) (a) of the OSRs. Thus, the date of increment will be the first date of the month concerned. However, the rigour period of punishment for the purpose of promotion would be linked to the anniversary date of imposition of punishment and eligibility for promotion in such cases will be governed by extant instructions on debarment policy.

**Dos and DON'T FOR DA/APPELLATE AUTORITY (AA) VIDE ANNEXURE TO CC P&HRD.Circular No. : CDO/P&HRD-IR/56/2006 – 07 DATED 12.01.07**

Do’s for Disciplinary Authority (DA)/Appellate Authority (AA):  
In a disciplinary proceeding, punishment is imposed for an act of misconduct, not in order to seek retribution or give vent to a feeling of wrath, but to correct the fault of the employee concerned by
making him more alert in future and to hold out a warning to the other employees to be careful in
the discharge of their duties so that they don’t expose themselves to similar punishment.
1. On receipt of the inquiry report, take an independent view whether the charge
is established or not.
2. Ensure that the findings are based on the records of the inquiry proceedings.
3. You may differ with the findings of the EO and draw your own inference and
conclusion where you feel that the findings of the EO are perverse or conflicting, or are not totally
based on the evidence and record.
4. Consider whether or not to agree with the conclusions of the EO.
5. Inform the CSE if the past bad record is to be considered for the purpose of
determining the quantum of the penalty, and give him a chance to explain.
6. While differing with the findings of the EO record the reasons thereof in
writing and convey the same to the CSE and give him an opportunity to
substantiate his stand.
7. In case the charge is not proved by the EO and it is still held to be proved,
alalyse evidence adduced in the enquiry. In the absence of the same it may be
construed that the findings of the DA are perverse and not supported by
evidence.
8. After taking a tentative decision about the quantum of punishment, address a
communication, commonly known as ‘second show cause notice’ to the
CSE (in case of award staff) informing him the nature of proposed punishment
and call upon him to show cause - within a stipulated time – as to why the
proposed punishment should not be imposed upon him.
9. Instead of submitting written reply, if the CSE seeks appearance in person,
give him a ‘personal hearing’.
10. If there are reasons to consider that the charge is proved, take a decision in
regard to the imposition of punishment on the CSE.
11. Before deciding about the nature and quantum of punishment, carefully
consider the inquiry report and satisfy yourself that the inquiry has been
conducted properly in a fair and impartial manner and that the CSE has been
given all reasonable opportunities to defend his case.
12. Examine the chargesheet before it is served and include such charges that can be proved on
the basis of direct/circumstantial evidence, deposition of
witnesses. A lengthy chargesheet not backed by evidence leads not only to
delays but creates an impression in the mind of the Courts that employee has
unnecessarily been prosecuted for wrongs he did not commit.

Don’ts for Disciplinary Authorities (DA)/Appellate Authorities(A A) :
1. Don’t violate the principles of natural justice at any stage of the proceedings
that will make the enquiry vitiated and consequently the punishment illegal.
2. Don’t state that the charges are proved by circumstantial evidence without
narrating the circumstances.
3. Don’t leave reasons unrecorded while differing with the findings of the EO.
4. Don’t allow the punishment inflicted to be inconsistent with the charges proved.
against the CSE.
5. Don't remain silent on the issue of how to treat the suspension period of the CSE. This gives opportunity to the CSE to claim payment of full salary and allowances for the period of suspension.
6. In the course of personal hearing do not allow the CSE to be represented by his defence counsel or by any other person.

The general principles that need to be kept in view by the Disciplinary Authority while proposing punishment for the delinquent are as follows:-

a) To weigh and examine the entire set of evidence put up in the course of the inquiry for ensuring that the inference drawn by the EO/IA in his finding is reasonable and just.
b) To examine the nature and gravity of the misconduct proved against the employee.
c) To consider the aggravating / extenuating circumstances that may exist.
d) To establish the previous record, if any, of the CSE and to see if a sympathetic view can be taken in the event of an unblemished record.
e) To see if the employee is genuinely repentant.
f) To verify the nature of punishment usually inflicted for any identical misconduct so that consistency and uniformity in action could be ensured and whimsical decisions could be avoided.
g) To ensure that the punishment is generally commensurate with the gravity of misconduct/violation of rule of conduct.
h) The order passed should show that DA/AA have considered the EO's/IA's report evidence, submissions and such consideration should reflect in the order.
33. SEALED COVER PROCEDURE

The sealed cover procedure is adopted in all such cases, where an officer is either being proceeded against departmentally or is being prosecuted by a criminal Court of Law. The procedure in essence recognises the right of an employee to be considered for promotion notwithstanding the pendency of proceedings against him – disciplinary or criminal. Thus, the principle of retrospective consideration for promotion is applicable to an employee in the event of his being exonerated of the charge/s, at a later date.

In State Bank, the procedure is applicable in cases of officers in JMG Scale I to SMG Scale IV against whom disciplinary action is pending or contemplated in respect of promotion to the next higher grade or scale as also for their confirmation in the service.

i) Disciplinary action shall be deemed to be contemplated when:
   a. The officer has been placed under suspension OR
   b. The Disciplinary Authority passes on order to initiate disciplinary proceedings, OR
   c. CBI or any other agency has filed a chargesheet in the court for the purpose of commencing trial, or
   d. The bank has permitted/has taken a decision to permit CBI/other investigating agencies to prosecute the official.

ii) Disciplinary action shall be deemed to be pending when
   a. A charge-sheet is served on the officer, OR
   b. The criminal trial against the official has commenced in a court of law.

iii) Whenever a decision is taken by the Disciplinary Authority to initiate disciplinary proceedings against an officer, the same is communicated, in writing to the officer concerned on the lines of the enclosed format. It should, however, be ensured that the charge-sheet is served on the officer within a reasonable time of say four to six weeks.

iv) in case of officers against whom dissident reaction is pending or contemplated and whose candidature is being considered under sealed cover procedures, the following clause should be incorporated in the core letters to be sent to them:

   "Please note that this call letter to you to attend the interview is without prejudice to the Bank’s right of initiating/ continuing disciplinary proceedings against you" and "does not revoke/ alter the suspension order issued to you vide ...............(if placed under suspension)".

v). Findings of the Promoting Authority, in case of promotion, and those of the Competent Authority, in case of confirmation, are to be recorded separately and attached to the proceedings in a sealed envelope super-scribed "Finding regarding merit and suitability for promotion to/confirmation in ____________ (service/grade/post) in respect of Shri/ Smt ___________" and
“Not to be opened till after the termination of the suspension/completion of the disciplinary proceedings against Shri/ Smt ________________________________”.

The order of the Promoting Authority/Competent Authority need only contain the remark “the findings are contained in the attached sealed envelope” (one each for each officer separately for each promotion/confirmation).

vi). At the time of finalising the promotions, a list of officers found suitable for promotion is prepared. However, in respect of the officers whose results for promotion cannot be declared immediately, the findings are held in a sealed cover and recorded separately, and an indication evidencing that such a cover exists is recorded. If the officer is exonerated of the charges, the findings of the Promoting Authority held in sealed cover are acted upon. If he is found suitable for promotion, he is promoted thereafter with retrospective effect from the date he would have been promoted but for the pendency of disciplinary proceedings against him, against a vacancy in the higher grade that may have arisen in the meantime. If no such vacancy has arisen, he is promoted in the higher grade with retrospective effect on a supernumerary basis and absorbed against a future vacancy in that grade.

The procedure stated above is followed, mutatis mutandis, in considering the confirmation of an officer against whom disciplinary action is pending or contemplated.

vii). a). Where the departmental proceedings have ended with the imposition of a minor penalty, viz. Censure, Recovery of loss, withholding of increments of pay or withholding of promotion, etc., the decision of the promoting authority, in favour of the employee kept in the sealed cover, is not to be given effect to. However, in the case of censure, the first sealed cover is not given effect to, but subsequent sealed covers, if any, are opened in chronological order and the findings of the promoting authority acted upon. Officers punished on the conclusion of the disciplinary proceedings are not to be considered during the period of the penalty, i.e. during the period of rigour.

vii). b). In the case of imposition of major penalties, all sealed covers are rendered in fructuous.

vii). c. In so far as the confirmation of an officer in similar circumstances is concerned, the competent authority is required to review the case for confirmation immediately after the conclusion of the disciplinary proceedings and if the findings held in sealed cover are in the favour of the officer, he will be confirmed in the relative grade or scale from prospective date.
Annexure "A"

Effect of debarment on promotion of officers who have been imposed various minor/major penalties

(i) **Warning** – Warning is not considered as a penalty under the Rules. The case of an officer to whom ‘warning’ is administered can be considered for promotion to the next higher grade, provided he is otherwise eligible there-for. (It is not included in the Corp. Centre letter.

(ii) **Censure** – Censure will not be a bar on the eligibility for consideration of the officer for promotion. [In the case of the imposition of the minor penalty of censure, the first sealed cover is not given effect to, but subsequent sealed covers, if any, are opened in chronological order and the findings of the Promoting Authority acted upon].

(iii) **Withholding of promotion** – the officer will not be eligible for consideration for promotion for the period specified in the order of the Disciplinary Authority from the date of his first eligibility for the next promotion or as otherwise indicated in the order of the Disciplinary Authority. In such cases, the findings held in sealed cover, not covered by the period specified in the order of the Disciplinary Authority, are to be opened and acted upon. [With effect from September, 1988]. [The rules also provide for the review of the earlier cases where results of promotion held in sealed covers were cancelled as a result of the specific punishment of ‘censure’ and ‘withholding of promotion’ having been inflicted upon officers- ).

(iv) **Recovery of the whole or part of any pecuniary loss caused to the Bank by negligence or breach of orders:** The officer is not eligible for consideration for promotion until the amount of the particular loss is fully recovered.

(v) **Reduction to a lower stage in a timescale:** The officer is not eligible for consideration for promotion till the rigour period is over i.e. till the pay is restored to the level before the punishment.

(vi) **Reduction to a lower grade or post:** The period for which an officer is not eligible for consideration for promotion is determined depending on the circumstances of each case and decision of the appointing/discipline the authority.

(vii) **Compulsory retirement, removed from service and dismissal:** In all these cases, the question of eligibility for promotion will not rise

[If an officer is facing prosecution in a Court of Law or any matter involving moral turpitude or lack of integrity, his case has also be dealt with in accordance with the ‘Sealed Cover Procedure’ on the lines indicated above).]
(Based on Corporate Centre letter no: CDO/PM/CIR/60 dated 29.08.2002)

**34. EFFECT OF DISMISSAL, REMOVAL FROM SERVICE, COMPULSORY RETIREMENT ETC. ON TERMINAL BENEFITS**

<table>
<thead>
<tr>
<th>PARTICULARS</th>
<th>PF (OWN)</th>
<th>PF: BANK'S</th>
<th>UNDER GRATUITY (ACT)</th>
<th>GRATUITY (WHERE NO PENSION)</th>
<th>PENSION</th>
<th>LEAVE ENCASHMENT</th>
<th>TRAVEL EXPENSES</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISMISSAL</td>
<td>YES</td>
<td>NO</td>
<td>AS PER SEC. 4(6)(a)/(b) OF ACT</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>COMPULSORY RETIREMENT</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
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<tr>
<td>REMOVAL FROM SERVICE</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>DISCHARGE</td>
<td>YES</td>
<td>Ditto</td>
<td>Ditto</td>
<td>YES</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
</tr>
<tr>
<td>DISCHARGE SIMPLICITOR</td>
<td>YES</td>
<td>Ditto</td>
<td>Ditto</td>
<td>YES</td>
<td>Ditto</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>RESIGNATION</td>
<td>YES</td>
<td>Ditto</td>
<td>YES</td>
<td>YES</td>
<td>Ditto</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>VOLUNTARY RETIREMENT/CESSATION OF SERVICE</td>
<td>YES</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Limited to the extent of max. 240 days’ PL</td>
<td>Ditto</td>
</tr>
</tbody>
</table>

- **PF (OWN):** Yes or No
- **PF: BANK'S:** Yes
- **UNDER GRATUITY (ACT):** AS PER SEC. 4(6)(a)/(b) OF ACT
- **GRATUITY (WHERE NO PENSION):** Yes or NO
- **PENSION:** Yes or NO
- **LEAVE ENCASHMENT:** Yes or NO
- **TRAVEL EXPENSES:** Yes or NO

**Notes:**
- YES: Dismissal
- NO: Removal from service
- Ditto: Compulsory retirement

**Conditions:**
- Unless Sec. 4(6)(a)/(b) is applicable
- If minimum service rendered
- If eligible for pension
- If completed 5 years of service
- If completed 10 years of continuous service, otherwise Act
- If eligible for pension
- Half of the PL due to the credit (Max. 120 days)
- Limited to the extent of max. 240 days’ PL
ENTITLEMENTS OF OFFICERS PLACED UNDER RULE 19 (3) OF SBIOSR (1992)

On being placed under Rule 19(3) the official is immediately entitled to:
1. Receive his own contribution to the Provident Fund.
2. Provisional pension (equal to his eligible pension), which will be sanctioned by the pension sanctioning authority.
3. Leave Encashment of the earned leave balance, (if permitted by an appropriate authority.)
4. Retention of leased accommodation
5. TE/HA/ Lodging and Board expenses for attending enquiry proceedings at the same scale that he was entitled to, when he was placed under Rule 19(3).

Other terminal benefits including regular pension will be released/withheld as per the penalty imposed after completion of the proceedings.

He should not be paid salary or allowed/asked to work in the Bank as the continuation in service is only for the purpose of completion of disciplinary proceedings.

Any penalty imposed against any officer retired under Rule 19 (3) should be given effect to on the date of retirement.
35. EFFECT OF PUNISHMENT- PAYMENT OF GRATUITY UNDER PAYMENT OF GRATUITY
ACT 1972

(Ref: CDO/PM/CIR/38 of 1999-2000 dated 18.08.1999 :: Bhubaneswar Circle)

As per the provision of Section 4 , Sub-Section 6(a) of the Payment of Gratuity Act , 1972 ,
it is necessary to quantify in the speaking order the extent of damage or loss caused to the Bank
while speaking specifically about the payment or forfeiture of Gratuity in case of dismissal, removal
etc . In Bombay Gas Public Ltd Company vs. Papa Akbar & Another, Bombay High Court held that
unless the extent of damage attributable to the employee was quantified, there was no ground for
denying gratuity. As such, as far as the application of Sub-section6 (a) is concerned, it is absolutely
necessary that the loss should be quantified and there should be a specific order to the effect that
loss was caused to the Bank by the employee concerned by his negligence etc. Of Course, this
also calls for a specific charge levelled against the employee concerned and properly proved.

As per Sub-section 6(b) of the Act is concerned, the word "may" suggests that the
competent authority will have discretion in this regard. The discretion exercised by the competent
authority will, therefore, have to be expressed in the order itself, failing which the employee would
not automatically forfeit the gratuity although the conditions refereed to in the sub-section 6(b) are
fulfilled. The gratuity of the employee can be forfeited in its entirety in case of serious misconduct
such as acts of violence against the management or other employees, riotous or disorderly
behaviour in or near the place of employment. However, this calls for a specific order to the effect
after a proper enquiry is held against the employee concerned. ( This also evident from judgement
in the case of " Delhi Cloth and general Mills Co. Ltd Vs. Workmen" and "Management of
Touranakmulla Vs Workmen in the Supreme Court")

In case of termination for any act, which includes dismissal, removal etc., The Disciplinary
Authority should invariably:

(1) quantify the loss/ damage caused to the Bank attributable to the employee, if his
services are being terminated for any act, wilful omission or negligence causing any
damage or loss to or destruction of property belonging to the Bank: and /or

(2) mention the riotous or disorderly conduct or any other act of violence or offence
involving moral turpitude that has led to the dismissal/ termination of the services of
the employee.

The Appointing Authority on the basis of the order passed by the Disciplinary Authority
should consider the matter of payment/ forfeiture of gratuity and pass a separate order in this
regard in terms of provision of Sec 4 of sub section 6(a) or 6(b) as the case may be. To avoid any
legal complication, the order of the Appointing Authority should be passed, either along with the
order of dismissal by the DA or before the dismissal is conveyed to the employee. It will be
appropriate to communicate the decision to forfeit gratuity and the extent to which it has been
forfeited, to the employee along with the order of dismissal.

 **********
36. APPEALS AND REVIEW

The provisions relating to appeal in the Bank are available to both Award Staff and the Supervising Staff. The appeal can be preferred only by the employee concerned and not by the management. In the case of Award Staff the provisions relating to an employee’s right of submission of appeal against orders passed by the Disciplinary Authority are covered in clause 14 of the settlement dated 10.04.2002, which reads as under:

“The Chief Executive Officer or the Principal Officer in India of a Bank or an alternate officer at the Head Office or Principal Office nominated by him for the purpose shall decide which officer (i.e. the Disciplinary Authority) shall be empowered to take the disciplinary action in the case of each office or establishment. He shall also decide which officer or body higher in status than the officer authorised to take disciplinary action shall act as an appellate authority to deal with or hear and dispose of any appeal against orders passed in disciplinary matters. These authorities shall be nominated by designation, to pass original orders or hear and dispose of appeals from time to time and a notice specifying the authorities so nominated shall be published from time to time on the bank’s notice board. It is clarified that the Disciplinary Authority may conduct the enquiry himself or appoints another officer as the Enquiry Officer for the purpose of conducting an enquiry.

The appellate authority shall, if the employee concerned is so desirous, in a case of dismissal, hear him or his representatives, before disposing of the appeal. In cases where hearings are not required, an appeal shall be disposed of within two months from the date of receipt thereof. In cases, where hearings are required to be given and requested for, such hearings shall commence within one month from the date of receipt of the appeal and shall be disposed of within one month from the date of conclusion of such hearings. The period within which an appeal can be preferred shall be 45 days from the date on which the original order has been communicated in writing to the employee concerned.

At the stage of appeal in the case of the members of the Award Staff, the punishment can only be retained reduced and not enhanced, but in the case of the members of the Supervising Staff, the Appellate Authority, may pass an order confirming enhancing or reducing the punishment or remitting the case to the Authority, which imposed the penalty or to any other authority with such directions as it deems fit in the circumstances of the case. The Appellate Authority’s order should also be a speaking order.

In the case of members of the Supervising Staff, Rule 69 of the State Bank of India Officers Service Rules-1992, provides that an officer may appeal to the Appellate Authority against an order of the DA/AA, imposing upon him any of the penalties specified in Rule 67 or against the order of suspension referred to in Rule 68A. The appeal is to be made within 45 days from the date of receipt of the order appealed against. The appeal should be addressed to the Appellate Authority and submitted to the authority whose order is appealed against. The officer may also submit an advance copy to the Appellate Authority. The authority whose order is appealed against shall forward the appeal together with its comments and records of the case to the Appellate Authority. The Appellate Authority, in its turn, shall consider whether the findings are justified and/or whether the penalty is excessive or inadequate and pass appropriate orders.
He may pass an 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 directions as it deems fit in the circumstances of the case; it may however be noted that:

(i) if the enhanced penalty which the Appellate Authority proposes to impose is a major penalty specified in clauses (f), (g), (h), (i) or (j) of Rule 67 and an inquiry as provided in sub-rule (2) of rule 68 has not already been held in the case, the Appellate Authority shall direct that such an inquiry be held in accordance with the provisions of sub-rule (2) of rule 68 and thereafter consider the records of the inquiry and pass such orders as it may deem proper;

(ii) if the Appellate Authority decides to enhance the punishment but an inquiry has already been held as provided in sub-rule (2) of rule 68, the Appellate Authority shall give a show-cause notice to the officer as to why the enhanced penalty should not be imposed upon him and shall pass final order after taking into account the representation, if any, submitted by the officer.

Where the enhanced penalty proposed to be imposed is a penalty specified in clauses (e) (f), (g), (h), (i) or (j) of rule 67 and the Appellate Authority is not of the same rank as (or higher than) the Appointing Authority in respect of the category of the officers to which the officer belongs, it shall submit to the Appointing Authority the record of the proceedings together with its recommendations and the Appointing Authority shall pass such final order on the appeal as it may deem appropriate.

REVIEW: [RULE 69(3)]

The Reviewing Authority may call for the record of the case within six months of the date of the final order and, after reviewing the case, pass such orders thereon as it may deem fit.

However, if the Reviewing Authority proposes to impose to enhance the penalty, and the enhanced penalty is a major penalty specified under clauses (f), (g), (h), (i) or (j) of Rule 67 and an enquiry as provided under sub-rule (2) of rule 68 has not already been held in the case, the Reviewing Authority shall direct that such an enquiry be held in accordance with the provisions of sub-rule (2) of rule 68 and thereafter consider the record of the inquiry and pass such orders as it may deem proper. If, however, the Reviewing Authority decides to enhance the punishment but an enquiry has already been held in accordance with sub rule (2) of Rule 68, the Reviewing Authority shall give show-cause notice to the officer as to why the enhanced penalty should not be imposed upon him and shall pass that order after taking into account the representation, if any, submitted by the officer. In the case of members of the Award Staff, there is no such provision for review.
ANNEXURE 23.2

MEMORANDUM

Shri..........................................
C/o State Bank of India,
...............................................  

You are hereby suspended from the Bank's service, pending further action, with immediate effect/with effect from ....................... in connection with ....................................

In this regard, you are hereby further instructed as under :-

a) It is not necessary for you to report at the office for making attendance;

b) During the period of suspension, you will refrain from entering the Bank's premises unless you are specifically instructed/permit to do so by the Bank in connection with enquiry/other specific purpose, failing which it will be treated as an act of insubordination as per clause ______ of Memorandum of Settlement dated 10.04.2002 and the Bank, besides initiating fresh disciplinary action for your said acts of insubordination as well as for any further action of misconduct, will also be at liberty to initiate suitable legal action for unauthorised trespassing of the bank's premises.

c) If you are found indulging in acts of rude and indecent behaviour with the members of the staff or interfering with office administration, you will be liable for further action of misbehaviour.

d) You will be granted subsistence allowance during suspension period as admissible under the Desai Award, bipartite settlements.

Disciplinary Authority

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.3

STATE BANK OF INDIA,
Shri.....................................  . ..................................
C/o. State Bank of India,
. ........................................

CHARGE-SHEET

It has been decided to initiate disciplinary action against you on the following charges:

i) That you made fraudulent entries in the Pass Book No. ................. belonging to Shri ......................................................., a Savings Bank account-holder of the branch, the details of which are as under:

Date 1984 Particulars Withdrawals Deposits Balance
January 7 By Tr. 200.00 950.00
April 9 By Cash 320.00 1,270.00

ii) That you, after making the aforesaid fraudulent entries, forged the initials of a member of the supervising staff viz. Shri ........................................ with a view to authenticate these entries made by you.

2. The above charges, if established, would amount to gross misconduct in terms of the provisions of the Award.

3. You are, therefore, hereby instructed to submit your explanation in defence in writing, to the undersigned regarding the above charges within a week from today failing which it will be presumed that you have no reply to submit in this regard and we shall proceed accordingly.

Disciplinary Authority

Designation

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.4

Shri ........................................
...........................................
...........................................

With reference to your letter dated ..................., the Bank is not concerned as to by whom and how the reply to the charge-sheet served on you is to be prepared but as an employee of the Bank it is incumbent upon you to submit your explanation, if any, before............................................. failing which it will be presumed that you have no reply to submit in this regard and we shall proceed accordingly.

...........................................
Branch Manager/Departmental Head

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.5

INSTRUCTIONS FOR CONDUCTING DEPARTMENTAL ENQUIRIES

1. The employee concerned should be given every opportunity to state his case personally or through a representative of a registered union of Bank employees and to produce such evidence as he may deem necessary in his defence at the enquiry.

2. Please ensure that the questions put to the various witnesses by Inquiring Authority, the employee or his representative as the case may be, and their answers are recorded verbatim in the proceedings.

3. In case the employee concerned decides not to cross-examine any of the witness produced by the Bank, this fact should be recorded.

4. Please ensure that evidence is taken on all the charges framed in the charge-sheet.

5. Findings in the case should be arrived at and recorded after evidence in respect of all the charges has been recorded. Findings should be based only upon facts which are brought on record during the proceedings.

6. The Enquiry Officer should record evidence in support of the charges and come to his own conclusions on the basis thereof. Findings should be definite and not vague.

7. All pages of the enquiry report should be signed by the Enquiry Officer, Bank’s representative, witnesses, the employee concerned and his representative, if any, in due course. Four copies of the enquiry proceedings be forwarded to the Controlling Authority in due course.

8. In terms of the instructions contained in clause 10 of memorandum of settlement dated 10th April 2002 (earlier paragraph 521(8) of the Sastry Award, read with paragraph 18.28 of the Desai Award), recording of the enquiry proceedings should be done in a book kept specially for the purpose: the date on which the proceedings are held, the name of the employee proceeded against, the charge or charges, the evidence on which they are based and the order passed shall be recorded under the signature of the Enquiry Officer.

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.6

NOTICE OF ENQUIRY

Shri ............................................
C/o. State Bank of India
............................................

Dear Sir,

This is to advise you that an enquiry into the charges set out in the charge-sheet served on you by the Disciplinary Authority ....................................... on the ............................................will be held by me on the .................................... at ............................................ in the Branch Manager's chamber at ............................................ Branch. You should, therefore, appear before the undersigned when you will be permitted to cross-examine the witnesses produced on behalf of the Bank and to produce witnesses and such evidence in your defence as you may deem necessary. If you so desire, you will be permitted to be defended by a representative of a Registered Union of Bank employees.

Yours faithfully

(Enquiry Officer)

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.7

DEPARTMENTAL ENQUIRY

Proceeding of Enquiry against

Shri ............................................ held at ............................................ on ........................
at ............................................ A.M./P/M. in the Office of the Branch Manager, State Bank
of India ............................................

Present
1. Shri ............................................ Enquiry Officer
2. Shri ............................................ Employee proceeded against
3. Shri ............................................ Representative of the State of India Staff
   Union on behalf of Shri ..............
4. Shri ............................................ The Branch Manager, State Bank of
   India ............................................ Branch, representing the Bank.

The Enquiry Officer read out the charge-sheet dated the ........................ and enquired
from Shri ............................................ whether he understood the purpose of the enquiry
that was being held to which Shri ............................................ replied in the affirmative.

The Enquiry Officer then requested Shri ............................................ (the Branch Manager)
to call in the witnesses for the Bank, Shri ............................................ was called in first.

Shri ............................................ (the statement of the witness is to be stated in first person)

Questions:                           (from the Enquiry Officer)
Answer:                            Yes or No to be recorded

Statements of the witnesses:

Questions (By the Enquiry Officer):

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.8

SHOW CAUSE NOTICE

Shri ............................................
C/o State Bank of India,
............................................

Dear Sir,

I write with reference to the charge-sheet dated the ........................., served upon you and your reply thereto vide you letter dated the ......................... An enquiry into the charges was held by Shri ............................................ Officer ............................................ and he has (considered charge Nos. as proved). (adjudged you guilty of the charges of ...........................................................) 2. Your actions as aforesaid tantamount to gross misconduct and warrant severe punishment but keeping in view the fact that you have assured of good conduct in future, I am inclined to take a lenient view in the matter. Upon consideration of the matter, I have tentatively come to the decision that your next ______ increment/s which fall due on the . . . . . . . and . . . . . . be stopped for two years in terms of clause 6(f) of Memorandum of Settlement dated 10.04.2002. In terms of paragraph 85 of the modified Sastry Award, read with paragraph 5.122 of the Desai Award, the stoppage of increment will have the effect of postponing your future increments. Before, however, I take a final decision in the matter, I would like to give you a hearing as to why the proposed punishment should not be imposed on you. To enable you to do so, enclose a copy of the proceedings of the enquiry and findings of the Enquiry Officer.

3. You may ask for hearing or if you so desire, show cause in writing within one week of receipt by you hereof. If you fail therein, I will conclude that you have no cause to show in this regard.

Yours faithfully,

Disciplinary Authority

(Source: Reference Book on Staff Matters: Ahmedabad Circle)

(The inquiring authority cannot judge the CSO/CSE guilty. He can only say whether the charges/allegations have been proved/not proved. Hence to be suitably altered)
ANNEXURE 23.8 (a)

State Bank of India,


Shri ...........................................
State Bank of India,

I refer to the charge-sheet dated the ................................. served on you and the enquiry held into the charges by ................................... Staff Officer on the ................................

2. I have perused the enquiry proceedings and findings of the Enquiry Officer with regard to the charges mentioned in the charge-sheet referred to above, and I concur with his findings to the effect that (you are guilty of the charges levelled against you.)

3. The said acts,(for which you were found guilty by the Enquiry Officer,) amount to gross misconduct in terms of the provisions of the Award, being acts prejudicial to the interest of the Bank. In view of the gravity of the misconduct, I have come to the tentative conclusion to dismiss you from the Bank’s service.

4. However, before I take the final decision, I hereby call upon you to show cause why the proposed punishment should not be imposed on you.

5. You should submit your contention through the Branch Manager/Chief Manager/Asstt. General Manager, State Bank of India, ................................... within seven days from the receipt of this memorandum by you. If I do not hear from you within the stipulated time, I shall consider that you have no cause to show against the proposed punishment and proceed accordingly.

6. To enable you to show cause against the proposed punishment, I enclose copies of the enquiry proceedings and the findings of the Enquiry Officer.

DISCIPLINARY AUTHORITY

(Source: Reference Book on Staff Matters: Ahmedabad Circle)

(The inquiring authority cannot judge the CSO/CSE guilty. He can only say whether the charges/allegations have been proved/not proved. Hence to be suitably altered)

ANNEXURE 23.9
ORDER TO IMPOSE PUNISHMENT

Shri ............................................
C/o, State Bank of India
............................................

Dear Sir,

I write with reference to my letter No................. dated the ................. On consideration of the points raised by you at the personal hearing granted to you on the ........................................... and your letter dated ................. I see no reason to alter the tentative decision that your next annual increment/s which falls due on the .................and ................. be stopped for two years in terms of clause 6(f) of Memorandum of Settlement dated 10.04.2002 and in terms of paragraph 85 of the modified Sastry Award read with paragraph 5.122 of the Desai Award, the stoppage of increment will have the effect of postponing your future increments, which decision I hereby confirm.

Yours faithfully

Disciplinary Authority

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.10

FORMAT OF MEMORANDUM-I

STATE BANK OF INDIA
Shri ............................................
STATE BANK OF INDIA
............................................

On the ............................................ you were entrusted with the work of interest calculation. I observe that you have been careless in your work and have committed many mistakes.

2. You are advised to be careful in future in the performance of your duties.

Branch Manager

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.11

State Bank of India,
..............................
..............................
Shri ............................................
State Bank of India,
..............................

It has been observed by me from the muster roll that though your time of attendance is fixed at 10.00 A.M., in the last week on three occasions you reported for duty much after 10.00 A.M.

2. You are advised to be punctual in your attendance.

Branch Manager

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.12

LETTER OF REQUEST OF EMPLOYEE INTIMATING THE BANK THE NAME OF HIS DEFENCE REPRESENTATIVE

Shri ............................................
Enquiry Officer,
C/o State Bank of India,
............................................

Dear Sir,

I hereby request you that Shri ............................................. will represent me before you at the departmental enquiry being conducted in regard to the chargesheet(s) dated the ................. served on me by the ................................ Branch Manager.

Yours faithfully,

............................................
Signature of employee

Date ....................................
Designation ...........................
Place ....................................

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.13

NOTICE

In terms of paragraph 521 (12) of Sastry Award read with paragraph 18.28 of the Desai Award and the settlement dated the 31st October, 1979 between the Indian Banks’ Association and National Confederation of Bank Employees, it is notified for information of the staff that the Asst. General Manager, ........................ Branch/Region .............., Zonal Office/Office Manager,-------- Local Head Office has been appointed until further notice, as the authority empowered to take disciplinary action and pass original orders in respect of the members of Award Staff working at the Branch/Office and the *Dy. General Manager, .................Regional Office/General Manager ----------- Local Head Office, has been appointed as the Appellate Authority.

STATE BANK OF INDIA,

Branch Manager

Officer Manager as the case may be

Asstt. General Manager

*Delete whichever is not applicable.

NOTE : In the case of branches under the direct control of Dy. General Manager, the disciplinary authority should be shown as the Dy. General Manager.................. and not the Branch Manager and General Manager (D&PB)/General Manager (Comml.) as Appellate Authorities.

(Source: Reference Book on Staff Matters: Ahmedabad Circle)
ANNEXURE 23.14

DISCIPLINARY PROCEEDINGS

<table>
<thead>
<tr>
<th>Case No.</th>
<th>Name of the employee</th>
<th>At present posted at</th>
<th>Qualification</th>
<th>Age</th>
<th>Synopsis of the case</th>
<th>Decision of the Disciplinary Authority</th>
</tr>
</thead>
</table>

(Source: Reference Book on Staff Matters: Ahmedabad Circle)

37. CONSTITUTIONAL PROVISIONS
(Some important Articles)
Article 12 – Definition: The State
In this part, unless the context otherwise requires, ‘the State’ includes the Government and the Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Article 14 – Equality before Law
The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 16 – Equality of opportunity in matters of public employment
1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State
2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State,
3. Nothing in this Article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.
4. Nothing in this Article shall affect the operation of any law, which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 20 – Protection in respect of conviction for offences
1. No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
2. No person shall be prosecuted and punished for the same offence more than once.
3. No person accused of any offence shall be compelled to be a witness against himself.

Article 21 – Protection of life and personal liberty
No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 309 – Recruitment and conditions of service of persons serving the Union or a State
Subject to the provisions of the Constitution, Acts of the appropriate Legislature may regulate the recruitment and conditions of service of persons appointed to public service and posts in connection with the affairs of the union or of any State.

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment and the conditions of service of persons appointed to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this Article, and any rules so made shall have effect subject to the provisions of any such Act.

**Article 310 – Tenure of office of persons serving the Union or a State**

1. Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union, holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor of the State.

2. Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under the Constitution to hold such a post may, if the President or the Governor, as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

**Article 311 – Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State**

1. No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

2. No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that the clause shall not apply –

a). where a person is dismissed or removed or reduced in rank on the ground of conduct which has led his conviction on a criminal charge; or
b). where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry, or
c). where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry

If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.
38. PREVENTION OF CORRUPTION ACT, 1988

(Some relevant extracts)

1. (1) This Act may be called the Prevention of Corruption Act, 1988.

2. (b) “public duty” means a duty in the discharge of which the State, the public or the community at large has an interest;

<table>
<thead>
<tr>
<th>Explanation</th>
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</thead>
<tbody>
<tr>
<td>In this clause “State” includes a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956</td>
</tr>
</tbody>
</table>

(c) “public servant” means –
(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty
(ii) any person in the service or pay of a local authority,
(iii) any person in the service or pay of a corporation established by, or under a Central, provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act, 1956;
(iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;
(v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;
(vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice, or a competent public authority.
(vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;
(viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;
(ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act, 1956.
(x) any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member or any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;
(xi) any person who is a Vice Chancellor or member of any governing body, professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any
University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;

(xii) any person who is an office-bearer or any employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.

Explanation
1. Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.
2. Wherever the words “public servant” occurs, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

7. Public Servant taking gratification other than legal remuneration in respect of an official act - Whoever, being, or expecting to be a Public Servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person for rendering or attempting to render any service or disservice to any person with the Central Government or any State Government or parliament or the Legislature of any State or with any Local Authority, Corporation or Government Company referred to in clause (c) of Section 2, or with any Public Servant whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanations:
(b) “Gratification” - The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in money.

8. Taking gratification, in order, by corrupt or illegal means, to influence public servant - Whoever accepts or obtains, or agrees to accept, or attempts or obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government Company referred to in clause (c) of Section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.
9. Taking gratification, for exercise of personal influence with public servant - Whoever accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant whether named or otherwise to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to whom favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of Section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

11. Public Servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant - Whoever, being a public servant, accepts or obtains or agrees to accept or attempts to obtain for himself, or for any other person, any valuable thing without consideration or for a consideration which he knows to be, inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested is related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

13. Criminal misconduct by a public servant - (1) A public servant is said to commit the offence of criminal misconduct,
(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in Section 7; or
(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or
(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or
(d) if he,
   (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
   (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
   (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or
(e) if he or any person on his behalf, is in possession or has, at any time during the period of his offence, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanations:
For the purposes of this section, “known sources of income” means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

17. Persons authorised to investigate - Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer below the rank, -
(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;
(b) in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of Section 8 of the Code of Criminal Procedure, 1973 of an Assistant Commissioner of Police;
(c) elsewhere, of a Deputy Superintendent of Police or a Police Officer of equivalent rank, shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant;

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such office without the order of a Metropolitan Magistrate or a Magistrate of the first class as the case may be, or make arrest therefor without a warrant;

Provided further that an offence referred to in clause (e) of sub section (1) of Section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police;

18. Power to inspect bankers’ books - If from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under Section 17 and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers’ books, then notwithstanding anything contained in any law for the time being in force, he may inspect any bankers’ books in so far as they relate to the accounts of the persons suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries
there from, and the bank concerned shall be bound to assist the police officer in the exercise of his powers under this section;

Provided that no power under this section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police.

Explanation:
In this section, the expressions "bank" and "banker's books" shall have the meaning respectively assigned to them in the Bankers' Book of Evidence Act, 1891.

19. Previous sanction necessary for prosecution - (1): No court shall take cognisance of an offence punishable under Sections 7, 10, 11, 13 and 15 alleged to have been committed by a public-servant, except with the previous sanction:

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;
(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;
(c) in the case of any other person, of the authority competent to remove him from his office.

20. Presumption where public servant accepts gratification other than legal remuneration -
(1) Where, in any trial of an offence punishable under Section 7 or Section 11 or clause (a) or clause (b) of sub-section (1) of Section 13, it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing as the case may be, as a motive or reward such as is mentioned in Section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(2) Where in any trial of an offence punishable under Section 12 or under clause (b) of Section 15, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing as the case may be, as a motive or reward such as is mentioned in Section 7, or, as the case may be without consideration or for a consideration which is known to be inadequate.

(3) Notwithstanding anything contained in sub-section (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion so trivial that the inference of corruption may fairly be drawn.
24. Statement by the bribe-giver not to subject him to prosecution - Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under Sections 7 to 11 or under Section 13 or Section 15, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under Section 12.

27. Appeal and revision - Subject to the provisions of this Act, the High Court may exercise, so far as they may be applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 on a High Court as if the court of the special Judge were a court of Session trying cases within the local limits of the High Court.
Sec. 5 (n-e): Interpretation of “substantial interest”
(i) in relation to a company, means the holding of a beneficial interest by an individual or the spouse or minor child, whether singly or taken together, in the shares thereof, the amount paid up on which exceeds five lakhs of rupees or ten per cent, of the paid-up capital of the company, whichever is less;
(ii) in relation to a firm, means the beneficial interest held therein by an individual or his spouse or minor child, whether singly or taken together, which represents more than ten per cent, of the total capital subscribed by all the partners of the said firm;

Sec. 10: Prohibition of employment of managing agents and restrictions on certain forms of employment

(1) No banking company
   a) shall employ or be managed by a managing agent; or
   b) shall employ or continue the employment of any person -
      I. who is, or at any time has been, adjudicated insolvent, or has suspended payment or has compounded with his creditors, or who is, or has been, convicted by criminal court of the offence involving moral turpitude; or
      II. whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company

Provided that nothing contained in this sub-clause shall apply to the payment by a banking company of:

a) …………………

b) …………………

CASE: EMPLOYEE CONVICTED BY A CRIMINAL COURT FOR AN OFFENCE INVOLVING MORAL TURPITUDE FILES AN APPEAL AND OBTAINS AN ORDER OF STAY. CAN THE BANK CONTINUE HIM IN EMPLOYMENT?

In terms of the above provision the Bank cannot employ and continue in its employment any person who has been convicted by a criminal court for an offence involving moral turpitude. The Bank has to take action under Rule 68 (7) (i) or (ii) of SBI (Supervising Staff) Service Rules (the Rules) with regard to officers and in terms of Clause3(b) of settlement dated 10.04.2002 in case of workmen staff. If before such action is taken the convicted employee files an appeal against his conviction and obtains an order of stay, can the Bank on the basis of the conviction terminate his services?

A convict is one who has been pronounced guilty by a criminal court. The conviction begins to operate as soon as it is recorded. The conviction recorded by a trial court is of course liable to be affirmed or set aside by the Appellate court. The conviction subsists till it is set aside by an appellate court or a court of revision. The conviction of an accused does not cease to exist as a
result of the appeal filed by him. The conviction would cease only in the event of the same being set aside as a result of the acceptance of appeal.

(1) In an appeal or a revision against conviction is filed, the conviction is not suspended. It is only the sentence or order in consequence of such conviction that is suspended. Even when an appeal or revision is pending, the conviction is alive and it does not cease to exist. Thus once the conviction is recorded by a competent court of law on a criminal charge and until such conviction is set aside either on appeal or revision such conviction remains "effective" and can be made, the basis of dismissal or reduction in rank etc. of a public servant.

(2) Hence even if stay of sentence imposed by the trial court is obtained, the Bank has to take action in terms of Section 10 (1) (b) (i) of Banking Regulation Act read with Rule 68 (7) (i) or (ii) in the case of Supervising Staff or clause 3(b) of settlement dated 10.04.2002. It is a statutory duty which the Bank has to perform. In terms of clause 3(b) of the settlement dated 10.04.2002 he can be dismissed with effect from the date of conviction or be given any lesser form of punishment, as mentioned in sub-paragraph 3(c) and 3(d) or any other punishment in terms of clause 6 read with clause 5(s) of settlement dated 10.04.2002.

(3) So far as supervising staff is concerned the Bank has to act in terms of Rule 68 (7) (i) or (ii) of the Rules. Rule 68 (7) (i) covers cases where an officer is convicted by a criminal court for an offence involving moral turpitude. In such a case the Appointing Authority may discharge him from Bank’s service. There is no need to give any notice before passing the order of discharge. No appeal will lie against such an order of discharge.

Rule 68 (7) (ii) applies where an officer has been convicted of a criminal charge on a judicial trial. The conviction here covers all offences. Further under Rule 68 (7) (ii) any of the penalties specified in Rule 67 can be imposed. But before any order imposing the penalty is served the officer employee has to be given an opportunity of making his representation on the penalty to be imposed.

36-AD. Punishment for certain activities in relation to banking companies:
(1). No person shall:
(a). obstruct any person from lawfully entering or leaving any office or place of business of a banking company or from carrying on any business thereto; or
(b). hold, within the office or place of business of any banking company, any demonstration which is violent or which prevents, or is calculated to prevent, the transaction of normal business by the banking company, or
(c). act in any manner calculated to undermine the confidence of the depositors in the banking company.

(2). Whoever contravenes any provision of sub section (1) without any reasonable excuse shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both.

(Please see Standard Chartered Grindlays Bank Ltd. vs. Grindlays Bank Employees Association & Others 2002 LAB IC 69 (Cal HC) case on this)
40. INDUSTRIAL DISPUTES ACT, 1947
(Act No. 14 of 1947)
(Some important provisions)

Sec. 2 (bb): “Banking Company” means a banking company as defined in Section 5 of the Banking Companies Act, 1948 (10 of 1949) having branches or other establishments in more than one State and includes .. State Bank of India, and any subsidiary bank, as defined in the State Bank of India (Subsidiary Banks) Act 1959 (38 of 1959)

Sec. 2 (j): “industry” means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not -

(i) any capital has been invested for the purpose of carrying on such activity, or
(ii) such activity is carried on with a motive to make any gain or profit,

Sec 2 (oo): “Retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwis e than as a punishment inflicted by way of disciplinary action, but does not include -

(a) voluntary retirement of the workman; or
(b) retirement of the workman on reaching the age of superannuating if the contract of employment between the employee and workman concerned contain stipulation in that behalf; or
(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned or its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
(c) termination of the service of a workman on the ground of continued ill health

Sec 2 (S): “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express, implied and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led that dispute,

Sec. 11A: POWERS OF LABOUR COURT, TRIBUNALS AND NATIONAL TRIBUNALS TO GIVE APPROPRIATE RELIEF IN CASE OF DISCHARGE OR DISMISSAL OF WORKMEN:

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a labour Court, Tribunal or National Tribunal for adjudication and, in the course of adjudication proceedings, the labour Court, Tribunal or the National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman, including the award of lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.
provided that in the proceedings under this section the labour Court, Tribunal or National tribunal, as the case may be, shall not take any fresh evidence in relation to the matter."

SEC. 17 B: PAYMENT OF FULL WAGES TO WORKMAN PENDING PROCEEDINGS IN HIGHER COURTS:

Where in any case, a Labour Court, Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award staff in a high court or the supreme court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court;

provided that it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be".

Sec. 22 (i): No person employed in a public utility service shall go on strike in breach of contract:

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or
(b) within fourteen days of giving such notice, or
(c) before the expiry of the date of strike specified in any such notice as aforesaid; or
(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after such proceedings;

Sec 23: No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lockout:

(a). during the pendency of conciliation proceedings before a board and seven days after the conclusion of such proceedings; or
(b). during the pendency of proceedings (before a labour court, tribunal or National Tribunal) and two months after conclusion of such proceedings, or
(c). during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

Sec 24(1): A strike or a lockout shall be illegal if:

(i) it is commenced or declared in contravention of Section 22 or Section 23; or
(ii) it is continued in contravention of an order made under sub-section (3) of Section 10.

Sec. 24 (3): A lockout declared in consequence of an illegal strike or a strike declared in consequence of an illegal lockout shall not be deemed to be illegal
Sec 25 (d): Not withstanding that workmen in any industrial establishment have been laid off, it shall be duty of every employer to maintain for the purposes of this Chapter a muster roll and to provide for the making of entries therein by workmen who present themselves for work at the establishment in the appointed time during normal working hours.

THE SECOND SCHEDULE
MATTERS WITHIN THE JURISDICTION OF LABOUR COURT

1. The propriety or legality of an order passed by an employer under the Standing Orders
2. The application and interpretation of Standing Orders
3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to workmen wrongfully dismissed
4. Withdrawal of any customary concession or privilege
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule

THE THIRD SCHEDULE
MATTERS WITHIN THE JURISDICTION OF INDUSTRIAL TRIBUNALS

1. Wages including the period and mode of payment
2. Compensation and other allowances
3. Hours of work and rest intervals;
4. Leave with wages and holidays
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with Standing Orders;
7. Classification by grades
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed
THE FOURTH SCHEDULE
CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

1. Wages, including the period and mode of payment;
2. Contribution paid, or payable by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;
3. Compensation and other allowances
4. Hours of work and rest intervals;
5. Leave and wages and holidays;
6. Starting, alteration or discontinuation of shift working otherwise than in Accordance with Standing Orders;
7. Classification by grades;
8. Withdrawal of any customary concession or privilege or change in wage;
9. Introduction of new rules of discipline, or alteration of existing rules; except in so far as they are provided in standing orders;
10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen;
11. Any increase or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift [not occasioned by circumstances over which the employer has no control]

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41. VIGILANCE ADMINISTRATION

The Bank officials can broadly be classified under four distinct categories as:

a) Honest and Efficient
b) Honest but Inefficient
c) Dishonest but Efficient, and
d) Dishonest and Inefficient

While the Bank can justifiably be proud of the officials under category (a) above, it will have no problems in identifying and weeding out the last category of officers. Cases of those falling under category (b) would generally be dealt with for initiating Disciplinary Proceedings. The case of officials in category (c) would invite vigilance angle. Such officials should be exposed in the interest of maintaining organisational integrity & purity of administration. The case of officials falling in category (d) is straightforward and they should be weeded out (of course, after following due process). The Vigilance Department of the Bank has a very important role to play in dealing with the officials falling in category (c) or (d).

It is in view of the aforesaid that the Government of India has set up, by way of anti-corruption establishment, the following departments:

a) Administrative Vigilance Division in Department of Personnel & Training (AVD)
b) Central Bureau of Investigation (CBI)
c) Domestic Vigilance Units in the Ministries/Departments, Public Undertakings and Nationalised Banks (CVO)
d) Central Vigilance Commission (CVC)

CENTRAL BUREAU OF INVESTIGATION - Investigation work in vigilance cases is generally done through the Special Police Establishment (SPE) division of the Central Bureau of Investigation (CBI), which derives authority from the Delhi Special Police Establishment Act of 1946. The scope of the Act was enlarged in 1952 to enable the SPE for investigating offences involving statutory corporations and other similar bodies. The Public Sector Banks also get covered under the provision. There is a working arrangement between the Chief Vigilance Commission and the CBI, under which the latter takes up investigation of all cases referred to by the former.

Once a case concerning an official has been passed on for investigation to the CBI or the CBI has registered a FIR against the officer, further inquiries are left to them. In such cases, departmental action is normally kept in abeyance. In the case of officers, disciplinary proceedings can be initiated notwithstanding the launching of prosecution. In the case of an award staff employees also parallel proceedings are possible.

The CBI after completing its investigation will submit a report to the concerned Bank and forward a copy of the report to the CVC. The CBI, while submitting the report recommends either criminal prosecution of the official or initiation of departmental action for major/minor penalty. However, for launching prosecution under the Prevention of Corruption Act, 1947, it is necessary for the CBI to obtain prior sanction of the Disciplinary Authority.

In the Bank’s own Vigilance Department, however, there are intrinsic handicaps, like fraternal sympathy, over-protectiveness, and sometimes vindictiveness, on the other extreme. The need for
CENTRAL VIGILANCE COMMISSION
FIRST-STAGE ADVICE -
The type of action advised by the Commission on the reports of investigation, either by the CBI or the Bank at the time of tendering its first-stage advice is -

1. Prosecution
2. Initiation of major penalty proceedings and simultaneous nomination of a CDI
3. Initiation of minor penalty proceedings
4. Administrative action, like warning, censure, etc.
5. Closure of the case, if prima facie there is no evidence of any lapse or misconduct on the part of the public servant, and
6. preventive or corrective measures suggesting procedural improvements

Where the Commission advised only administrative action against a public servant, it is left to the Disciplinary Authority to decide whether he should be warned or cautioned or dealt with in any other manner, and no further consultation with the Commission is necessary. Similarly, where following the Commission’s advice, the Competent Authority has issued sanction for criminal prosecution of the employee; further developments of the case need not be intimated to the Commission.

Further consultation with the Commission will, however, be necessary only in cases where initiation of proceedings for a minor penalty or for a major penalty has been advised. Consultation with the Commission would be necessary before accepting resignation or granting permission for voluntary retirement of a public servant while the vigilance investigation or disciplinary proceedings are in progress. The CVC would also be consulted in court cases for drafting the affidavits, etc.

SECOND-STAGE ADVICE -
Minor Penalty
a) In cases where the Commission has advised minor penalty proceedings, and the Disciplinary Authority imposes any of the recognised minor penalties on the employee, further consultation with the Commission is not necessary. If, however, the Disciplinary Authority does not propose to impose any of the prescribed minor penalties, the case should be referred back to the Commission for the second stage advice, and
b) In minor penalty cases where oral enquiry has been ordered, the Commission would tender its second stage advice after referring to the reports of the Inquiring Authority.

Major Penalty
c) In cases where the Commission, on the basis of a CBI or departmental investigation report, has advised major penalty proceedings against the public servant, the oral inquiry in terms of the relevant rules should be entrusted to one of the Commissioners for Departmental Inquiries (CDIs). The Disciplinary Authority on receipt of the impugned officer’s statement of defence denying the charge(s), in such cases, appoints the nominated CDI for conducting the oral inquiry. The CDI so nominated has to be formally appointed by the Disciplinary Authority and he becomes the nominee of the Bank. In case, however, the
charged-sheeted employee accepts or admits the charge, the CDI need not be appointed nor the oral inquiry be conducted.

d) On completion of such an inquiry, the CDI will forward its enquiry report to the Disciplinary Authority through the Commission. The CDI in its report will only say if the charges have been proved or not proved. He cannot suggest any penalty to be imposed. The Commission examines the report of the CDI and advises the concerned Disciplinary Authority whether any penalty should be imposed on the charged employee or he should be exonerated. When the Commission advises imposition of a formal penalty, it does not usually specify the actual penalty to be imposed but leaves it at the discretion of the Disciplinary Authority as to which major or minor penalty would be justified. In certain cases of corruption or fraud, however, the Commission may suggest imposition of major penalty not less than that of removal or discharge.

Sometimes, it may so happen that the Disciplinary Authority on receipt of the officer’s reply to the charge sheet in major penalty proceedings may feel that there is no need to hold any oral inquiry and may decide to close the case by withdrawing the charge-sheet. In such cases, second stage advice from the Commission need to be obtained before dropping the disciplinary case.

Relevant Judgements

Advice tendered by Central Vigilance Commission is not binding on the bank, and it is not obligatory upon the punishing authority to accept the advice.

_Nagaraj Shivara Karjagi vs. Syndicate Bank_  1991 (2) SLR Sc 784

Non-supply of Central Vigilance Commission recommendation relied upon by Disciplinary Authority on the ground that is confidential is violative of principles of natural justice.

_SBI vs. D C Aggarwal_  1992 (5) SLR SC 598

CHIEF VIGILANCE OFFICER - The Chief Vigilance Officer (CVO), appointed in consultation with the Central Vigilance Commission, is considered to be an extended arm of the latter. He is expected to assist the Managing Director and the Chairman in regard to vigilance matters involving the officials. He is also expected to keep a close liaison with the Chief Vigilance Commission, CBI, Government of India and other agencies. The CVO is expected to perform the following functions:-

a)  to examine the systems and procedure followed in the organisation for eradication, or at least minimising, the scope for corruption and frauds

b)  to ensure that all cases of corruption, malpractices or other acts of misconduct having a vigilance angle on the part of the bank officials are dealt with in an appropriate and expeditious manner

c)  to evolve a system of uniform approach, as far as possible, in matters of imposing punishments on officials for similar charges

d)  to see that the prescribed periodical returns of the Bank are submitted to the Central Vigilance Commission on time

e)  to evolve a system of surprise inspections of sensitive spots as a check against corruption
f) to identify sensitive postings, and to ensure that persons of utmost integrity are posted there

g) to keep a vigilant eye on persons of doubtful integrity, and to prepare and update ‘Agreed Lists’ in consultation with CBI, and

h) to ensure adherence to the conduct rules relating to the employees’ integrity and honesty.

CVO of the organisation has a direct and important role to play, since he ensures a direct and continuous liaison between the Bank and the CVC, and through them to the GOI. While on the one hand he has to ensure, by virtue of his position, that officials at all levels lacking in integrity by indulging in wilful and malafide transgressions of rules and procedures are not allowed to go unpunished, he has also the responsibility to ensure that bonafide decisions taken in the normal course of business by officials in discharge of their duties - which either resulted in loss or otherwise to the organisation - are not viewed in the same serious light. This consequently throws a responsibility on the CVO to strike a balance between these two positions.
42. IMPORTANT PARAS FROM SASTRY AWARD (1953)

PARA 85:

* …… As a working rule, if in the previous year there are three adverse remarks in the service register of the workman entered against him as the result of the management’s enquiry into his conduct and after consideration of any explanation given by him, it may be taken as a prima facie case for stopping the increment at the next stage and for the next year. If any employee’s increment is to be withheld it should only be done after proper charge-sheet has been framed against him and he has been given adequate opportunity to defend himself. The Order in writing withholding the increment should also mention whether it will have the effect of postponing future increment.

PARA 495: PROBATION

Ordinarily, the period of probation should not exceed six months period which can be extended by three months provided due notice in writing is given to them and their consent in writing is obtained before the expiration of the period of probation. In all other cases probationers after the expiry of the period of six months should be deemed to have been confirmed, unless their services are dispensed with on or before the expiry of the period of probation.

PARA 505. As already stated we have tried to follow the regulations prescribed by the Sen Award with modifications. We are very particular that a verdict of acquittal passed by a competent court of law should not be lightly thrown aside by the bank management in trying to institute departmental enquiries after the acquittal, as it would amount to a double trial in respect of the same offence. We have occasionally come across instances where a bank management has persisted in its application under Section 33 in spite of the acquittal by an ordinary court of the land after a full trial. The decisions of our courts are entitled to the highest degree of respect and the bank management should reinstate an employee who is honourably acquitted and pay him full salary and allowances. The acquittal should not be lightly challenged by departmental enquiries in the interest of the institutions on matters other than in respect of which he has already been acquitted. If after the departmental enquiry the management still feels that the employee cannot be continue in his service it can terminate his service on payment of three month’s salary and allowances in lieu of the notice.

PARA 506: The banks complained that the provisions made by the Sen Tribunal regarding notice in respect of termination of a service and retrenchment. But we prefer to adopt them as they are quite reasonable except that we don’t consider that 45 days’ notice is necessary where the services of a probationer are terminated. We are in agreement with Vimadalal that at the stage of the enquiry before a domestic tribunal the presence of a lawyer is not necessary unless the bank permits it. We also deal with Mr. Tilak’s suggestion that departmental enquiries should proceed even in cases of prosecution and lay down the limit for the same.

PARA 507: In the course of the hearing there was much argument on both sides regarding the principles to be observed in the retrenchment of workers who have been declared superfluous. The counsel for the workmen pointed out that under the guise of retrenchment employees active in the
trade union movement were victimised and quite often they would be transferred to a place where they would become superfluous and thus liable to be retrenched. They put much faith in the principle of "last to come, and first to go", a principle which had been enunciated in several awards. The Counsel for the Banks argued that seniority or length of service should be an overriding consideration but insisted that efficiency should also be an important factor in the selection of the employees to be retrenched. Mr. Seervai & Mr. Veradale wanted "seniority cum efficiency" to be incorporated in the rules for retrenchment. In recent decisions, it was pointed out, emphasis was laid on length of service as well as the competence of the workmen.* We have considered both points of view. We direct as follows:-

(1). Retrenchment of superfluous workmen should be on the principle of "last to come and first to go" subject to the qualification that the junior-most also happens to be the least efficient.
(2). In deciding who is the junior most among the superfluous, A and B class banks should take the town as the unit while C and D class banks should take the state as the Unit.
(3). To avoid all suspicion of victimisation, no employee who has been transferred and working in the new place for less than six months may be retrenched.

PARA 520: Under the subject of disciplinary action, we deal with dismissal, suspension, warning or censure, fine, the making of adverse remarks and the stoppage of an increment.

PARA 521: Now replaced by the settlement dated 10th April 2002

PARA 522: Subject: Termination of employment:

(1) In cases not involving disciplinary action for misconduct and subject to clause (6) below, the employment of a permanent employee may be terminated by three months’ notice or in payment of three months’ pay and allowances in lieu of notice. The services of a probationer may be terminated with one month’s notice or on payment of one month’s pay and allowance in lieu of notice.

(2) A permanent employee desirous of leaving the service of the bank shall give one month’s notice in writing to the manager. A probationer desirous of leaving service shall give 14 days’ notice in writing to the manager. A permanent employee or probationer shall, when he leaves service, be given an order of relief signed by the manager.

(3) If any permanent employee leaves the service of the bank without giving notice, he shall be liable to pay the bank one month’s pay and allowances. A probationer, if he leaves service without giving notice, shall be liable for 14 days pay and allowances.

(4) The services of any employee other than a permanent employee or probationer may be terminated, and he may leave service, after 14 days notice. If such an employee leaves service without giving such notice he shall be liable for a week’s pay (including all allowances).

(5) An order relating to discharge or termination of service shall be in writing and shall be signed by the manager. A copy of such order shall be supplied to the employee concerned.
(6) In case of contemplated closing down or of retrenchment of more than five employees, the following procedure shall be observed:-

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(a) two month’s notice of such proposed action shall be given individually to all the employees concerned, with a statement of the reasons for such proposed action;
(b) the manager or any officer empowered in this behalf shall within the period of such notice hear any representation from the employees concerned or any registered union of bank employees;
(c) after the hearing of such representation and the receipt of a report in the matter, if necessary, by the management, if it decides to give effect to the contemplated closing down or retrenchment in the original or an amended form, the services of the employees may be terminated by giving notice or payment in lieu thereof for the periods prescribed above.

PARA 535: Policy regarding transfers is a constant source of friction between the banks and the workmen now organised into unions and the cry of victimisation of officer bearers and "activist" is raised whenever such transfers are mooted. We have found out that such allegations are easily made out but not so easily substantiated.

1. Every registered bank employee union, from time to time, shall furnish the bank with the names of the President, Vice President and the secretaries of the union;
2. Except in very special cases, whenever the transfers of any of the above mentioned office bearers is contemplated, at least five clear days working days’ notice should be put up on the notice board of the bank of such contemplated action;
3. Any representation, written or oral, made by the union shall be considered by the Bank
4. If any of the transfer is ultimately made, a record shall be made by the bank of such representation and the bank’s reasons for regarding then as inadequate; and
5. The decision shall be communicated to the union as well as to the employee concerned

PARA 536: We direct that in general the policy should be to limit the transfers to the minimum consistent with banking needs and efficiency. So far as members of the subordinate establishments are concerned there should be no transfers ordinarily and if there are any transfers at all they should not be beyond the language area of the person so transferred. We further direct that even in the case of workmen not belonging to the non subordinate staff, as far as possible, there should not be no transfer outside the state or the language area in which an employee has been serving except of course, with his consent. In all cases the number of transfer to which a workman is subjected should be strictly limited and normally it should not be more than once in a year. We are unable to accept the demand that residential accommodation should be provided by the bank at the new station. The demand for a special house allowance is also rejected.

PARA 557: Subsistence Allowance: In partial modification of Sastry Award, the following provisions shall apply in respect of banks listed in Schedule I

Where the investigation is not entrusted to or taken up by an outside agency (i.e. Police, CBI, Subsistence Allowance will be payable at the following rates:
1. For the first three months, one-third of the pay and allowances, which the workman would have got but for the suspension;
2. Thereafter, one-half of the pay and allowances:
3. After one year, full pay and allowances, if the enquiry is not delayed for reasons attributable to the concerned workman or any of his representatives.

Where the investigation is done by an outside agency and the said agency has come to the conclusion not to prosecute the employee, full pay and allowances will be payable after 6 months from the date of receipt of the Report of such agency, or one year after suspension, whichever is later, and in the event the enquiry is not delayed for reasons attributable to the workman or any of his representatives.
Dear Sir,

DRAFTING OF CHARGE SHEET

While going through the draft charge sheets received from some of the Circles, we have observed that they are sometimes framed in a casual manner and the practice of framing of charges and imputations vary from Circle to Circle. While framing the charge sheet, the serious irregularities/charges are listed in the imputations, but are not mentioned in article of charges. Many a times, the charges are not framed as per the guidelines of the CVC thereby diluting the central issues/findings of the investigating officials.

2. With a view to bring uniformity in issuing the charge sheet by all the Circles and to ensure that this is done as per the instructions of the CVC, we furnish hereunder the guidelines of the Commission in this regard. Please arrange to instruct all concerned at your end to follow these guidelines meticulously while framing the charge sheet henceforth.

(i) ‘The substance of the imputations of misconduct or misbehaviour into distinct articles of charge’ should be drawn up by the Disciplinary Authority (DA), whenever it is proposed to hold an enquiry against a public servant. This would mean that no charge can be proper or complete without including therein elements of the main content of the allegations/imputations. Therefore, the spirit of all Conduct, Discipline & Appeal Rules imply that there should be a specific finding on each allegation made against the Officer. At the end, the IO must then apply his mind to come to a conclusion as to whether the charge as a whole has been proved wholly, partially or not at all.

(ii) It has to be understood that the statement of imputations/allegations annexed are supplementary/supportive material to the charge sheet; they are details of facts/evidences to support the charges made, and should contain names of witnesses/documents in support of the charges. That is, the statement of imputations is to make the basis of charge, allegation-wise, precise and specific and should include details of what exactly each witness/document is going to prove regarding every charge. Each charge should also have a separate statement of imputations of misconduct/misbehaviour. The common failing of listing out one long statement of misconduct/misbehaviour should be avoided.

(iii) Special care has to be taken while drafting a charge sheet. A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarised in the Article of Charge. It should be remembered that ultimately the IO would be required to give his specific findings only on the Articles as they appear in the charge sheet. If the charge is that the employee
acted out of an ulterior motive that motive must be specified. Equally importantly, while drawing a charge sheet, special care should be taken in the use of language to ensure that the guild of the charged official/employee is not pre-judged or pronounced upon in categorical terms in advance. However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge, will not vitiate the charge sheet.

(iv) Further, please ensure that before the charge sheet is served on the Award Staff and the officials in the grades of Scale I & II, where the Disciplinary Authorities are Assistant General Manager (Adminsitration) and the Deputy General Manager (NCM) respectively, it must be vetted by the Deputy General Manager (Vigilance) at the Local Head Office. Similarly, in case of officials in the grades of Scale III & IV in which cases the General Manager of the respective network is the Disciplinary Authority; the Charge Sheet should be sent alongwith First State reference papers. This will ensure that the charge sheets are vetted at Corporate Centre and the process of issuing charge sheet will not get delayed.

4. You are, therefore, requested to ensure that the draft charge sheet is sent to us while seeking First Stage advice in case of officers in Scale III and above.

Yours faithfully,

Chief Vigilance Officer
No 3(v)/99/8/05.10.1999
Signed on 26.11.2008
Dear Sir,

INVESTIGATION

As you are aware, in terms of paragraph 11 of Chapter V of our Vigilance Manual, Bank’s Investigating Officer are required to indicate in their report whether any malafides are discernible on the part of one or more employees/officials.

2. Prior to the formation of Internal Advisory Committees (IAC) at the LHOs/Corporate centre, discernibility or otherwise of ‘Vigilance Angle’ was being decided by the Disciplinary Authority, in consultation with the Chief Vigilance Officer. However, subsequent to the formation of IAC at each of the LHOs/Corporate Centre in terms of our Circular No. VIG/GEN-71/3266 dated 17th September 2004, once a view has been taken by the DA as to the existence of vigilance angle or otherwise, the case is referred to the IAC for its view, within the ambit of the definition of ‘vigilance angle’ as conveyed by us vide our letters No VIG/GEN-71/790 and 5726 dated 20th May 2004 and 02nd March 2006 respectively. Each member of the Committee has also to record under his signature specific reasons for reaching such a conclusion. The case is, thereafter referred to the CVO to advise the DA as to the existence of vigilance angle or otherwise, taking into consideration the views expressed by the IAC.

3. It may be observed from the above, that the advices of the IAC/CVO at sufficiently senior levels are already available to the DA before taking a final view on discernibility or otherwise of the vigilance angle. This being the case, there appears to be no need for the Bank’s Investigating Officer to make any specific observations in his report as to whether the lapses on the part of the employees indicate malafides on their part or not, which is the main focus of the definition of ‘Vigilance Angle’. Accordingly, it has been decided that in future, the Bank’s Investigating Officials, in their Investigation Report, need not examine and report the existence or otherwise of malafides/vigilance angle on the part of any of the employees/officials involved in the case.

4. We shall, therefore, be glad if the concerned DA’s are suitably advised to brief the Investigating Officers accordingly while ordering an investigation. If inspite of guidelines, any Investigating Officer still records his opinion in this regard in his Investigation Report, it would be in order for the DA/IAC to ignore such opinion and make their individual assessments based on the facts of the case.
4. In this connection, we would like to emphasise that the Disciplinary authorities while ordering an investigation should also ensure that the official so designated is sufficiently senior in rank, has adequate background in the area to be investigated and that he is not connected in any way to the Branch/ unit where he has to undertake the investigation.

5. Please arrange accordingly, an in the meantime please acknowledge receipt of the letter.

Yours faithfully,

Chief Vigilance Officer.

Ms (gen 232- all –lho)
PRIVATE & CONFIDENTIAL

THE CHIEF GENERAL MANAGER,
STATE BANK OF INDIA,
LOCAL HEAD OFFICE,
ALL LHOS

No. VIG/GEN- 153/ 2262 Date: 5TH MAY 2001

Dear Sir,

VIGILANCE DISCIPLINARY CASES
CONSEQUENCE OF PUNISHMENTS
ON TERMINAL BENEFITS

We invite your attention to the provisions contained in Circular No.PA/CIR/82 dated the 15th April, 1987, wherein it was indicated that it will not be in order to inflict the penalty of compulsory retirement unless an officer has completed required pensionable service i.e.25 years of service or 20 years of pensionable service with attainment of age of 50 years as provided in the pension fund rules.

2. The punishment inflicted under Service conditions of the officers and granting of pension are governed by two different sets of rules and are independent of each other. However, in view of the above-referred circular and to avoid contentious issues, instructions contained therein may be meticulously followed while inflicting a stiff major penalty under Rule 67 of SBI Officers Service Rules. The matter may please be brought to the notice of all the Disciplinary Authorities/Appointing Authorities.

Yours faithfully,

CHIEF VIGILANCE OFFICER
Dear Sir,

AWARD STAFF
VIGILANCE DISCIPLINARY CASES
CONSULTATION AND MONITORING MECHANISMS

We refer to Para 3.2 Chapter 1 of Bank's Vigilance Manual. It is observed that, of late, some of the Circles have been raising various queries/issues in the above matter. While we have been clarifying the position to the Circles concerned from time to time, a need has been felt to reiterate/clarify the guidelines for the information of the various authorities at the Circle.

2. Accordingly, the guidelines on the consultation mechanism in respect of award staff vigilance cases are summarised below:

i. Action against the award staff should be initiated only after detailed investigation is conducted so that the charge sheet is framed properly and the charges could be proved in the inquiry.

ii. In composite cases, both CVC and non-CVC, involving the supervising staff as well as the award staff, the Circles should invariably obtain the first stage advice from our department before initiating disciplinary action against award staff involved in the cases.

iii. In the above cases, the second stage advice will be obtained by the disciplinary authorities from the Dy. General Manager (Vigilance) at the respective LHO before deciding on the quantum of penalty. However, if the penalty proposed is at variance with the first stage advices, the respective second stage advice will have to be obtained from this department.

iv. In those vigilance cases where only award staff is (are) involved, the disciplinary authorities should consult the Dy. General Manager (Vigilance) at the LHO for his first state and second stage advices.
v. The Dy. General Manager (Vigilance) at the LHO has to be consulted in case the penalty inflicted on an employee is proposed to be modified while dealing with the employee's appeal. However, if the first and second stage advices have been obtained from our department in the case, a reference has to be made to us before modification of penalty on appeal.

3. Please arrange to bring the above to the notice of all concerned and place this letter on permanent record so that the guidelines are meticulously complied with.

Please acknowledge the receipt.

Yours faithfully,

Sd/-

CHIEF VIGILANCE OFFICER
SBI OFFICERS' SERVICE RULES

IMPOSITION OF CASH PENALTY

We have received queries from LHOs; seeking clarifications in respect of imposition of penalty vide Rule 67 (d) of SBI Officers' Service Rules. The under noted issues have been raised in this context:

1. On the imposition of cash penalty by the Disciplinary Authority, whether request from the delinquent officer for payment in instalments can be entertained. If so, who is the competent authority to decide on it?

2. Whether the imposition of such penalty may be kept in abeyance till disposal of delinquent officer’s request?

3. When the Disciplinary Authority is inclined to recover cash penalty in instalments, will it not be in order to incorporate this as an integral part of the speaking order itself?

4. Whether it would be in order to credit the cash penalty recovered to Charges Account, where the amount is recovered in instalments, whether the amount as and when realised may be credited to Sundry Deposits Account and finally adjusted to the Charges Account.

2. We have examined the issues and have to advise as under:

As regards recovery of pecuniary penalty, whether it should be effected in one lump sum or in instalments, will have to be decided after taking into account the amount of penalty proposed, the take-home salary and the residual service of the delinquent officer. In fact, all these aspects need to be carefully and critically examined before imposing the penalty by the competent authority. The
manner in which the cash penalty imposed is to be recovered, i.e. whether in whole or in instalments, should be spelt out in the speaking order itself. In case this aspect has been overlooked by the Disciplinary Authority, he may reconsider it on the representation made by the delinquent officer and such reconsideration will be in order. In this context, we also reproduce relevant instructions recorded in CVC manual, Chapter XII, and Para 14 as under:

"When ordering such recovery the Disciplinary Authority should clearly state as to how exactly the negligence was responsible for the loss. The order should also specify the number and amount of installments in which recovery is to be made. The amount of the installment should be commensurate with the capacity of the Government servant to pay".

In regard to implementation of the order of penalty, we are of the view that the order of penalty has to be implemented immediately and under no circumstances this can be postponed or deferred, save court injunctions or directions. It is only to be ensured that order of penalty is communicated to the officer concerned, as per Rule 68(5) of the SBIOSR.

As regards appropriation of amount so recovered, we feel that the amount of recovery as and when effected, even in those cases where it is recovered in installments, should be credited straightaway to the Charges Account instead of Sundry Deposits Account.

3. Please arrange accordingly,

Yours faithfully,

Sd/-

D MD & CDO
The Chief General Manager,
State Bank of India,
All Local Head Offices,

No. CDO: PM: CIR: 46                December 12, 1998

CONFERENCE OF DY. GENERAL MANAGERS (VIGILANCE)
HELD AT HYDERABAD ON 3RD- 7TH APRIL 1996
COMPETENT AUTHORITY FOR SEEKING VIGILANCE CLEARANCE

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<td>No vigilance clearance is required</td>
</tr>
<tr>
<td>(b). Inter module Transfer</td>
<td>(a). AGM (P. &amp; HRD) of the circle where the officer is currently posted</td>
</tr>
<tr>
<td>7. Sanction of Housing Loans</td>
<td>(b). No vigilance clearance is required</td>
</tr>
<tr>
<td>8. Posting to a sensitive position</td>
<td>Sanctioning authority concerned</td>
</tr>
</tbody>
</table>

No vigilance clearance is required. In case of need, AGM-P. & HRD may seek vigilance/ DP case clearance
9. Before releasing of terminal benefits (ZOs/ PPG ask separately) | The concerned recommending authorities not below the rank of an AGM before placing the proposal to the sanctioning authority who approve the retirement
10. Posting abroad | CGM (FO)
11. Posting to Central Office | AGM-P.& HRD of the Circle from where the officer is being transferred to CO
12. Deputation to outside organisations | DGM (P.M.), CO
13. sanction of increment | No vigilance clearance is required

N.B: As far as the CAG and SBUs are concerned the CGM, CAG (Central) and the GM (Leasing) may write to the Vigilance Department at Central Office for vigilance clearance as hitherto.
To, All C.O. establishments

CDO: IR: SPL: 284 Date: 6th November 2001

Dear Sir,

WORKMEN STAFF: DISCIPLINARY PROCEEDINGS
PROFESSIONAL QUALIFICATION / FIXED PERSONAL PAY

In terms of extant provisions, whenever punishment of reduction in basic pay to a lower stage is imposed on an Officer who has reached the maximum in the scale of pay, he is allowed to draw his professional qualification allowance (since renamed as Professional Qualification Pay) as it is not in the nature of an increment in the scale of pay. One of the Local Head Offices has sought a clarification as to whether the same position holds good for workmen too.

2. We have examined the matter in consultation with Indian Banks’ Association, who have advised us that the treatment of PQA / FPA in the case of a workman undergoing a penalty of reduction in Basic Pay should be the same as in the case of an officer similarly placed. This logic will continue to hold good even after the nomenclature of PQA / FPA is changed from ‘Allowance’ to ‘Pay’ in the VII Bipartite Settlement because PQP / FPP is released to an employee at fixed intervals after he reaches the maximum in the scale of pay and as such does not constitute basic pay though for the purpose of Dearness Allowance and superannuation benefits they partake the characteristics of pay.

3. In this connection, please advise the functionaries concerned to meticulously observe the following:
   i) The Disciplinary Authority should take into account the details of salary (particularly Basic Pay) drawn by the charge-sheeted employee before he takes a decision on the nature of punishment.
   ii) In case the Disciplinary Authority has not taken into consideration the stage at which the employee is placed in the scale of pay and the punishment imposed is found to be un-implementable the matter should be referred back to the Disciplinary Authority immediately. This should be done before the appeal procedure is gone through.

4. Please arrange accordingly.

Yours faithfully,

For Dy. Managing Director & Corporate Development Officer
State Bank of India, Central Office, P.B. No. 12,
Bombay- 400 021, Telegram: “APEX”

*************************
The Chief General Manager,
State Bank of India,
Local Head Office,

PA/ CIR/ 68         Dated: August 7, 1992

Dear Sir,

STAFF: AWARD
RELEASE OF INCREMENT FOR THE PERIOD

UNDER SUSPENSION UPON REINSTATEMENT

In terms of the provisions of the Sastry and Desai awards, if upon conclusion of the enquiry, it is decided to take no action against the suspended employee, then he shall be deemed to be on duty and shall be entitled to full wages, allowances and all other privileges for the period of suspension. If some punishment other than dismissal is inflicted, the whole or part of the period of suspension, may be at the discretion of the management, be treated as on duty with the right to a corresponding portion of wages, allowances, etc.

2. The union representatives have been contending that non-release of notional increments for the period of suspension tantamount to double punishment. Further, they contend that the Disciplinary Authority imposes punishment upon the gravity of the issue etc., and the question of increments/ withheld so to say, during the period of suspension is never gone into the Disciplinary Authority.

3. The Personnel Committee of the Indian banks’ association at its meeting held on 31.03.1992 had a re-look into this matter and decided as under:

   "The Disciplinary Authority should invariably specify while passing orders regarding the punishment, as to whether the increment/s for the period of suspension are to be released or withheld. If the order is silent in this regard then it should be construed that increment/s fallen due during the period of suspension are to be released from the date suspension is lifted."

You may please advise the Disciplinary Authorities in your Circle suitably.

Yours faithfully

Dy. Managing Director (Personnel)
44. Banker's Books Evidence Act, 1981
18 of 1891(Amendment)

Definitions
1. In this Act, unless there is something repugnant in the subject of context, -

(2). "Bank" and "Banker" means:
(a). any company or corporation carrying on business of banking;
(b). any partnership or individual to whose books the provisions of this act shall have been extended as hereinafter provided;

(3). "Banker's Books" include the ledgers, day books, cash books, account books and any other books used in the ordinary business of a bank which is in the written form or as printouts of data stored in a floppy, disk, paper or any other form of electro-magnetic data storage device;

(4). legal proceeding means, --
(i). any proceeding or enquiry in which evidence is already given;
(ii). any arbitration, and
(iii). any investigation or inquiry under the Code of Criminal Procedure, 1974 or under any other law for the time being in force for the collection of evidence, conducted by a police officer or by any other person (not being a magistrate) and authorized in this behalf by a magistrate or any law for the timing in force.

(5). "the Court" means the person or persons before whom a legal proceeding is held or taken;
(6). "Judge" means judge of a High Court;
(7). "trial" means any hearing before the Court at which evidences is taken; and

(8). "Certified copy" means when the books of a bank,-

(a). are maintained in written form, a copy of any entry in such books together with the a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the orderly books of the bank and was made in the usual and ordinary course of business and that such book is still in the custody of the bank, and where the copy was obtained by a mechanical or other process which in itself ensured accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the banks business after the date on which the copy had been so prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title; and

(b).consist of printouts of data stored in a floppy, disk, tape or any other electromagnetic data storage device, a printout of such entry or copy of such printout together with such statements certified in accordance with the provisions of Section 2A.

**[(8). "Certified copy" means when the books of a bank,-

(a). are maintained in written form, a copy of any entry in such books together with the a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the orderly books of the bank and was made in the usual and ordinary course of business and that such book is still in the custody of the bank, and where the copy was obtained by a mechanical or other process which in itself ensured accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the banks business after the date on which the copy had been so prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title; and

(b).consist of printouts of data stored in a floppy, disk, tape or any other electromagnetic data storage device, a printout of such entry or copy of such printout together with such statements certified in accordance with the provisions of Section 2A.]**

**[Conditions in the Printout
2A: a printout of any entry on a copy of printout to refer to in sub-section (8) of Section2 shall be accompanied by the following, namely:-

(a). a certificate to the effect that it is a printout of such entry or a copy of such printout to by the principal accountant or branch manager; and
(b). a certificate by a person in charge of computer system containing a brief description of the computer system and the particulars of;
(A). the safeguards adopted by the system to ensure that data is entered or any other operation performed only by authorized persons;
(B). the safeguards adopted to prevent and detect unauthorized change of data;**
(C). the safeguards available to retrieve data that is lost due to systemic failure or any other reason;

(D). the manner in which data is transferred from the system to removable media like floppies, disks, tapes or any other electro-magnetic data storage devices;

(E). the mode of verification in order to ensure that data has been accurately transferred to such removable media;

(F) the mode of identification of such data storage devices;

(G) the arrangements for the storage and custody of such storage devices;

(H) The safeguards to prevent and detect any tampering with the system; and

(I) Any other factors which will vouch for the integrity and accuracy of system;

(c) A further certificate from the person in charge of the computer system to the effect that to the best of his knowledge and beliefs, such computer system operated properly at the material time, he was provided with all the relevant data and the printout in question represents correctly, or is appropriately derived from, the relevant data.

Mode of proof of entries in Banker’s books:

4. Subject to the provisions of this act, is certified copy of any entry in a banker’s books shall in our legal proceedings be received as prima facie the evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the origin of entry itself is now by law admissible, but not further or otherwise.

Cases in which officers of bank not compellable to produce books

5. No officer of a bank shall in any legal proceedings to which the bank is not a party be compelled to produce any banker’s book the contents of which can be proved under this act, or to appear as the witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or the judge made for special cause.

Inspection of books by order of Court or judge

6. On the application of any party to illegal proceeding the court or a judge may order that such party may at liberty inspect and take copies of any entries in a banker’s book for any of the purpose of such proceedings, or may order the time to prepare and produce, with the time to the specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matter in issue in such proceedings and such further certificate shall be dated and subscribed in manners herein before directed in reference to certified copies.

(2). An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the court or judge shall observe otherwise.

(3). The bank may at any time before the time Limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause at a such order, and thereupon the same shall not be enforced without further orders.

***************
45. FAQs- Disciplinary Proceedings

1. Appeal & Review

1. What is the time limit for submitting an application for review?
   Explanation: As per Rule 69 (3) of the SBIOSRs-'92, "……, the Reviewing Authority may call for record of the case in six months of the date of the final orders….". However, as per practice, the Officers also have been making appeal for review of their cases. Further, as per Rule 69 (2), an appeal shall be preferred within 45 days from the date of receipt of the order appealed against. There is however, no provision for review of decision relating to Suspension/ Punishment for Award staff.

2. Whether there is any provision for making any appeal in the case of Award staff?
   Explanation: The appeal against punishment can be made to the Appellate Authority as per Clause 12 of the Settlement dated 10th April 2002.

3. An employee has submitted an appeal to the Appellate authority against the tentative order itself. How should he proceed in the matter?
   Explanation: The tentative order is not a final order. This is in the nature of a provisional order. Issuance of tentative order is a prerequisite to passing final order which impose a punishment. It is one of the various stages in an enquiry process. Enquiry proceedings are said to have been completed or concluded at the stage of tentative order. Final order is one which conclusively determines the issue or differences (disputes) on the strength of evidence and based on the principles of preponderance of probability affecting thereby the rights of the respective parties. An appeal therefore lies only against final orders. Accordingly, the Appellate Authority must direct the CSE to make the submissions to the DA/Appointing Authority and advise that fact to him/ them also.

4. Can an appeal be given by the legal heirs of the deceased officer? (Ref. Page 115 of Vigilance Manual)
   Explanation: Yes, where the punishment had been imposed before the death of the delinquent employee by the DA or the AA, then after the death of such delinquent employee the Legal heirs / Representative/s can join the case in appeal.

2. CHARGE SHEET

5. While issuing charge sheets, (a Circle) mentions the relevant Rules of SBI (Supervising Staff) Service Rules AND SBIOSR. Is this necessary? What is the correct procedure?
   Explanation: There is no point in quoting two sets of rules. Generally, the extant (which are applicable when the DP process has been initiated) rules should be quoted, provided this/ these existed at the time misconduct was allegedly committed.

6. Usually, copies of the letters calling for the explanation and copy of charge sheet are not furnished to the branch concerned. Is there any harm in giving a copy each to the branch
concerned? Similarly, the Branch Manager’s comments on the replies are not called for. Only the controller’s comments are called for by the DA; that too, only in respect of the explanation and not in respect of the reply to the charge sheet. Isn’t it advisable to obtain the comments of the BM also on both the occasions?
Explanation: Calling for an explanation is a pre-decisional stage. It is not a part of DP process. Whereas issuance of charge-sheet is part of DP process. For issuing charge-sheet, the DA should have applied his mind in arriving at such decision. It is a quasi-judicial function. Hence, such decision should not be motivated or influenced by other’s comments or viewpoints.

7. If a second charge sheet is required to be served, before the beginning of the Enquiry, should the charge sheet have a reference to the earlier charge sheet? Or, can the second one be served as a different one altogether? (Ref. Page 62 of Vigilance manual para 18, 19)
Explanation: The second charge sheet should not refer to the first/ earlier charge sheet.

8. Can we add some extra points in the charge sheet than that of explanation called for?
Explanation: It is advisable not to do it, unless it (new charge) is strong enough and flowing from the explanation given by the CSE and amounts to acceptance of some misconduct.

9. In case there are 3 separate "charges" in the charge sheet which are pressed in the inquiry should the penalty be separate for each point?
Explanation: It should preferably be this way only, that is, separate penalty for separate charge. But the actual punishment should be the highest of the penalties given for the charges. The advantage is that in case, later on such a penalty is quashed in appeal, the next highest punishment can straightaway be given. Speaking orders of DA should indicate this aspect explicitly.

3. CVC/ CVC MANUAL

10. Can Vigilance clearance be given by the Manager (DPC) or the controller for award staff/ officers upto MMGS-II?
Explanation: Prima facie, DA only can decide about the Vigilance/ otherwise of the case. But he has to consult CVO.

11. Should vigilance cases of Award Staff and Officers Scale-IV and below, be reported to the CVO?
Explanation: Normally such cases have to be reported to DGM (Vigilance), as the latter is required to report to the CVO. DGM (Vigilance) takes the decision on the recommendation of Internal Advisory Committee.

12. Should each and every case be reported to the CMC by the Controller or DA through the DGM (Vigilance), recommending whether there is vigilance angle or not? Can the Controller or DA put up such notes without involving the DGM (Vigilance)?
Explanation: It is advisable that such cases are brought to the notice of the DGM (Vigilance).
13 When the CBI seeks Bank's permission to prosecute an official/employee, if the Bank does not give permission, then what happens?

Explanation: The Bank can refuse permission but for specific reasons. But such course may not be possible if the bank itself had filed the complaint with CBI.

14. Vigilance clearance is generally sought for "Extension of Service" also. When clearance is not given and if consequently, extension is not granted, can Rule 19(3) be invoked? Can extension of service be denied simply because a vigilance case is pending or contemplated?

Explanation: The assumption appears to be correct that Rule 19 (3) can apply in whatever way the officer's service ceases in the Bank. For the second part of your query, the extension in service would generally not be denied (rather, short extension/s would be given) if the DP / Vigilance case is pending. Actually the reasons for denial of extension of service are clearly enunciated by Corporate Centre.

15. In (one of the) LHO, Vigilance clearance from Vigilance Dept., is sought by controllers AND Personnel Dept., on too many occasions. For e.g., for Zone of Consideration, for Zone of Selection, for promotion-interview, before publishing the results, for conversion from List B to List A, for giving permission for applying for passport and so on. Should vigilance clearance be given at all these stages that too, to Controller & Personnel department?


16. Can a non-vigilance case be converted into a vigilance case, subsequently, if fresh evidence warranting the same is discovered?

Explanation: Yes, it can be done. But a vigilance case will be treated as "Vigilance angle" case till it is concluded, irrespective of its outcome.

17. When should the documents be marked as exhibits? Is it at the time of introduction of documents or at the time of production through the relevant witnesses?

Explanation: At the initial stage, only identification of documents is done. Documents are to be marked as Exhibits only through the witnesses. (Documents presented by the Presenting Officer/Defence after acceptance by the Defence /Prosecution will be marked as Exhibits by the Inquiring Authority after considering their relevance and objections raised, if any, by the other party. The documents so marked are to be tested by the witness, if considered necessary.)

18. DA comes across certain material which discloses an altogether new misconduct, not included in the charge sheet earlier. What procedure should be adopted?
Explanation: CSO should be given the notice of the new misconduct and be given sufficient opportunity to defend against such allegation.

19. Whether non supply of documents during Domestic Enquiry always amounts to violation and denial of natural justice?
Explanation: No, Now as per settled position of law, it depends on “Prejudice Principle”. It has to be proved that what prejudice have been caused due to non-supply of documents if any. To get the benefit of non-supply of relevant documents, the charge-sheeted employee/ charge-sheeted officer has to establish the prejudice, which has been caused to him due to non-supply of such documents.

5. DISCIPLINARY AUTHORITY

20. Memo calling for explanation, charge-sheet, DA’s order etc are to be signed in the capacity of DA or in the name of the designation/ post, held by DA, at the relevant point of time/period.
Explanation: With a view to avoid legal complications it is advisable that we write DA cum- AGM/ DGM/ GM / CGM and not the other way round. Reason being that it is done in the capacity of quasi judicial authority and not as an administrative head.

21. Who appoints the presenting officer? Is it the DA, or any other competent authority or the controller?
Explanation: The presenting officer is the agent of the management, for proving the charges leveled in the charge-sheet. He is appointed by the Bank, as stated in OSRs-1992 (Rule 68 (2) (vi).

22. When a group of officers is involved, the DA in respect of the senior most official should be the DA in respect of others also. Is this mandatory? (Ref. page 158 of Vigilance Manual, para 10.2 and also Rule 68(6) of SBIOSR)
Explanation: It is not mandatory, but if the proceedings are proposed to be conducted jointly, then this arrangement would be done by the Competent Authority.

23. Can the DA initiate “Major” penalty proceedings and award a “Minor” punishment and vice versa?
Explanation: Yes, the DA can initiate the “major” penalty proceedings and give the “minor” penalty, but NOT other way round. In case of a vigilance case, second stage reference is essential for commission’s advice.

24. A “Draft Order” is usually prepared and signed by the DA before sending the 2nd stage reference papers. Is it necessary? What is the purpose?
Explanation: It is called "Tentative decision". The CVC will tender its advice on the basis of the tentative decision made by the DA/AA

25. Is the disagreement of DA with the findings of the EO against the principles of Natural Justice or not?
24. Should the DA be identified according to the present grade of the official or according to his grade at the material time?
Explaination: The DA will be determined in terms of scale of the officer when the Authority has taken a decision in this regard.

6. DISCIPLINARY PROCEEDINGS/ ACTION

27. When shall the Disciplinary Proceedings be deemed to be pending against an officer?
Explaination:
1. The DP process shall be deemed to be pending if the officer has been placed under suspension or
2. any notice has been issued to him to show cause why DP should not be initiated against him or,
3. where any charge sheet has been issued against him and it will be deemed to be pending until orders are passed by the Competent Authority. (See Rule 20 (2) of SBIOSR (1992) for this purpose).

28. Whether under any compelling circumstance the domestic enquiry can be dispensed with by the employer?
Explaination: Holding of enquiry as per the provision of Article 311(2) of the Constitution of India shall not apply -
(a) Where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
(b) Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by the authority in writing, it is not reasonably practical to hold such enquiry; or
(c) Where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold an enquiry.

7. ENQUIRY/ INQUIRY (DEPARTMENTAL)

29. Is "Daily Order Sheet" required to be maintained by the Enquiry Officer? Chennai Circle does not maintain this, saying that it is meant only for enquiries in Govt. departments. (Ref. Page 84, Vigilance Manual, para 24)
Explaination: It is a must in all DP proceedings.
30. If the enquiry is based on investigation report, though not relied on by the bank, and in case CSO/DR insists on its production, can the bank claim it as privileged document and refuse its production?

Explanation: The CSO cannot compel the bank to produce any document which is not relied upon by the bank in the course of the inquiry proceedings. Such a document does not assume the character of a privileged document, unless it is withheld on the ground of “in the public / Bank’s interests”.

31. If the CSO/DR resorts to “walk out” in the course of inquiry proceedings, what course of action is left with the EO?

Explanation: The EO should try to persuade the CSO/DR to continue to participate in the proceedings. Failing this, He should clearly advise the consequences of not participating in the inquiry and thereafter make a record of this dialogue and request all parties to sign on the official record to this effect. He should also advise, that while the option to rejoin the inquiry is open to them, the inquiry will not be reopened de Novo. In case of CSE/CSO refusal to attend, the enquiry can be conducted ex parte. The IA should inform the parties and a ruling is to be recorded in the proceedings.

32. In an Enquiry, where the DR is present, can the charged official/employee also speak and argue out his case, examine/cross-examine witnesses and so on?

Explanation: The CSE can discuss the matter with his DR; so long it doesn’t amount to misuse of the opportunity and waste of time. But the IA should not permit two persons to speak from one side, at the same time.

33. Whether, an officer, if he is a member of the union to which the charge-sheeted employee belongs can serve as Defence Representative within the meaning of the word representative referred to in the Awards/ bi-partite Settlement?

Explanation: There is no right to representation by somebody else unless the rules of regulations, regulating the conduct of disciplinary proceedings specifically recognize such a right and provide such representation. In the case of workmen in Banks, representation in a domestic enquiry can only be laid down in the Bi-partite Settlement. Therefore, a reference to a registered trade union of bank employees as per Memorandum of Settlement dated 10.04.2002 would refer to a ‘trade union of workmen’ only.

34. When all the charges against the CO stand disproved and the enquiry report, along with the points of disagreement by the DA, is sent to the CO for making his submissions, if any, 1. Whether the DA can take a decision and impose penalty on the CO, without going for a “de novo” enquiry?
2. Legal implication if in future the CO goes to the Court against the punishment.
3. If the “de novo” enquiry is held, whether both IA & PO to be changed, as they failed to prove the charges?

Explanation:
1. Yes,
2. We will have to contest the case in the Court
3. It is not necessary. In any case, the PO can be changed at any point of time.

8. DE NOVO ENQUIRY

34. When all the charges against the CO stand disproved and the enquiry report, along with the points of disagreement by the DA, is sent to the CO for making his submissions, if any,
35. What is the time frame prescribed for commencement of inquiry after the charge sheet is served to the employee?
Explanation: The CVC has laid down the time limits for the various processes. Now, the Inquiry Report must be submitted within two months from the date of appointment of IA/EO/PO.

36. In case the DR does not accept any P. Exs, during the course of inquiry/ cross examination, can the PO protest?
Explanation: The DR has to give the specific reasons for not accepting the documents relied on by the PO. If he is not accepting the same, it should be stated in the daily proceedings against his signature.

37. Is there any particular point of time/stage at which we can say disciplinary action is “contemplated”? Is it when the DA records initiation of major/minor penalty action?
Explanation: It is that point of time when the Competent Authority makes up his mind to initiate Disciplinary action and puts the same down on paper and makes it clear as to the type of proceedings to be launched.

38. Whether Document expert opinion is required in all cases
Explanation: The opinion of the experts is required only in respect of the “Questioned Documents” and not in respect of all documents, unless it can be proved otherwise.

39. Whether delivery of enquiry report to the delinquent employee is necessary in case allegations/ charges are not proved and DA also does not want to disagree with the finding of the IA?
Explanation: If no charge has been proved by the EO/IA and the DA also does not want to inflict any punishment, there is no need for giving of ER to the CSE. However, it may be given to the CSO, just in case, the management at a latter stage, decides to review the case, suo moto.

9. INCREMENTS

40. If suspension is treated as on duty, will the official/ employee get all his increments with retrospective effect? During suspension, if notional increments are granted in the Penalty order, are they with retrospective effect? (Ref. Page.99 of Vigilance Manual, para 7.3)
Explanation: The DA has to specify how the period of suspension will be treated. Under Para 12 of MOS dated 10.04.2002, the treatment of period of suspension is given. Likewise, the treatment of period of Suspension is the subject matter of Rule 68A of the SBIOSRs-1992, in respect of officers. CO vide its letter PA: CIR: 51 dt. 26.06.93 advised that “penalties awarded on or after 13.06.1993 should go by the interpretation of the IBA’s Personnel Committee”. The IBA Committee stated: “The DA should invariably specify while passing orders regarding the punishment, as to whether the increment/s for the period of suspension are to be released or withheld. If the order is silent in this regard then it should be construed that increment/s which have fallen due during the period of suspension are to be released from the date of the suspension is lifted”. (Source Ahmedabad book, page 186-7)
10. INVESTIGATION:

41. Can investigating officer put in his recommendations while concluding the report?
Explanation: No. This is not part of his role or brief.

11. PENALTIES/ PUNISHMENT

42. What is a "Speaking Order" and why is it called a "Speaking" Order?
Explanation: The "speaking order" is the written order issued by the competent authority inflicting punishment on the employee, indicating thereby the independent application of mind by giving the reasons for the decision. It helps in the judicial review if the matter goes to Court in appeal or otherwise. The order must speak for itself. Please see chapter on "Decision Regarding Punishment, in the Book).

43. While imposing the punishment of "Reduction in Basic Pay" etc. the punishment is effective from the date of service of the Order. If for e. g., the Order is served on the 19th of a month, will all the future increments fall due on the 19th of the same month?
Explanation: Generally, the order of punishment is effective from the date of service of the same. The date of the increment will be from the date of service (if it is from prospective effect), but the increment is released as on the first day of the relative month, in which the increment falls due.

44. Punishment in respect of Vigilance cases of officers Scale-V and above and of composite cases are referred to CVO/CVC for concurrence. Should punishments in respect of VIGILANCE CASES of officers in Scale-IV and below and Award Staff be referred to the CVO? Similarly, should the Disciplinary Authority refer the proposed punishment in respect of non-vigilance cases to the DGM (Vig) or to any other authority?
Explanation: Yes, the CVO, on the recommendation of Internal Advisory Committee, will decide whether a case involves "vigilance angle".

45. Can a punishment be reduced on appeal if there has been recovery of a substantial amount of loss from the borrower, in the meantime?
Explanation: Yes, this could be an important and reasonable consideration, if the punishment is related to the "loss caused to the Bank".

46. Conducting an enquiry at place of occurrence - If so, to what extent?
Explanation: The EO can take a view on this for valid reasons.

47. Exoneration of the CSE/CSO from the charge/s: Whether EO/PO to be advised
Explanation: There is no such provision, though the CSE should be advised of it.
48. How to recover amount of fraud, perpetrated by Award staff member? What are the provisions?
Explanation: There are legal processes. He may be proceeded against under civil/ criminal procedure. He can also be proceeded against departmentally, if he is still in employment. But if he has retired, only civil/ criminal cases can be launched to recover the money from him.

49. Is an officer/employee eligible for LFC, PL, OL, CL and other benefits during the period of suspension?
Explanation: No, the employee would generally be asked to come to office only when asked for and therefore would not be eligible for the leave of any kind. But he will be eligible for medical facility/ Housing/ leased accommodation/ telephone/ cleansing materials etc. He would not, specifically, be eligible for Entertainment Allowance/ Newspaper.

50. How many (maximum) increments can be stopped / reduced in the case of award staff/ Officers staff
Explanation: In terms of the Clause 6 (f) of the settlement dated 10-4-2002 an award staff member will "have his increment/s stopped with or without cumulative effect". and as per Clause 6 (e), he can "be brought down to lower stage in the scale of pay upto a maximum of two stages. In the latter case, there doesn't appear to be any limit to the number of years that stage reduction can be effected to.

51. How is the increment/s for the period under suspension to be released consequent to the imposition of punishment in the case of an officer employee?
Explanation: The Disciplinary Authority should invariably specify while passing the orders regarding the punishment, as to whether the increment/s for the period of suspension are to be released or withheld. If the order is silent then it should be construed that the increments fallen due during the period of suspension are to be released from the date the suspension was lifted. (As per the advice of Personnel Committee of the IBA). Penalties awarded on or after 13.06.1992 (date of IBA circular), should be interpreted in terms of the clarification given by the Personnel Committee. Past (earlier) cases need not be reopened for practical considerations). [CO Letter PA: CIR: 51: 26.06.1993].

[Vide CO letter No. ADM: SPL: 2551 dated Aug. 27, 1993, CO have clarified that as the above decision is based on the principles of natural justice, it would apply to officers employees equally.]

52. Whether an officer, who is at the maximum of the pay scale & is drawing stagnation increment and/or Professional Qualification Pay, would continue to enjoy these facilities if subsequently a penalty of reduction of his basic pay to a stage below his basic pay at the maximum of scale is imposed on him?
Explanation: REDUCTION IN PAY/ WITHHOLDING OF INCREASEMENTS Doubts have been raised as to whether an officer, who is at the maximum of the pay scale and is drawing stagnation increment and/or Professional Qualification Pay, would continue to enjoy these facilities if subsequently a penalty of reduction of his basic pay to a stage below his basic pay
at the maximum of the scale is imposed on him. The matter has since been examined and it is clarified as under:

i. Professional Qualification Pay already sanctioned to an officer on account of passing of CAIIB examination after reaching maximum of the scale may continue to be drawn by an officer when his basic pay is reduced to a lower stage as a consequence of the penalty. It is based on the rationale that reduction to a lower stage of pay does not mean that the officer did not reach the maximum in the scale or that he was not sanctioned Professional Qualification Pay at all. Further, reduction of pay does not automatically mean withdrawal of Professional Qualification Pay.

ii. In case if a penalty of withholding of increment(s) or reduction of pay is imposed on an officer before reaching the maximum or thereafter, but before Professional Qualification Pay becomes due, the question of sanction of the Pay would arise only after he reaches maximum and completes the required years of stay at the maximum prior to or after the imposition of penalty.

iii. The stagnation increments are treated as increments for all purposes. These also rank for superannuation benefits. Therefore, the stagnation increment earned by an officer can as well be withheld before its sanction or be reduced by way of imposition of penalty after its sanction. Sanction of such increment thereafter would depend upon the nature of imposition of the penalty. To quote an example, if an officer at the maximum stage is inflicted a penalty of withholding of stagnation increment for a particular period, the stagnation increment will be sanctioned on completion of three year period after he reached the maximum plus the period for which the stagnation increment was withheld. Similarly: when the stagnation increment is reduced, such reduction would not mean that the increment was not sanctioned at all or that three years’ period will be reckoned afresh. The dates on which stagnation increments are to be sanctioned and/or become due will be determined by excluding the period for which the officer was not on the maximum in calculating the three year period. Same principle will apply while sanctioning second stagnation increment.

12. PRESENTING OFFICER

53. Can the PO collect evidence/documents etc. from any source or should it be only from the Branch?
Explanation: He can collect the "relevant" document from any legal source, inside or outside. However, he can produce same only after obtaining EO/IA’s permission, and after giving an opportunity to the other side to examine the documents.

54. Can the Enquiry Officer collect evidence on his own in addition to the evidence presented by the PO?
Explanation: No, the IA/EO cannot and should not do that.

55. Can PO submit supplementary list (s) of the P.Ex.s to the charged officer/ his defence representative? If so, how many times and at what intervals?
Explanation: Now, as per CVC’s/ Bank’s guidelines, the Charge sheet should, as far as possible, be accompanied by the documents intended to be used for proving the charge. But documents can be added later on. The number of times is not the important question. Relevancy and reasons for not been able to submit the document earlier are the main considerations.

56. Can Prosecution Witnesses and Defence Witnesses claim TE and HA, if they are staff members? Can the DR claim TE and HA?

Explanation: Bank has clear instructions about these matters. The DR will be eligible for reimbursement of TE as per his grade/ Halting Pay/ duty leave. However, the DR will not be entitled for actual expenses (out of pocket) reimbursement, except for the above. (Ahmedabad SMB; Page 299-300). Likewise, the Defence witnesses (only employees) will also be eligible for TE/HA and duty leave.

13. PERSONAL HEARING

57. Whether there is any provision of DR/ lawyer to attend to "personal hearing" in case of appeal in case of Award staff along with CSE?
Explanation: Clause 14 of the Settlement of April 2002 contemplates that "such appellate Authority shall, if the employee concerned so desires, in a case of dismissal, hear him or his representative before disposing of the appeal...." Normally lawyers are not permitted to represent the employee in the course of departmental proceedings; however, if permitted in terms of clause 12(a), he may also be permitted for this that purpose.

58. What is the course of action open against an officer/ employee, when there is no documentary evidence against him/ her?
Explanation: The PO is expected to prove the charge/s, but that does not mean that it has to be proved anyhow or somehow. It could be through direct or indirect (circumstantial) evidence. But the charge has to be proved. Obviously the standard of proof is "preponderance of probabilities" and not "beyond all reasonable doubt."

14. SUSPENSION/ SUBSISTENCE ALLOWANCE

59. Can a suspended officer/employee claim damages if he is exonerated subsequently?
Explanation: Since the suspension is not treated as a punishment, the Courts have generally not given attention to this issue.

60. Can a suspended officer/employee be given a minor penalty after/without an enquiry
Explanation: There is nothing wrong with it. It could even be exoneration also.

61. Are all disciplinary proceedings terminated on the death of the official/employee? If an officer/employee dies after the punishment of recovery of amount is awarded, can we effect the recovery from his terminal benefits? In this case, if the officer/employee dies after his appeal is turned down; can we effect recoveries from his terminal benefits? Or is no recovery made in such cases?
Explanation: Legal maxim is death cures all ills. If the punishment was already given before death, the punishment can be enforced. The appeal in a court of law can also be joined / preferred by the legal heirs, subject to the limitation period of civil suits.

62. An officer arrested by Police Authority for more than 48 hours. Whether it is mandatory to suspend him from the Bank, although he is innocent?
Explanation: Placing an employee under suspension is an administrative decision, though the Rule 68 (A) (I) of the SBIOSRs-1992 does provide that only DA may place an employee under suspension. As such it is the discretion of the Authority to place the employee under suspension or not. [There is no such corresponding provision in the Awards/ Bipartite Settlements].

63. A suspended employee is absconding after suspension. How the letter calling for explanation/ articles of charge will be delivered? What action can Bank take later for delivery of he letter/ AOC in the case?
Explanation: The Management has to ensure that the employee is advised of the process as per the clause 16 of Settlement dated 10.04.2002 for Award Staff / Rule 69(4) of SBIOSRs and if need be, by giving public notice of the same in the newspaper.

64. Officer is under suspension: How do we calculate his subsistence allowance?
Explanation:
   i. if an officer is under suspension and was in receipt of Professional Qualification Pay or stagnation increment, these will also be included in salary and allowances taken for the purposes of calculating subsistence allowance.
   ii. But where the officer under suspension was not due for Professional Qualification Pay or stagnation increment, no such Pay or stagnation increment will be sanctioned during the period of suspension or be taken for calculating subsistence allowance.
   iii. After the proceedings are over, the sanction of such Pay/ increment would depend upon the outcome of the proceedings and how the period of suspension has been treated.

65. What is the status of admissibility of expenses in case of officer when only investigation is in progress?
Explanation: As per following rules:
   • Investigation by Police/ CBI, relating to official duty, reimbursement as if he was on official duty
   • Journey with prior approval of the controlling authority
   • Advances from Br, suspense a/c, after all the previous bills have been produced
   • As per official entitlement
   • If the proceedings/ investigation relate to conduct in individual capacity unconnected with the official duties, NO Reimbursement
   • Where the officer is prosecuted for an offence alleged against the Bank, i.e. prosecution under ID Act, Contract labour or other Labour laws or taxation laws, the official will be defended at bank’s cost, besides being entitled to TA/DA etc. as if on duty.
66. What will be admissible to the defence Representative of a charge-sheeted officer
Explanation: a) An officer nominated by a charge sheeted officer as his representative for the purpose of defence at a departmental enquiry will be eligible for reimbursement of travelling expenses as applicable to the grade to which the officer (i.e. the defence representative) belongs, from the place of his posting to the place where the enquiry is conducted.

b). Halting allowance will also be paid at the appropriate rate. However, the facility of reimbursement of actual expenses will not be extended.

c). Although the charge-sheeted officer should normally nominate a defence representative from the same circle, in case he happens to nominate a defence representative from any other circle, he may be permitted to do so and the representative may be granted duty leave and also reimbursed with the travelling expenses in terms of his service rules.

67. REFUSAL OF PROMOTION: Will it be in order to release a stagnation increment to an officer who has refused promotion to next higher grade?

Explanation: Where an officer has refused promotion to next higher scale, in principle it will not be in order to consider him for grant of stagnation increment(s); in such cases, stagnation in the existing scale will be self-inflicted and there would be no justification to grant officers concerned stagnation increment(s). However, it has become necessary to keep in abeyance the implementation of the instructions. In cases where the instructions have already been implemented and officers were not given stagnation increment for reasons of their refusal of promotions, they will also have to be given stagnation increments as and when due. However, it should be made clear to them that the grant of the increment will be subject to the result of the Writ Petition No.6972 of 1988 in Chennai High Court. (Incidentally an officer can refuse promotion upto the stage of promotion to Scale III only, not beyond that.)

15. PERKS/ FACILITIES: ADMISSIBILITY IN DEPARTMENTAL

68. Whether an officer will be eligible for reimbursement of the expenses incurred by him for defending himself in respect of legal proceedings instituted against him for acts done or purported to have been done in the execution of his duties?

Explanation: If such an officer has been honourably acquitted in such legal proceedings, he may be reimbursed with the travelling expenses / halting allowance admissible to him provided such reimbursement of expenses for travel is restricted to the actual expenditure incurred, subject to the maximum entitlement as per relevant rules. He will also be reimbursed with the legal expenses incurred in defending himself in such cases, to a reasonable extent. Prior clearance of Corporate Centre is must in such cases.

ii). A suspended employee against whom DP are initiated may also be similarly reimbursed travelling expenses incurred by him.

(CO letter PA: CIR: 10 dated 03.05.83)
69. State the admissibility of the various facilities to the CSO/ DR/MW etc?
Explanation: Departmental Enquiries: Bank's retired/ serving employees who are required to attend departmental enquiries/ undertaking journey to peruse documents etc. connected with the proceedings, are eligible for travelling expenses/ halting allowance / lodging boarding charges etc. as applicable to their categories/ scale as under:

<table>
<thead>
<tr>
<th>Category</th>
<th>Travelling expenses</th>
<th>Halting Allowance</th>
<th>Lodging/ Boarding</th>
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</thead>
<tbody>
<tr>
<td>Charge sheeted official</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Defence Representative</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Prosecution Witness</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Suspended Employee</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

d). If the Bank is satisfied that adjournments are taken merely to delay the proceedings, it may refuse to extend duty leave, travelling expenses, halting allowance, etc. to the defence representative.

70. Defence Witnesses: Whether to be treated as “On Duty” or other wise?
Explanation: a) An officer who appears at a departmental enquiry in the Bank as a defence witness will be considered as on duty and granted duty leave and also reimbursed with the travelling expenses/halting allowance admissible to him. However, travelling expenses will not be reimbursed to outsiders who appear as defence witnesses.
b) The Enquiry Officers will have to judiciously decide on the relevance of each witness cited by the defence and disallow a defence witness whose testimony is not considered relevant to the case.

16. Agreed List and Officers with Doubtful Integrity

71. What is the purpose of preparation of Agreed List?
Ans: The purpose is to maintain a quite and unobtrusive watch on such officers by the Department concerned as well as the CBI.

72. Which officers should be included in the Agreed List?
Ans: Agreed list is to be prepared to include officers against whose honesty and integrity there are complaints, doubts or suspicion, this is prepared in respect of gazetted officers; officers of gazetted status in PSE and other organizations and would include all executives.

73. Who prepares the Agreed List?
Ans: The existing instructions in terms of MHA instructions dated 5.05.1966 and DOPT OM No. 325/487 – AVD – III dated 20/11/87 provide for preparation of agreed list as under:
Public Sector Undertakings / Banks having activities on all India basis or spread in more than one state: The CVOs can hold meetings with Regional DIGs of the CBI.

CVC instructions dated 7/04/2000 provide for finalization of agreed list by the CVOs in consultation with the CBI. However, it has been clarified by the Commission that any list agreed upon by the CVIO and the CBI would have to be approved by Chief Executive to be valid. Thus there is no question of exclusion of Chief Executive from the mechanism for preparation of Agreed List and CVOs functional responsibility to work with CBI in preparing the agreed list is essential. Any List agreed upon by the CVO and CBI would have to be approved by the Chief Executive.

74. What is the purpose of preparation of Agreed List?

Ans: The purpose is to maintain a quite and unobtrusive watch on such officers by the Department concerned as well as the CBI.

75. In case the jurisdiction of the public sector banks fall in the jurisdiction of two or three branches of CBI who all should be consulted for preparation of Agreed List?

Ans: In order to minimize delay in the preparation of agreed list in respect of PSUs / Banks, having activities on all India basis or spread in more than one state, the CBI have suggested that the CVO can hold meetings with regional DIGs of the CBI located at Patna, Hyderabad, Mumbai, Chennai, Chandigarh, Lucknow, Kolkata and Delhi and finalise the list of each region.

76. Whether consent of the HOD is necessary while CVO and CBI decide to put the name of the officer on the agreed list?

Ans: As per extant instructions HOD is the final authority in preparation of the agreed list. However, in case of disagreement the decision of Secretary / Head of the Ministry / Department would be final authority in cases where the Ministry / Department/ Public undertakings concerned does not agree for inclusion or deletion of any particular name or names.

77. What is the format and the period for preparation / review of agreed list?

Ans: The Agreed list are to be prepared/reviewed every year. CBI has designed a format regarding inclusion/deletion of names of the Officers in the Agreed list which is to be followed by the Department for preparation of the list.

78. Can the officers of agreed list be put on sensitive postings?

Ans: The CVC vide its OM No 3 (v)/99(6) dated August 18, 1999 directed all departments / organizations under its purview not to post such officers who are placed on agreed list and list of Doubtful Integrity in sensitive postings. Should such person be occupying sensitive positions, they should be shifted to non – sensitive area, at the earliest.

79. Which officers can be included in the list of doubtful integrity?

Ans: The following officers can be included in the officers of Doubtful integrity list.
80. Which officers cannot be included in the list of officers of doubtful integrity?

Ans: (a) Officers who have been cleared or honourably acquitted as a result of disciplinary proceedings or a court trial.
(b) Officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending even a disciplinary case.
(c) Officers who have been convicted of offences not involving lack of integrity or moral turpitude
(d) Officers against whom disciplinary proceedings have been completed or are in progress in respect of administrative lapse, minor violation of Conduct Rules and the like.

81. What is the difference between the two lists i.e. List of officers of doubtful integrity and the Agreed List?

Ans: The list of officers of doubtful integrity would generally contain names of those officers who after inquiry or during the course of inquiry have been found to be lacking in integrity. Whereas officers to be included in the Agreed list are those against whose honesty or integrity there are doubts or suspicion (it is still not confirmed through any enquiry)

82. Whether an Officer who has been cautioned or exonerated should be included in the list of officers of doubtful integrity?

Ans: No

83. Whether the officer against whom preliminary inquiry has been registered by the CBI is to be included in the list of doubtful integrity?

Ans: Till the inquiry report submitted by the CBI casts doubts on the integrity of the officer, the name of the officer should not be included in the list of doubtful integrity.
84. What is the purpose of maintaining list of officers of doubtful integrity?

Ans: The purpose of maintenance of these lists is to enable the Ministries/Departments to take such administrative action as is necessary and feasible. The following courses of administrative action are open:

1. Withholding Certificate of integrity.
2. Transfer from a sensitive post
3. Non-promotion, after consideration of his case, to a service, grade or post to which he is eligible for promotion
4. Compulsory retirement in the public interest (otherwise than as penalty) in accordance with the orders issued by the Government. This is now permissible on completion of the age of 50 with certain exceptions.
5. Refusal of extension of service or reemployment either under Government or in a Public Sector Undertakings.
6. Non-sponsoring of names for foreign assignment/deputation; and
7. Refusal of permission for commercial re-employment after retirement.

85. What is the period of retention of any officer in the ODI list?

Ans: An officer’s name is to be maintained in the ODI list for a period of 3 years from the date of imposition of the penalty.

86. Can an officer who has completed his period of rigour of penalty but exists on ODI on account of 3 years period be promoted by the management?

Ans: This is a decision to be taken by Selection Committee / Management regarding the eligibility of the officer for promotion.

17. Miscellaneous

87. Whether departmental proceedings can be carried out parallel to court proceedings?

Ans: Yes parallel proceedings can be held. The legal position is clear that in vigilance cases against workmen staff, departmental proceedings can simultaneously proceed along with a criminal trial in order to bring the departmental enquiry to an expeditious conclusion. The Chandigarh High court has also interpreted the Sastry Award / Settlements and observed that if criminal trial does not end within a period of one year of its commencement and the chargesheet against an employee is pending, concurrent departmental enquiry can be revived and brought to a conclusion. In the light of the above it is advised to follow the following procedure in dealing with departmental and criminal proceedings against members of the workmen staff.
(i) After filing the complaint with police or any investigating agency like CBI, etc. the concerned Disciplinary Authority should wait for one year as provided in the Awards and subsequent Settlement dated 10th April, 2002, before commencing disciplinary action against the concerned award staff.

(ii) If the trial does not begin within one year of the lodging of the complaint, the Disciplinary Authority concerned should serve the charge sheet for the acts of omission or commission reported against the employee and proceed to complete the departmental proceedings as per the Award/Settlements.

(iii) In case the trial begins in the mean time, the departmental proceedings should be withheld for one year and the Disciplinary Authority should pass an order accordingly and wait for the completion of the trial.

(iv) If the trial does not get completed within one year from the date of withholding the departmental proceedings, such proceedings should be revived and concluded expeditiously without waiting for the trial to be over.

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## Chapter 46: CVC Instructions

**[NOTE: IO here means EO/ IA]**

<table>
<thead>
<tr>
<th>Circular Instruction/Office order</th>
<th>Instructions &amp; contents</th>
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</table>
| **No 99/NGL/66 dated 28-09-2000** | **Subject:** Consultation with the CVC making available copy of the CVC’s advice to the concerned employee.  
**Summary of instructions**  
A copy of the commission’s first stage advice may be made available to the concerned employee along with a copy of the charge sheet served upon him, for his information.  
When the CVC’s second stage of advice is obtained, a copy thereof may be made available to the concerned employee, along with the IO’s report, to give him an opportunity to make representation against IO’s findings and the CVC’s advice, if he desires to do so.  
On receiving the representation, if any, DA may impose a penalty in accordance with the Commission’s advice or if it feels that the employee’s representation warrants consideration, forward the same along with the records of the case, to the commission for its reconsideration. |
| **No.000NGL/70 Dated 28.09.2000** | **Subject:** Suspension of Public Servants involved in criminal departmental proceedings.  
**Summary of instructions**  
The Officers facing criminal proceedings on serious charges of corruption should be placed under suspension as early as possible and their suspension should not be revoked in a routine manner.  
The instructions contained in Para 2.4 & Para 2.5, Chapter V of the Vigilance Manual, Volume –I should be the guiding factor for suspension.  
It has been provided in Para 17 of the “Directive on investigation of cases by the Special Police Establishment Division of CBI” that the CBI would recommend suspension of the concerned employees in appropriate cases.  
In case of any difference of opinion between the CBI and the administrative authority the matter may be referred to the commission for its advice. It also directs that if a person had been suspended on the recommendations of the CBI, the CBI may be consulted if the administrative authority proposes to revoke the suspension order. |
<table>
<thead>
<tr>
<th>Circular Instruction/Office order</th>
<th>Instructions &amp; contents</th>
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</thead>
<tbody>
<tr>
<td><strong>No.000NGL/166 dated 16.01.2001</strong></td>
<td><strong>Subject: Advance copy of CVO investigation report to CVC</strong> &lt;br&gt;(Summary of instructions)&lt;br&gt;Commission's circular dated 9.11.2000 refers to investigations carried out by the Vigilance wing of the concerned Ministries/Departments/Organizations into acts of omission and commission on the parts of officers coming within the purview of the commission's jurisdiction. &lt;br&gt;Notwithstanding the submission of advance copy by the CVO, a separate reference in accordance with the usual procedure needs to be made to the commission to enable tendering of advice. &lt;br&gt;CVO are to furnish advance copies to the Secretary, CVC.</td>
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<tr>
<td><strong>No 000/VGL/187 dated 03.08.2001</strong></td>
<td><strong>Subject: References to the Commission seeking second stage advice</strong> &lt;br&gt;(Summary of instructions)&lt;br&gt;It is clarified that irrespective of level of the public servant, Commission's second stage advice should be sought in the case of all employees where the Commission has rendered first stage advice.</td>
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<tr>
<td><strong>No 99/DSP/1 Dated 11.08.1999</strong></td>
<td><strong>Subject: Definition of the term stiff/severe minor penalty</strong> &lt;br&gt;(Summary of instructions)&lt;br&gt;It is hereby clarified that “Stiff/Severe minor penalty” means:-&lt;br&gt;(a) Reduction to a lower stage in the time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting pensions. &lt;br&gt;(b) Withholding of increments of pay.</td>
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<tr>
<td><strong>No 99/DSP/1 Dated 20.06.2003</strong></td>
<td><strong>Subject: Definition of the term stiff/severe minor penalty</strong>&lt;br&gt;The commission has decided that henceforth the Commission will advise two kinds of minor penalties (1) Suitable minor penalty which would include ‘Censure’ or (2) minor penalty other than ‘Censure’.&lt;br&gt;This supersedes the earlier circular of the Commission dated 11.08.1999.</td>
</tr>
<tr>
<td><strong>No 99/DSP/1 dated 3.03.2010 OO No. 11/3/10</strong></td>
<td><strong>The above two referred circulars stand withdrawn.</strong></td>
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<tr>
<td>Circular Instruction/Office order</td>
<td>Instructions &amp; contents</td>
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<td><strong>No.NZ/PRC/1 dated 16.03.2000</strong></td>
<td><strong>Subject:-Procedure for consultation with the commission</strong>&lt;br&gt;Commission has decided to put the names of the officers against whom it recommends initiation of criminal proceedings or imposition of major penalty on the commission's website. It is, therefore, requested to send the bio-data of the officers in the prescribed format in all cases referred to it for its advice.&lt;br&gt;The CVOs are requested, while making references to the commission for advice on the tentative recommendations for major/minor penalty action, to certify that the charges sheets and the relevant documents are ready and that the charge sheets would be issued within a period of 15 days from the date of the receipt of the commission’s advice.</td>
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<td><strong>No.001/MISC(V-3)/002 dated 05.04.2002</strong></td>
<td><strong>Subject: Disciplinary action in Banking Fraud cases</strong>&lt;br&gt;The commission decided to take fraud cases out of Vigilance ‘A’ category and reclassify them as Vigilance ‘Feedback:’ Category.&lt;br&gt;Category ‘Feedback:’ frauds may be defined as frauds of Rs 1 crore and above, perpetrated with a criminal intention by any bank official, either alone, or in collusion with insiders/outiders including:&lt;ol&gt;&lt;li&gt;Misappropriation and criminal breach of trust&lt;/li&gt;&lt;li&gt;Fraudulent encashment through forged instruments, manipulation of books of accounts or through fictitious account and conversion of property.&lt;/li&gt;&lt;li&gt;Unauthorised credit facilities extended for reward or for illegal gratification&lt;/li&gt;&lt;li&gt;Negligence &amp; Cash shortages&lt;/li&gt;&lt;li&gt;Cheating &amp; Forgery&lt;/li&gt;&lt;li&gt;Irregularities in foreign exchange transactions&lt;/li&gt;&lt;li&gt;Any other type of fraud not coming under the specific heads as above.&lt;/li&gt;&lt;/ol&gt;The CVO should monitor these cases and ensure that the departmental action is disposed of within a period of 4 months from the date of issue of charge sheet with monthly report to the commission.</td>
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<td>Stage</td>
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<tr>
<td>1</td>
<td>Issue of Charge-sheet</td>
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<tr>
<td>2</td>
<td>Time for submission of defence statement</td>
</tr>
<tr>
<td>3</td>
<td>Appointment of IO/PO in major penalty cases</td>
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<tr>
<td>4</td>
<td>Conduct of departmental enquiry and submission of report</td>
</tr>
<tr>
<td>5</td>
<td>Sending a copy of the IOs report to the CO for its representation</td>
</tr>
<tr>
<td>6</td>
<td>Consideration of IO’s representation and forwarding IO’s report to the Commission for second stage advice.</td>
</tr>
<tr>
<td>7</td>
<td>Issuance of orders on enquiry report</td>
</tr>
</tbody>
</table>


An act to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, Corporations established by or under any Central Act, Government companies, Societies and local authorities owned or controlled by the Central Government and for matters
connected therewith or incidental thereto.
BE it enacted by Parliament in the 54th year of the Republic of India as follows:-

**Chapter I**- Preliminary : Short title, definitions

**Chapter II**: The Central Vigilance Commission- Ordinance 4 of 1999, Appointment of CV commissioners, terms and conditions of service of CV Commissioners, Removal of CV commissioners, Power to make rules by Central Govt. for staff.

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<tr>
<td><strong>Chapter III</strong>: Functions and Powers of Central Vigilance Commission, Proceedings of Commission, Vigilance commissioner to act as Central Vigilance Commissioner in certain circumstances, Power relating to enquiries, proceedings before commission to be judicial proceedings.</td>
<td></td>
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<tr>
<td><strong>Chapter IV</strong>: Expenses of Commission to be charged on the Consolidated Fund of India, Annual report</td>
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<td><strong>Chapter V</strong>: Miscellaneous</td>
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<tr>
<td>Protection of action taken in good faith, Central Vigilance Commissioner, Vigilance Commissioner and staff to be public servant, Report of any enquiry made on reference by Commission to be forwarded to that Commission, Power to call for information, Consultation with Commission in certain matters, Power to make rules and regulations, Notification, rule, etc to be laid before parliament, power to remove difficulties, provision relating to existing Vigilance Commission, Appointments, etc., of officers and Directorate of Enforcement. Amendment of Act 25 of 1946, Interpretation section, Superintendence and administration of Special Police Establishment, Committee for appointment of directors, Terms and conditions of service of Director, appointment for post of Superintendent of Police and above, extension and curtailment of their tenure, etc., Approval of Central Government to conduct inquiry or investigation.</td>
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</table>

**The Schedule**: Form of oath or affirmation made by the Central Vigilance Commissioner or Vigilance Commission.

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<thead>
<tr>
<th>No.3(v)/99/8 dated 05.10.1999</th>
<th>Subject: Drafting of Charge Sheet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No charge can be proper or complete without including therein elements of the main content of allegations/imputations.</td>
</tr>
<tr>
<td></td>
<td>The imputations/allegations annexed are supplementary/supportive material to the charge-sheet. They are the details of facts/evidence to support the charges made, and should contain names of witnesses/documents in support of the charges. The statement of imputations is to make the basis of charge, allegation-wise, precise and specific and should include details of what exactly each witness/document is going to prove regarding every charge. Every charge should also have a separate statement of imputations.</td>
</tr>
</tbody>
</table>
of misbehaviour/misconduct. The common failing of listing out one long statement of misconduct/misbehaviour ought to be avoided.

<table>
<thead>
<tr>
<th>No.3(v)/99/8 dated 05.10.1999</th>
<th>Subject: Drafting of Charge Sheet (contd..)</th>
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<tbody>
<tr>
<td></td>
<td>A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarized in the Article of charge.</td>
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<tr>
<td></td>
<td>While drawing a charge sheet, special care should be taken in the use of language to ensure that the guilt of the charged official is not pre-judged or pronounced upon in categorical terms in advance. However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge will not vitiate the charge sheet.</td>
</tr>
<tr>
<td></td>
<td>IOs are required to record their findings in respect of each allegation framed in support of an article of charge in order to ensure that inquiry reports do not suffer due to deficiencies.</td>
</tr>
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<td></td>
<td>CVOs are also to carry out an exercise on their own in respect of cases where the commission has tendered its first stage advice to ensure that the article of charge and statement of imputation are in conformity with the advice.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No 000.VGL/166 dated 16.01.2001</th>
<th>Subject: Advance copy of CVO investigation report to CVC</th>
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<tbody>
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<td></td>
<td>It is reiterated that notwithstanding the submission of advance copy by the CVO, a separate reference in accordance with the usual procedure needs to be made to the Commission to enable tendering of advice. CVOs are to furnish advance copies to the Secretary, Central Vigilance Commission.</td>
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</tbody>
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<thead>
<tr>
<th>No 001/DSP/6 dated 02.02.2001</th>
<th>Subject: Ensuring attendance by private witnesses in departmental Inquiries</th>
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<tbody>
<tr>
<td></td>
<td>In all enquiry proceedings where lack of Integrity is a charge or part of a charge, the IA authorized under the Provision of Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Document) Act 1972 is conferred with the powers of a trial court to summon witnesses/documents and such summon wills shall be served through a District in charge.</td>
</tr>
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<td></td>
<td><strong>This may be resorted to when considered necessary.</strong></td>
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</tbody>
</table>
No.004/VGL/87

Subject: Foreign visit by the Govt. Employee
All Govt. Departments including Ministries/ autonomous bodies/PSUs/Insurance Companies/ Societies etc are to furnish the information about private visits made by the employees of their respective organizations during 2003 and 2004 to the CVC latest by 07.01.2005 in the following format.
Name of the organization.

<table>
<thead>
<tr>
<th>Sl no</th>
<th>Name &amp; designation of employee</th>
<th>Name of the country visited</th>
<th>Duration of stay</th>
<th>Source of funding</th>
<th>Remark</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>2.</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
</tr>
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No 01/Misc/01-part I dated 31.01.2003

Subject: Disposal of Accountability Reports
RBI Norms: Staff Accountability is to be examined at each stage of the account becoming NPA. The accountability report is not sent to the Vigilance department unless DA finds a Vigilance Angle.
CVC clarified that CVO may got such accountability reports in a routine manner irrespective of the fact whether there is Vigilance Angle or Not. In exceptional cases, where the CVO discerns a vigilance angle in disagreement with the DA, he may seek further clarification and take appropriate action.

No 000/DSP/1 dated 10.02.2003

Subject: Non-acceptance of the Commission’s advice in the matter of appeals.
DA imposes major penalty or takes a view on the minor penalty after the Commission tenders its second stage advice. Sometimes after imposition of penalty the CSO makes an appeal. The appellate authority is expected to keep in mind the advice tendered by the Commission and decide on the appeal. In case of deviation, CVO will report this to the commission which will take an appropriate view as to whether the deviation is serious enough to include in its Annual Report.
The Commission further wishes to stress that reconsideration of advice will be only in exceptional cases at the specific request of the DA, before a decision is taken by it to impose the punishment or otherwise. After a decision has been taken by DA or the Appellate Authority the Commission will not entertain any reconsideration proposal. Such cases will be treated only as “deviation” from the non-acceptance of Commission’s advice.

No 002/MSC/15 dated 10.02.03

Subject: Entitlement of TA/DA to the private witnesses and the retired employees appearing before departmental enquiry
Clarifications: Should be paid TA/DA
<table>
<thead>
<tr>
<th>Circular Instruction/Office order</th>
<th>Instructions &amp; contents</th>
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</table>
| **No 99/VGL/69 dated 19.02.2003** | **Subject: Annual Statement of assets and liabilities submitted by officers of Public Sector Banks**  
Every Officer should submit the return on direct recruitment or on promotion and thereafter annually as on 31st March.  
The return is submitted on the prescribed format within a reasonable time not later than the 30th June of each year. Non submission/ delayed submission is categorized as misconduct attracting appropriate disciplinary action under the service rules.  
Bank Officers are debarred from applying for or accept allotment of shares/securities out of the 'employees/promoters' quota and have to furnish a declaration in this regard.  
The above requirement is an important preventive vigilance initiative. Banks need to maintain strict secrecy regarding the information furnished by the officers in their statements, which are submitted in sealed cover, these statements are also required to be scrutinized by the Competent Authority to whom these are submitted. |
| **No.000/VGL/18 dated 03.03.2003** | **Subject: Delay in implementation of Commission’s advice.**  
Reference; Circular Letter No 000/VGL/18 dated 23.05.2000 & 003/MMT/02 dated 07.01.2003  
The responsibility for finalization of disciplinary cases and award of punishment passes on from vigilance to the personnel department, any delay over and above the prescribed time limits will be viewed as misconduct by the Commission and render the concerned officials of the personnel department and others concerned liable for being proceeded from the vigilance angle with its attendant ramifications. |
| **No 003/MSC/4 dated 12.06.2003** | **Subject: Staff Accountability in composite cases of fraud**  
The commission has considered the proposal to segregate the lapses of alleged fraudsters from those of other officials while examining staff accountability in fraud cases. The proposal to treat cases of alleged fraudsters together with those of gross negligence / recklessness as Vigilance Cases and those dealing with procedural / Supervisory lapses of other officials as non-vigilance cases has been found acceptable. In this connection , the Commission would advise observance of following procedure:- |
<table>
<thead>
<tr>
<th>Circular Instruction/Office order</th>
<th>Instructions &amp; contents</th>
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</table>
| **No 003/MSC/4 dated 12.06.2003**<br>(Contd...)**Subject: Staff Accountability in composite cases of fraud (contd..)** | 1. At the time of seeking first stage advice, the Bank should project the roles of all officials involved, clearly distinguishing alleged fraudsters and those suspected of connivance from those guilty of unintended administrative/procedural lapses.  
2. Based on the perception, Bank should make unambiguous and clear recommendations on how they propose to deal with different officials.  
3. Keeping in view the recommendations made by the Bank, the commission would advise vigilance action against the main offenders/colluders in the fraud case and endorse administrative action against the others if found in order.  
4. While treating individual cases as non-vigilance, Bank must ensure that officials to be proceeded against administratively are prima facie clear lapses that may attract vigilance angle in terms of the provisions laid down in Para 4(iii) of the Special chapter on Vigilance management in Public Sector Banks. |
<p>| <strong>No 99/NGL/62</strong>&lt;br&gt;Dated 29.11.99 <strong>Subject: Amendment of Para 11.4, Chapter X of Vigilance Manual Vol. I</strong> | Amendments: Para 11.4(iii)&lt;br&gt;The case involving any of the lapses such as gross or wilful negligence, recklessness, exercise of discretion without or in excess of powers/jurisdiction, causing undue loss to the organization or a concomitant gain to an individual and flagrant violation of systems and procedures. |
| <strong>No 98/DSP/9 dated 13.08.2003</strong>&lt;br&gt;Office order No 36/7/03 dated 09.07.2003 <strong>Subject: Clarifications on Commission’s Directions</strong> | During the meeting of the Central Vigilance Commission with CMDs of PSBs at IBA, Mumbai on 25.02.2003, a number of issues were raised. The Commission clarified these issues as follows:- |</p>
<table>
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<tr>
<th>Circular Instruction/Office order</th>
<th>Instructions &amp; contents</th>
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<tbody>
<tr>
<td><strong>No 98/DSP/9 dated 13.08.2003</strong></td>
<td><strong>Subject: Clarifications on Commission’s Directions (contd...)</strong></td>
</tr>
</tbody>
</table>
| **Office order No 36/7/03 dated 09.07.2003 (contd...)** | *(i) Commission’s directive dated 11.10.2002 on dealing with anonymous/pseudonymous complaints.*  
No change in the Commission’s earlier ruling on action on anonymous / pseudonymous complaints  
*(ii) Commission’s clarification dated 10.02.2003 on non acceptance of the Commission’s advice in the matter of appeals*  
It was clarified that the DA could differ with the Commission’s 2\textsuperscript{nd} stage advice for valid reasons and this applied to Appellate Authority also. The right to the Appellate Authority to differ with the Commission, therefore, is not interfered with. The Appellate Authority should satisfy himself. Commission, however, would take a view as to whether the ‘deviation’ in such cases is serious enough to warrant inclusion in its Annual Report.  
*(iii) Reference of cases to CBI*  
It was clarified that the institution, at the initial stage itself, depending on the facts of the case, should decide whether the case is to be entrusted to the local police or CBI.  
*(iv) Posting of Officer in ‘agreed list’*  
It was clarified that drawing up and revising the agreed list with the assistance of CVO is left to the CEOs and if it is desired that a person in this agreed list is to be posted in a particular position, the institution may take the decision for specific reasons. |
| **No 002/VGL/61 dated 23.09.2003** | **Subject: Disposal of Complaints**  
Query: Whether a complaint forwarded by the Commission for report may be first got confirmed from the complainant before taking up for investigation?  
**Clarification:** Once Commission calls for a report on a complaint, the departments / Organisations should treat it as a signed complaint though on the face of it the complaint may be anonymous/ pseudonymous. Clarifications, if however required, could be obtained from the complainant(s), as part of the enquiry in the matter |
| **No NZ/PRC/1 dated 10.09.2003** | **Subject: Procedure for making reference to the Commission for its second stage advice.**  
The Commission reiterates that the cases requiring the Commission’s Second Stage advice may be referred to along with the following documents:-  
*(i) Copy of the Charge-Sheet with all the annexures.* |
<table>
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<th>Office No</th>
<th>Subject</th>
<th>Text</th>
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</table>
| No.003/DSP/3 dated 15.09.2003 | **Subject: Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.**  
In one case, the competent authority had merely endorsed the Commission’s recommendation against the employee. In other case, the DA had imposed the penalty of removal from service on an employee, but had not discussed, in the order passed by it, the reasons for not accepting the representation of the concerned employee on the findings of the Inquiring Authority. Courts have quashed both the orders on the ground of non-application of mind by the concerned authority.  
It is clarified that the reasons that the recording of reasons in support of a decision of a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. It is also well settled that DA/AA is required to apply its own mind to the facts and circumstances of the case and to come to its own conclusions, though it may consult an outside agency like the CVC.  
DA/ Appellate Authorities should issue a self contained, speaking and reasoned order conforming to the aforesaid legal requirements, which must indicate, inter-alia, the application of mind by the authority issuing the order. | |
| No.004/VGL/18 dated 13.04.2003 | **Subject: Vigilance Angle-definition**  
**(Revised Definition)**  
Vigilance angle is obviously in the following acts:  
(i) Demanding and/ or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.  
(ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or his subordinates have official dealings or where he can exert influence.  
(iii) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by | |
| No 98/MSC/23 dated 25.03.2003 | **Subject: Utilising the services of retired officers for conducting Departmental Inquiries.**  
It has been decided that the disciplinary authority may appoint outsiders including retired officer as Inquiry Officer with the approval of CVO. In case the CVO does not agree to his appointment as inquiry Officer and DA/Management insist on his appointment, only | |
### Subject: Appointment of retired officers as Inquiring Authority

The person appointed as Inquiry Officer must be a servant of the public and not a person who was a servant of the public. Therefore a retired officer will not come within the definition of ‘public servant’ for the purpose of Rule 23(b).

CVOs of organizations [other than those, which follow CCS(CCA)Rules 1965] may review the service rules and regulations of their organizations and take necessary measures to amend the provisions relating to appointment of Inquiring Authorities, if they are inconsistent with the provisions under Rule 14(2) of the CCS(CCA) Rules 1965. If any Service/Departmental Rules are in conflict with appointment of retired persons as Inquiring Authorities, they should be suitably amended before any such appointment made.

(Ref: The Supreme Court Judgment in Civil Appeal No 4481 of 2004 – Ravi Malik Vs. National Film Development Corporation Ltd.)

### Subject: Adherence to time-limits in processing of disciplinary cases

The Commission is concerned that the schedule of time limits in conducting investigations and departmental inquiries laid down in its letter of even number dated the 23rd May 2000 are not being strictly adhered to and more often than not, delays have been noticed on the part of decision-making authorities leading to disciplinary proceedings getting unduly prolonged. The Commission would tend to view such delays seriously, if wilful, on the part of administrative authorities and would be constrained to advise penal action against the administrative authorities concerned.

Delay in decision-making by authorities in processing of vigilance cases would also be construed as misconduct under the relevant Conduct Rules and would be liable to attract penal action.

### Subject: Festival gifts to Government servants by PSU’s etc.

The practice by PSUs etc. of sending gifts to Government servants on the occasion of festival and new year be discouraged. All CVOs are requested to bring this to the notice of all concerned. They should furnish report on the expenditure incurred by them on festival gifts during this year in their Monthly and Annual reports to the Commission.

### Subject: Grant of Vigilance Clearance – regarding interim additional / concurrent charge.

It has been observed that certain Departments/PSEs seek clearance from the Commission for additional/concurrent
charge/arrangements. In this connection, it is clarified that whenever some officer is given additional charge of another post for a short duration i.e. upto 3 months, clearance from the CVC will not be required. In such cases, CVO of the organization would give the vigilance clearance.

OFFICE ORDER NO. 31/5/05 dated 12.05.2005

Sub: - Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act.

The guidelines to be followed by the sanctioning authority, as declared by the Supreme Court are summarized hereunder:-

i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitute the offence.

ii) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his department.

iii) When an offence alleged to have been committed under the P.C. Act has been investigated by the SPE, the report of the IO is invariably scrutinized by the DIG, IG and thereafter by DG (CBI). Then the matter is further scrutinized by the concerned Law Officers in CBI.

iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinized so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.

v) The accused person has the liberty to file representations when the matter is pending investigation. When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.

vi) A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.

vii) However, if in any case, the Sanctioning Authority after consideration of the entire material placed before it, entertains any doubt on any point the competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind properly, and not for the purpose of considering the representations
of the accused which may be filed while the matter is pending sanction.

viii) If the Sanctioning Authority seeks the comments of the IO while the matter is pending before it for sanction, it will almost be impossible for the Sanctioning Authority to adhere to the time limit allowed by the Supreme Court in Vineet Narain’s case. The Commission has directed that these guidelines as at Para 2(i)- (vii) should be noted by all concerned authorities for their guidance and strict compliance.

<table>
<thead>
<tr>
<th>No.004/RTN/3</th>
<th>Office Order No. 4/1/05 dated 01/02/05</th>
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<tbody>
<tr>
<td>Subject:</td>
<td>Information regarding QPR in the CVOs Monthly Report.</td>
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<td>The following amendments in Para 12 “Other Activities” of Monthly Report of the CVO may be noted:- 12 Other Activities</td>
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<tr>
<td></td>
<td>a. Training Courses conducted in vigilance awareness</td>
</tr>
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<td></td>
<td>b. Systems Improvement undertaken</td>
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<td></td>
<td>c. Extent of IT usage and the e-governance</td>
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<td></td>
<td>d. Job Rotation</td>
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<td></td>
<td>e. Whether QPR has been furnished to CTE (Yes/No)</td>
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<td></td>
<td>f. Whether CTE type inspections conducted by CVO (Yes/No)</td>
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<tr>
<td></td>
<td>g. Others</td>
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<tr>
<td>Circular Instruction/Office Order</td>
<td>Instructions and Contents</td>
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</tr>
<tr>
<td>No NZ/PRC/1 Office Order No 30/5/05 dated 09/05/05</td>
<td><strong>Subject : Reference to Commission for its advice</strong></td>
</tr>
</tbody>
</table>
| Please refer page no 277 for fresh guidelines issued by CVC vide office order no 006/PRC/1 & Circular No 14/3/06 dated 13.03.06 | In supersession of all earlier instructions it is reiterated that following material should be furnished to the Commission while seeking its advice:-  
(a) A self contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self contained note is meant to supplement and not to substitute the sending of files and records.  
(b) The bio-data of the officer concerned in the enclosed format (Annexure-I).  
(c) Other documents required to be sent for first stage advice:  
(i) A copy of the complaint/source information received and investigated by the CVOs;  
(ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;  
(iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/acceptable, and the conclusions of the investigating officer;  
(iv) Statements of witnesses and copies of the documents seized by the investigating officer;  
(v) Comments of the Chief Vigilance Officer and the Disciplinary Authority on the investigation report {including investigation done by the CBI and their recommendation}  
(d) Other documents required for second stage advice:  
(i) A Copy of the charge sheet issued to the public servant;  
(ii) A copy of the inquiry report submitted by the inquiring authority {along with a spare copy for the Commission's records};  
(iii) The entire case records of the inquiry, viz copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;  
(iv) Comments of the CVO and the Disciplinary Authority on the assessment of evidence done by the inquiring authority and also on further course of action to be taken on the inquiry report. |
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<tr>
<th>Circular Instruction/Office Order</th>
<th>Instructions and Contents</th>
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| **Office Order No 24/4/05 dated 04/05/05** | **Subject: No prior approval / sanction of CVO’s Tour programmes by CMDs/CEO**  
In supersession of instruction contained in Para 2 (b) of Chapter XVIII of vigilance manual Vol I for conducting inspections / surprise visits for detecting failures in quality and speed of work or malpractices, now CVOs of PSUs/ PSBs need not take formal prior approval/sanction of CMDs/CEOs for undertaking such tours and inspections but an intimation to the management would suffice in the matter. However, at the end of the tour, CVOs should send an inspection report to the CMDs/CEOs for information. |
| **Office Order No 32/6/05 dated 02.06.05** | **Subject: Commission’s advice in LTC/TA etc. fraud cases- reference to the commission**  
The commission has already clarified “Vigilance Angle” in its office order No 23/4/04 and any lapse including the lapses of the LTC/TA etc. fraud cases, nature which reflect adversely on the integrity of the officer would be a matter of vigilance case. |
| **Officer Order No 74/12/05 dated 21.12.05** | **Subject: Vigilance Angle Definition partial modification**  
Any undue/ unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case. |
| **Circular No 3/1/06 dated 18/01/06** | **Subject: Reducing delay in departmental proceedings- ensuring availability of documents.**  
Commission reiterated the instructions under circular No NZ/PRC/1 dated 26.02.04 circulated vide office order No 12/02/04 in which DA is required to ensure that PO is given custody of all the listed documents in original and certified copies thereof. In respect of CBI cases, CBI should make available to the organization, legible certified copies of the documents taken over by CBI to facilitate the organization to pursue the departmental proceedings. |
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<tr>
<th>Circular Instruction/Office Order</th>
<th>Instructions and Contents</th>
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| No 006/PRC/1 Circular No 14/3/06 dated 13.03.2006 | **Subject:** Reference to the Commission for its advice-
Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice.

In supersession of all earlier instructions it is reiterated that following material should be furnished while seeking its advice:–

a. a self contained note clearly bringing out the facts and the specific point(s) on which commission’s advice is sought. The self contained note is meant to supplement and not to substitute the sending of files and records.

b. The bio data of the Officer concerned in the format Annexure-I enclosed to aforesaid circular number.

c. Other documents required to be sent for first stage advice:
   (i) A copy of the complaint/ source information received and investigated by the CVOs.
   (ii) A copy of the investigation report containing allegations in brief, the result of investigation on each allegation.
   (iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/ acceptable, and the conclusions of the investigating officer.
   (iv) Statements of witnesses and copies of the documents seized by the investigating officer.
   (v) Comments of the Chief Vigilance Officer and the Disciplinary Authority of the investigation report (including investigation done by the CBI and their recommendation)
   (vi) A copy of the draft charge sheet against CSO alongwith the list of documents and witnesses through which it is intended to prove the charges.

d. Other documents required for the second stage advice:
   (i) A copy of the charge sheet issued to the public servant.
   (ii) The entire case records of the inquiry, viz. copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and Charged Officer.  

Continued… |
(iii) Comments of the CVO and the Disciplinary Authority on the assessment of evidence done by the Inquiring Authority and also on further course of action to be taken on the inquiry report.

<table>
<thead>
<tr>
<th>No 006/VGL/022 Circular No 16/3/06</th>
<th>Subject: Protection against victimisation of officials of the Vigilance Units of various Ministries/Departments/Organisations. Section 8 (1)(h) of the CVC Act</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(i) All personnel in Vigilance Units will be posted only in consultation with and the concurrence of the CVOs. They will be for an initial tenure of three years extendable up to five years. Any premature conversion before the expiry of such tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.</td>
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<td>(ii) The ACR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remark in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/ HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the commission who will intercede in the matter suitably.</td>
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<td>(iii) Since the problem of victimisation occurs, if at all, after the reversion of the personnel to their normal line departments, the commission would reiterate the following:</td>
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<td>a. On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his ACR shall not be written by such officer(s).</td>
</tr>
<tr>
<td></td>
<td>Subject: Protection against victimisation of officials of the Vigilance Units of various Ministries/Departments/Organisations. Section 8 (1)(h) of the CVC Act</td>
</tr>
<tr>
<td></td>
<td>(a) All such vigilance personnel will be deemed to be under the Commission’s purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the vigilance department.</td>
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<td>(b) All vigilance personnel on reversion shall be entitled to represent through the CVO and chief executive of the organisation to the Commission if they perceive any victimisation as a consequence of their working in the vigilance department. This would include transfers, denial of promotion or any administrative...</td>
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action not considered routine or normal. This protection
will be extended for a period not less than five years after
the reversion of such personnel from the vigilance
department.

The CVO should report promptly to the Commission, the
details of any real or perceived victimisation of any official
who is working in the Vigilance Unit. Similarly, he should also
report such instances pertaining to the former officials of the
Vigilance Unit, up to a period of five years after they had
completed their tenure in the Vigilance Unit. He should also
report where such deserving officials are ignored/
superseded in matters of promotion.

<table>
<thead>
<tr>
<th>No 006/VGL/065 Circular No 25/7/06 dated 06.07.2006</th>
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<tbody>
<tr>
<td><strong>Subject : Vigilance Administration : Role of CVO</strong></td>
</tr>
<tr>
<td><strong>Complaints:</strong></td>
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<tr>
<td>a. Complaints need to be attended promptly, promptly investigated.</td>
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<tr>
<td>b. Any anonymous complaint sent by the Commission for investigation, needs to be treated as source information and needs to be duly investigated and reported to commission.</td>
</tr>
<tr>
<td>c. Commission’s prior approval is necessary to take up anonymous/ pseudonymous complaints for investigation. Even though such complaints apparently contain verifiable information, the CVO is expected to conduct a preliminary enquiry and if it is considered that a detailed investigation is called for, then the Commission should be approached for seeking its approval.</td>
</tr>
<tr>
<td>d. On receipt of any complaint containing allegations against any tender in process, the tender process need not be stopped. However, the allegations should be brought to the notice of the competent authority, including the purchase committee, tender committee, negotiation committee, etc. and the complaint should be taken up for investigation independently.</td>
</tr>
</tbody>
</table>

**Consultation with CVOs:**

CVOs are required to be consulted by the DA/Appellate Authority (AA) irrespective of the level of officers involved. Wherever the AA has disagreed with the commission’s advice, which was accepted by the DA, the CVOs should scrutinise the matter accepted by the DA, the CVOs should scrutinise the matter carefully to take up the matter with the reviewing authority and also report such cases to the Commission. In respect of officials not under the jurisdiction of the Commission, where DA has disagreed with the CVO’s advice, such cases should be specifically brought to the notice of the Board.

CVO should not be involved in decisions in individual cases like works/ procurement etc. having financial implications.

CVOs should not be given any operational duties. If any
such duty with financial implications is assigned to him, the CVO should promptly bring it to the notice of the Commission for its intervention.

**Review of Vigilance work by Board.**
The Commission has decided that the CMDs/CEOs should ensure that the CVO of the organisation is invited and remains present at the time of review of vigilance work by the board.

**Monthly/Quarterly/Annual Report of the CVO:**
Monthly/Quarterly Progress Report and Annual Report should be submitted in time with details of cases pending more than one year and with accuracy. The annual report should positively be sent by 31st January of the year.

**Reference to the commission:**
The CVOs should invariably ensure that the reference to the Commission for seeking first stage/second stage advice is made along with the views of Disciplinary Authority etc.

**Disciplinary Cases:**
The CVOs should ensure that the charge-sheets are carefully drafted covering all lapses. It is seen that in some CBI cases, there is delay in obtaining the documents. It should be ensured that the listed documents are obtained from the CBI before issuing the chargesheet and, where parallel proceedings are to be initiated, a set of listed documents, duly certified, is obtained from the CBI.

**Irregularities in Recruitment:**
The CVOs should monitor and take up for necessary action, any case of recruitment in violation of the laid down rules and procedures, and wherever necessary, report matter to the commission.

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**No 006/GL/025 Circular No 28/7/06 dated 21.07.2006**

**Subject: Adherence to time limit in processing of disciplinary cases.**
In accordance with the Supreme Court ruling in the K.V. Janakiraman etc. vs Union of India case, the findings of the departmental promotion committee in respect of the following categories of officials would be kept in a sealed cover:

a. Government servants under suspension.
b. Government servants in respect of whom a charge-sheet has been issued and disciplinary proceedings are pending; and
c. Government servants in respect of whom prosecution for a criminal charge is pending.

A government servant who is recommended for promotion by the Departmental Promotion Committee (DPC) but in whose case any of the above circumstances arise after the date of receipt of recommendation of the DPC but before he is actually promoted, would be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him.
<table>
<thead>
<tr>
<th>No 005/ VGL/4 Circular no 31/9/06 dated 01.09.2006</th>
<th>Undue delays on part of administrative authorities in case of DP cases may lead the commission to advise penal action against those found responsible.</th>
</tr>
</thead>
</table>
| No 006/ VGL/091 Circular No 32/9/06 dated 12.09.2006 | **Subject:** Posting of details of tenders/contracts on websites/bulletins.  
CVOs are advised to ensure that details of the tenders awarded above the threshold value by the organisations are uploaded in time on the organisation's official website and are updated monthly.  
The threshold values as decided by the organisations are also to be communicated to the Commission separately for its perusal and record.  
The position in this regard should be compulsorily reflected in the CVOs monthly reports to the Commission. CVOs should also specifically bring to the notice of the Commission, any violation of this order. |
| No 006/PRC/1 Circular No 34/09/06 dated 21.09.2006 | **Subject:** Absorption of CVOs or appointment against higher posts in the same organisation.  
The Commission has decided that no case of CVO who has come on deputation from another organization would be considered for absorption or selection to a higher post in the organization unless his application for the purpose has been specifically cleared by the Commission.  
**Subject:** Delay in completion of departmental proceedings.  
Ref: Circular No 14/3/056- F. No 006/ PRC/001 dated 13.03.06  
Commission’s advice to include the draft charge sheet with supporting evidence as per the circular under reference is not for vetting of charge-sheet by the Commission. It was intended to ensure that the specific lapses were duly reflected in the charge-sheet before it was decided to proceed against an officer.  
CVOs are directed to carefully scrutinize the draft charge-sheets before sending their proposals, suggesting departmental proceedings and seeking Commission’s advice on the same. Incomplete references, if sent to Commission, will be returned with constraints faced by them.  
Another cause of concern is the transfer of officials appointed as POs, while the inquiry is in progress and appointment of new POs in their place. In certain cases, it has been observed that the POs were changed number of times leading to avoidable delay. Appointment of a very junior official as PO also defeats the purpose of the inquiry  
**Subject:** Delay in completion of departmental proceedings.  
Ref: Circular No 14/3/056- F. No 006/ PRC/001 dated 13.03.06 (Continued…..)  
against a senior officer, as such PO is not able to present the case confidently.  
Continued…
Commission has therefore advised to ensure that only such officials, who are not likely to be transferred during the pendency of the inquiry proceedings, are appointed as POs/IoOs. In extreme cases where the transfers are unavoidable, it should be ensured that the IoOs/POs complete the enquiry proceedings as expeditiously as possible, before they are relieved or at the earliest after their relief. It should also be kept in view, that to the extent possible, an official of appropriate seniority, with reference to the status of the charged official, is appointed as PO.

<table>
<thead>
<tr>
<th>No 005/CRD/12</th>
<th>Circular No 37/10/06 dated 03.10.06</th>
<th>Subject: Tendering Process: negotiation with L1</th>
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<tbody>
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<td></td>
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<td>In no case there should be any compromise to transparency, equity or fair treatment to all the participants in a tender.</td>
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<tr>
<th>No 006/VGL/117</th>
<th>Circular No 40/11/06 dated 20.11.06</th>
<th>Subject: Improving vigilance Administration by leveraging technology, Increasing transparency through effective use of websites in discharge of regulatory, enforcement and other functions of Govt. Organisation.</th>
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<td>In order to achieve the desired transparency and curb the malpractices, CVC in exercise of powers conferred on it under section 8(1)(h) of the CVC Act 2003 issued the following instructions for compliance by all Govt. Departments/ Organisations/ agencies over which the Commission has jurisdiction:-</td>
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<td>i) All Govt. organizations discharging regulatory/enforcement functions or service delivery of any kind, which cause interface with the general public/ private business etc. shall provide complete information on their websites regarding the laws, rules and procedures governing the issue of licenses, permission, clearances, etc. An illustrative list is given in the annexure enclosed to the circular available in website <a href="http://www.cvc.nic.in">www.cvc.nic.in</a>. Each Ministry should prepare an exhaustive list of such applications/ matters and submit a copy of the same to the Commission for record and web monitoring.</td>
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<table>
<thead>
<tr>
<th>No 006/VGL/117</th>
<th>Circular No 40/11/06 dated 20.11.06</th>
<th>Subject: Improving vigilance Administration by leveraging technology, Increasing transparency through effective use of websites in discharge of regulatory, enforcement and other functions of Govt. Organisation (Continued....)</th>
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<tr>
<td></td>
<td></td>
<td>(ii) All application forms/ proformas should be made available on the websites in a downloadable form. If the organisation concerned wishes to charge for the application from downloaded from the computer, the same may be done at the time of the submission of the application forms.</td>
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<td>(iii)All documents to be enclosed or information to be provided by the applicant should be clearly explained on the websites and should also form part of the application forms.</td>
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<td>(iv)As far as possible, arrangement should be put in place so that immediately after the receipt of the application, the</td>
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<tr>
<td>No 007/VGL/013 dated 23.02.2007 Circular no 3/2/07</td>
<td>Subject: Investigation of complaints by the CVOs-seizure of records reg.</td>
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<tr>
<td>Para 4.4 (a) of Vigilance Manual, 6th edition:</td>
<td>If the allegations contain information which can be verified from any document or file or any other departmental records, the investigating/vigilance officer should, without loss of time, secure such records, etc., for personal inspection. If any of the papers examined is found to contain evidence supporting the allegations, such papers should be taken over by him for retention in his personal custody to guard against the possibility of available evidence being tampered with</td>
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The commission found that the above guidelines are not being followed and so direct the CVOs to ensure that all relevant documents/records/files etc. are taken into personal custody by the investigating officer immediately on receipt of the reference/complaint for processing the allegations and finalising the investigation within the stipulated three months’ time-limit prescribed by the Commission.

It is directed by the Commission that as soon as a direct inquiry is ordered by the Commission, the CVOs should immediately seize the relevant records pertaining to the case and produce them before the Direct inquiry Officers (DIOs) without any delay.

<table>
<thead>
<tr>
<th>No 007/VGL/010 Circular No 17/5/07 dated 13.06.2007</th>
<th>Subject: Constitution of Committee of Experts for scrutiny of prosecution sanctions.</th>
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</thead>
<tbody>
<tr>
<td>A committee of experts is set-up by the CVC to examine the cases of reconsideration proposals where the commission is in agreement with the CBI’s recommendations and advised</td>
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</table>
sanction for prosecution against a public servant but the disciplinary authority is in disagreement with the CBI’s recommendations and approaches the Commission for reconsideration of its advice. Committee will consist of 3 members from amongst the panel of six experts and will advice the competent authority within 15 days of the meeting of the committee. The three member committee will be chaired by one of the Vigilance Commissioners in the Commission.

<table>
<thead>
<tr>
<th>NO.006/MSC/038</th>
<th>Subject: Constitution of the Advisory Board on Bank, Commercial and Financial Fraud</th>
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</thead>
<tbody>
<tr>
<td>Office order No 22/06/07 dated 25.06.2007</td>
<td>CVC has reconstituted the Advisory Board primarily to advise the CBI as to whether in a particular case PE/RC should or should not be registered in respect of frauds in borrowal accounts, where there is a difference of opinion between the organisation concerned and the CBI. The tenure of the reconstituted Board is for two years. The board’s jurisdiction is confined to those cases where, in disagreement or dispute with the Bank, PSU or financial institution, the CBI desires to register an RC/PE in respect of an allegation of a fraud:</td>
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<tr>
<td></td>
<td>a) in a borrowal account in a public sector bank; or</td>
</tr>
<tr>
<td></td>
<td>b) financial or commercial frauds in a financial institution or Public Sector Undertaking.</td>
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<td>Apart from the above, the Board may also advise on any other technical matter referred to it by the CBI or CVC.</td>
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<thead>
<tr>
<th>No 007/VGL/052</th>
<th>Subject: Expeditious disposal of cases involving public servants due to retire shortly.</th>
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</thead>
<tbody>
<tr>
<td>Office Order No 34/9/07 dated 27.09.2007</td>
<td>The Commission has emphasised once again by the Circular that all vigilance/administrative functionaries in an organisation must invariably keep in mind the date of superannuation of the SPS/CO while handling disciplinary cases and anyone found to have consciously ignored the fact should be held accountable for the delay that may lead to the eventual dropping of the proceedings.</td>
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</table>

Please also refer Cir. No. 03/03/11 dated 11.03.2011

<table>
<thead>
<tr>
<th>F. No 007/MISC/Legal/04(pt)</th>
<th>Subject: Criteria to be followed while examining the lapses of authorities exercising quasi-judicial posers in accordance with the criteria laid down by the Hon’ble Supreme Court.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Circular No 39/11/07 dated 01.11.2007</td>
<td>The Commission has advised the CVOs, while sending the case to the Commission for advise against the lapses of officials exercising quasi-judicial powers, to examine critically whether any of the following criterion listed was attracted or not.</td>
</tr>
<tr>
<td></td>
<td>i) where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.</td>
</tr>
</tbody>
</table>
### F. No 007/MISC/Legal/04(pt)
Circular No 39/11/07 dated 01.11.2007

Continued..

| i) | ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty |
|    | iii) If he has acted in a manner which is unbecoming of a Government Servant |
|    | iv) If he had acted negligently or that he omitted the prescribed condition which are essential for the exercise of the statutory powers. |
|    | v) If he had acted in order to unduly favour a party |
|    | vi) If he had actuated by corrupt motive, however, small the bribe may be because Lork Coke said long age “though the bribe may be small , yet the fault is great” |

In any case, the detailed justification should be given in arriving at the conclusion as to how none of the criteria was attracted, or how any of them was attracted.

### No 005/VGL/ 031
Office order No 40/11/07 dated 23.11.2007

**Subject:** Reporting of cases in the monthly report of the CVOs where sanction for prosecution is to be granted by the Competent Authority.

The Hon’ble Supreme Court in Vineet Narain Vs Union of India case had directed that “time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any Law Officer in the AG’s Office.” It is observed that the time limit set by the Supreme Court is not being adhered to by the organisations concerned in many a cases. The Commission has therefore modified the monthly as well as Annual report and advised to forward the data in the revised format which is available in the aforesaid circular available at www.cvc.nic.in

### EOW: Economic Offences Wing
BS&FC: Banking Security & Fraud Cell

**Subject:** Reporting of fraud cases to police/ State CID/ Economic Offences Wing of State police by public sector banks

1. **Cases to be referred to CBI**
   - (a) Cases of Rs 1 Crore and upto Rs 7.50 crore -where staff involvement is prima facie not Evident
   - CBI (EOW Branch)
   - (b) All cases of Rs 7.50 crore and above
   - BS&FC Units of CBI

2. **Other cases of below Rs 1 crore:**
   - (a) For cases of Financial Frauds of the value of Rs 1 Lac and above, which involve outsiders (private parties) & bank staff should be reported by the Regional head of the bank concerned to a senior officer of the State CID/ Economic
Offences Wing of the State concerned.

(b) For cases of financial frauds below the value of Rs 1 lac but above Rs 10000 should be reported to the local police station by the bank branch concerned.

© All fraud cases of value below Rs 10000, involving bank officials, should be refereed to the Regional head of the bank, who would scrutinise each case and then direct the bank branch concerned on whether it should be reported to the local police station for further legal action.

In addition to the above mandatory references, CVO in consultation with CMD may refer a case involving less than Rs 1 crore or a case which cannot be classified on monetary limits, to the CBI, if, in the opinion of the CVO, the case is of serious nature and / or has an inter-state or international ramifications.

Important features of the “Whistle blowers” Resolution

- a) The CVC shall, as the Designated Agency, receive written complaints or disclosure on any allegation of corruption or of mis-use of office by any employees of the Central Government or of any corporation established under any Central Act, government Companies, societies or local authorities owned or controlled by the Central Government
- b) The designated agency will ascertain the identity of the complainant, if the complainant is anonymous, it shall not take any action in the matter.
- c) The identity of the complainant will not be revealed unless the complainant himself has made either the details of the complaint public or disclosed his identity to any other office or authority.
- d) While calling for further report/ investigation, the Commission shall not disclose the identity of the informant and also shall request the concerned head of the organisation to keep the identity of the informant a secret, if for any reason the head comes to know the identity.
- e) The Commission shall be authorised to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.
- f) If any person is aggrieved by any action on the ground that he is being victimised due to the fact that he had filed a complaint or disclosure, he may file an application before the Commission seeking redress in the matter, wherein the Commission may give suitable directions to the concerned person or the authority.

Continued…
<table>
<thead>
<tr>
<th>F.No MISC/ Legal/ 04 (pt)</th>
<th>Dated 01.11.2007</th>
</tr>
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<tbody>
<tr>
<td><strong>Criteria to be followed while examining the lapses of authorities exercising quasi-judicial powers in accordance with the criteria laid down by the Hon'ble Supreme Court:</strong></td>
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</table>
| g) If the Commission is of the opinion that either the complainant of the witnesses need protection, it shall issue appropriate directions to the concerned government authorities.  

h) In case the Commission finds the complaint to be motivated or vexatious, it shall be at liberty to take appropriate steps.

i) The Commission shall not entertain or inquire into any disclosure in respect of which a formal and public inquiry has been ordered under the Public Servant Inquiry Act 1850, or a matter that has been referred for inquiry under the Commissions of Inquiry Act 1952.

j) In the event of the identity of the informant being disclosed in spite of the Commission’s directions to the contrary, it is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

<table>
<thead>
<tr>
<th>No 007/ VGL/010 dated 24.03.2008</th>
<th>Constitution of Committee of Experts for scrutiny of prosecution sanctions</th>
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</thead>
<tbody>
<tr>
<td><strong>Commissions decided that the CVOs, while sending the case to the commission for advice against the lapses of officials exercising quasi-judicial powers, should examine critically any of the undernoted criteria was attracted or not:</strong></td>
<td></td>
</tr>
<tr>
<td>i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.</td>
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<tr>
<td>ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty.</td>
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<tr>
<td>iii) If he has acted in a manner which is unbecoming of a Government Servant.</td>
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<tr>
<td>iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of statutory powers.</td>
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<td>v) If he had acted in order to unduly favour a party.</td>
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<tr>
<td>vi) If he had actuated by corrupt motive, however, small the bribe may be because Lork Coke said long ago “though the bribe may be small, yet the fault is great.”</td>
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</table>

Whether the above criteria is fulfilled or not, justification should be given in arriving at the conclusion as to how none of the criteria was attracted, or how any of them was attracted.

| CVC has decided to constitute a panel of experts of six eminent persons, for scrutiny of reconsideration proposals where the commission and CBI have advised sanction for prosecution against the suspected public servants. Depending upon the nature of the case, a committee consisting of three members including the Chairperson, shall examine the CBI recommendation and the tentative view of the Ministry/ Department concerned in greater detail. The committee shall consist of two members drawn from the |
panel of six experts and one of the Vigilance Commissioners in the Commission would chair the meeting. In the light of the experts committee’s recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the Committee.

No 008/ VGL/ 027
Dated 24.04.2008
Reference to Commission for reconsideration of its advice.

The Commission’s advice is based on the inputs received from the organisation and where the Commission has taken a view different from the one proposed by the organisation, it is on account of the Commission’s perception of the seriousness of the lapses or otherwise. In such cases, there is no scope for reconsideration. The Commission has, therefore, decided that no proposal for reconsideration of the Commission’s advice would be entertained unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations/charges levelled against an officer. Such new facts should be substantiated by adequate evidence and should also be explained as to why the evidence was not considered earlier, while approaching the Commission for its advice. The proposals for reconsideration of the advice, if warranted, should be submitted at the earliest but within two months of receipt of Commission’s advice. The proposal should be submitted by the Disciplinary Authority or it should clearly indicate that the proposal has the approval of the Disciplinary Authority.

No 004/ VGL/ 90 dated 01.05.2008
Rotation of official posed in sensitive position

CVOs have been directed to ensure that officials posted on sensitive posts are rotated every two/three years to avoid developing vested interest.

No 0056/ PRC/ 1/27483
Dated 01.12.2008
Circular No 32/12/08 & Circular No 03/02/09
Dated 18.02.2009
Reference to Commission for advice- information to be enclosed along with organisations’ recommendation:

Along with first stage/second stage advice, the following tabular statement should accompany the organisation’s recommendation:

<table>
<thead>
<tr>
<th>Sl No</th>
<th>Name &amp; Designation of the suspected officer</th>
<th>Allegation in brief</th>
<th>Findings of the investigating / inquiry on each allegation</th>
<th>Defence of the suspected officer</th>
<th>Comments/Recommendation of the DA</th>
<th>Comments/Recommendation of the CVO</th>
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<tr>
<td>Circular Instns. /Office Order</td>
<td>Instructions and Contents</td>
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<td><strong>No 003/ DSP/23/31364</strong>&lt;br&gt;Dated 15.01.2009&lt;br&gt;Circular No 02/01/09</td>
<td>Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers: Instances have come to the notice of Commission in which the final order passed in disciplinary cases by the competent disciplinary authorities did not indicate proper application of mind, but a mere endorsement of the Commission’s recommendations which leads to an unwarranted presumption that the DA has taken the decision under the influence of the Commission’s advice. Further, it is also observed that the DA’s in the Departments / Organisation, in practice, do not provide a copy of Commission’s advice to the employees concerned. The cases, where the final orders do not indicate proper application of mind by the DA and or non supply of Commission’s advises, are liable to be quashed by the courts. The commission, therefore, again reiterated the CVC’s views/advices in disciplinary cases are advisory in nature and it is for the DA concerned to take a reasoned decision by applying its own mind. The DA while passing the final order, has to state that the Commission has been consulted and after due application of mind the final order have been passed. Further, in the speaking order of DA, the Commission’s advice should not be quoted verbatim.</td>
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<tr>
<td><strong>No 004/ VGL/ 26 dated 27.02.2009</strong>&lt;br&gt;Office Order No 4/2/09</td>
<td><strong>GOI Resolution on Public Interest Disclosures &amp; Protection of Informer (PIDPI):</strong> CVC is the ‘Designated Agency’ to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. CVOs of the Ministries/ Departments/ Organisations are required to submit their investigation report on complaints forwarded by the Commission under PIDPI. The time limit submission of such report has been enhanced to one month from existing two weeks time.</td>
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<td><strong>Circular No. 9/5/09</strong>&lt;br&gt;Dated 12.05.2009&lt;br&gt;No.004/VGL 26 dated 12.05.2009</td>
<td><strong>GOI Resolution on Public Interest Disclosures &amp; Protection of Informer (PIDPI) – Delay in submission of Investigation Report</strong> In case of all delays beyond the prescribed time limit of one month the exact reasons for delay should be explained specifically by the CVO in their report to the Commission.</td>
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| Circular No. 15/7/09  
| dated 01.07.2009  
| No. 9/VGL/35 | Instructions regarding access of complaints to CVO  
To ensure uniformity in practices and procedures for handling and processing of complaints in departments, organizations it is imperative for laying down a “Complaints Handling Policy”. Such a policy should clearly specify that any complaint/grievance containing allegations of corruption/malpractices or misconduct should compulsorily be sent to the CVO for his scrutiny and action.  
(In our Bank the DGM (Vigilance) has to arrange this) |
| No. 6/PRC/1  
| Circular No. 21/8/09  
| dated 06.08.2009 | Procedure regarding reference to Commission for First Stage Advice  
The following instructions should be meticulously complied with while seeking first stage advices.  
i) All Vigilance reports should conform to parameters prescribed in Annexure A (enclosed)  
ii) Assurance memo to be enclosed. (format provided in Annexure B)  
iii) Bio-data of the suspect official to be enclosed as per format (Annexure C)  
v) Tabular statements to continue as hitherto  
v) Draft Charge-sheet/ Imputation of charges where disciplinary action if proposed to accompany the Investigation Report. |
| No. 009/VGL/56  
| Office Order No. 3/1/10  
| dated 28.01.2010 | Clarification regarding making reference to Commission for advice on complaints and II stage advice cases  
-References to the Commission need not be made if after investigation it is found that officials involved do not fall under CVC jurisdiction.  
-The action taken by the CVO on such complaints may be intimated to the Commission.  
-This dispensation does not apply to the complaint received by the Commission under GOI resolution on Public Interest Disclosures & Protection of Informer (PIDPI)  
-II stage advices of the CVC should be sought in respect of composite cases only if the DA’s opinion is at variance with Commission’s advice. This will also apply to CBI cases involving officials falling outside the jurisdiction of CVC. |
| No. 9/VGL/67  
| dated 09.03.2010  
| Office Order No. 13/3/10 | Improving Vigilance Administration  
Timely completion of Departmental Enquiry  
All pending cases need to be reviewed at regular intervals to ensure that proceedings are finalized expeditiously (reiteration of earlier instructions) |
| Circular No. 33/09/10  
| CVC letter No. 010/CRD/003/103208  
| dated 28.09.10 | Delay in grant of sanction for prosecution  
The Commission will suo mottu tender its advice if it does not receive any comments on CBI Report from the Competent Authority within three weeks.  
A delay of upto 31 days including the three weeks period may be entertained by the Commission as a reconsideration request. |

Instructions downloaded from CVC Circulars/Office Order please log on to www.cvc.nic.in
47. IMPORTANT JUDGEMENTS

ABSENCE: UNAUTHORISED
Increment- workmen directed to be reinstated by Labour Court award, Notional increment claimed for period of unauthorised absence from duty- Such claim, held, could not be allowed, as it would place such unauthorised absence from duty on higher footing than period of EOL (Extraordinary leave), - which under Para 13 of APSRTC Rules. 1964. Treated as misconduct and held liable for punishment. It would not count for increments. Supreme Court set aside the judgment of the AP High Court and observed that extraordinary leave or leave without pay could not count for increments, unless the competent body passed a specific order otherwise.
APSRTC Vs. S. Narsagoud 2003 I LLJ SC 816 Mar 2003

Absence- Unauthorised- from duty – quantum of punishment- entirely within the domain of the employer- court may interfere with punishment, only if it is found to be a shockingly disproportionate to gravity of proved misconduct- order passed by DA revealing good and sufficient reasons supporting punishment of dismissal from service- dismissal of a member of a disciplined force, for indulging in indiscipline can hardly shake court’s conscience- in such circumstances, reinstatement cannot be sustained.
(Comm.CISF vs. Narayan Mishra 2003 LABIC NOC 219 (CAL)

An officer cannot take advantage of normal sickness to avoid transfer to the extent possible. The conduct of an officer, if remaining absent for a long time, shows that official is bent upon to evade the transfer order in any possible manner.
(Sarabhai Y.P and Union Bank of India and another [CA no 2672/2003 dated 22.05.2006] in Supreme Court of India)

Supreme Court has ruled that overstaying sanctioned period of leave or repeated unauthorised absence are instances of serious misconduct which can be punished with dismissal from service. “Remaining absent for a long time, in the opinion of Supreme Court, can not be said to be a minor misconduct”, a bench comprising Justice S B Sinha and P K Balasubramanayan said in a judgement. The ruling is in addition to the ruling where the Supreme Court had said that an employee was liable to be dismissed if he sleeps during office hours and abuses or assaults seniors.
Source: the Times of India: Date: 20.05.2006
Case Reference: North Eastern Karnataka Road Transport Vs. Ashappa, conductor.

APPELLATE AUTHORITY
Appellate Authority is under obligation to consider all the three requirements: (1) whether procedure laid down is complied with; (2) whether finding is warranted by the evidence on record, and (3) whether penalty is adequate. Order not disclosing consideration of all the three elements, will be illegal. Order must indicate application of mind. R P Bhatt vs. Union of India 1985 (3) SLR SC 745

The appellate authority should have taken into consideration the appeals filed by the petitioner and the other employees against the orders made by the DA individually and after applying his mind, he should have passed a separate order. Since the Appellate authority makes a common order on the
appeals filed by the petitioner and other employees, the same is contrary to the regulations of the bank. Therefore the order of the AA requires to be set aside by this court (Shanmugam M. vs. RBI Karnataka 2002 II LLJ 32)

Appellate Authority must apply its mind and record his own findings
Union of India vs. Mahendra Kumar 1965 II LLJ 108 (Andhra HC)

BANKING REGULATION ACT, 1949

Section 36-AD
If an activity of trade union is brought within the purview of Section 36 AD of BR Act 1949, it ceases to be a trade dispute and protection or immunity from legal proceedings for act done in contemplation or furtherance of trade dispute, is no longer available.

Bipartite Settlement

BIPARTITE SETTLEMENTS: Sastry / Desai/ Latest settlement dated 10th April 2002
Employee of bank ceasing to be an Award employee and getting promoted as officer - prior to initiation of disciplinary proceedings - BP Settlement procedures not applicable despite the fact of misconduct of employee referable to period while he was a member of the award staff. (With deletion of earlier Para 521(10) (f) of Sastry Award, introduced by VIth BPS of 1995, now the position is that an officer will be proceeded under the Officers’ Service Rules, even for his misconduct relating to the time when he was an Award staff employee-
(Canara Bank Vs. K. Chandran- 2002-II-LLJ- 1106

Cl. 3 & 4 of Settlement dated 10th April 2002 [Clause 19.4 of 1st BP Settlement or Para 521.3 of Sastry Award]
Employee being "put on trial" -meaning of -departmental proceedings can take place even without framing of charges in criminal proceedings - If however charges are framed in criminal case, department of proceedings liable to be stayed as per clause 19.4- meaning of "put on trial"- the court held that the term "Put on trial" has to be interpreted in the context of the judgmental of the Supreme Court in Common Cause ( 1997 (1) CLR 6) case where SC said that the "trial should be treated to have commenced when charges are framed under Section 228 of the Cr.P.C."
R.K. Singla Vs. PNB 2002-II-LLJ 716- Delhi High Court)

Clause 4 of Settlement dated 10th April 2002
(Clauses 19.3 and 19.4 of the 1st Settlement):
It is submitted that the Petitioners did not move EO/ DA to stop the proceedings in view of the pendency of criminal case. When no such approach was made by the petitioners, the DA is free to proceed with the Departmental Enquiry simultaneously with the criminal case. Unless some prejudice is caused to the petitioner while proceeding with both the Departmental proceedings as well as the criminal case, in that event the DA may not consider to keep in abeyance the proceedings. As in the instant case, there was no request from the petitioners for keeping in
abeyance the Departmental Enquiry and therefore we are of the view that no error was committed by the DA in continuing with the Departmental Enquiry.

Bijan B. Battalcharjee Vs UBI, Calcutta 2003 II LLJ 671

Cl. 4 of Settlement dated 10th April 2002
(Clause 19.3 and 19.4 of the 1st Settlement):
Initiation of disciplinary proceedings against employee despite acquittal by criminal Court, not barred -- Nor a bank denuded of power to take disciplinary action even one year after launching of criminal prosecution- criminal and disciplinary proceedings differ in nature and scope and operate on different planes.
(Vijayan vs. Syndicate Bank 2002-II-LLJ 1095-

BPS of 2002- Simultaneous proceedings- stay of- criminal case- investigation not completed even about six years after FIR was lodged- orders not granting injunction to restrain disciplinary proceedings in a situation, held, valid.
Shyam Ghana Biswal vs. SBI 2003-III-LLJ Orissa 1011]

BPS No. VII of April 2002- Simultaneous Proceedings
(Cl. 4) of Settlement dated 10.04.2002
Petitioner, clerk-cum-cashier of UCO Bank, had received various deposits from bank customers - signed the pay-in-slips, acknowledged deposit by signing relative counter-foils and also updated the passbook of the concerned customers , without however, reflecting the aforesaid deposits in the books of accounts of the bank - Bank issued a charge memo and also the show cause notice against the proposed penalty of dismissal simultaneously- High Court while holding that by the simultaneous sending of enquiry report and show cause notice of propose penalty to petitioner the doctrine of reasonable opportunity was breached and quashed the said show cause notice. However, held, resumption of departmental proceedings against the petitioners, from the stage of furnishing to him of the inquiry report - held, difficult to comprehend how any serious prejudice would have been caused to the petitioners by the continuation of the disciplinary proceedings against them, by virtue of the criminal case against him founded on the same set of facts- There is no absolute ban against continuation of such (departmental) proceedings by virtue of criminal case founded on the same set of facts- Prejudice to affected employee by continuation of the disciplinary proceedings is only one factor in determining to continue or defer them- On facts, held, no prejudice to employee by not deferring disciplinary proceedings.
Motiur Rahman Vs. UCO Bank [2003 II LLJ Gauhati 217]

There is no bar to proceed with the departmental proceeding even if the delinquent/employee is acquitted of the criminal charges. In such view of the matter, there is no impediment to proceed against the petitioner in the departmental proceedings

Orissa High Court: Original Jurisdiction Case No 13383 of 1997
[2004 (103) FLR 778]
Bharat Chandra Khillar Vs General Manager, BOI & Others (Aug 03, 2004
Constitution of India: Article 311 (1)
The employees of public sector banks do not fall under any of the categories specified in Article 311 of Constitution of India. They cannot be treated to be in civil service of the Union and all India civil services of the State; they can't be said to hold the post under the Union or the State government. P.L. Sharma Vs. J&K Industrial Ltd. 1989 SC 1854, SBI vs. S.Vijayakumar, AIR 1991 SC 79, A. D. Gupta vs SBI, 1989 and LLJ 552 / S S Joshi vs. Bank of Maharashtra, 2002

Sastry Award- Para 522 (1) – loss of confidence- conditions rendering termination stigmatic- employee of bank has bigger burden- power of termination under para 522(1) Sastry Award can be utilized without taking disciplinary action.
SBI V.P. Bajpai 2003-III-LLJ ALL 671

CHARGE / CHARGE SHEET

Format of charge-sheet
There is no particular format of charge-sheet. What matters is how show cause notice mentioning detailed allegations which constitute complete particulars of charges and which can be understood by delinquent can be traced to the charge sheet.
[Ashok Kumar Vs. UCO Bank 1999 II CLR 883].

Chargesheet is the sheet anchor of the DP process:
The disciplinary proceedings should succeed or fail on the basis of a charge-sheet issued & not on the basis of any other fact not alleged in the charge-sheet.
(SAIL Vs. Ujjal Kumar Bhowmil, LLR 1990 77 Cal HC)

Charge-sheet not mentioning clause of misconduct: - Enquiry conducted by the DA is not a criminal case where the charges had to be framed in a particular manner. The charge-sheet framed by the DA sufficiently indicates as to what constitutes misconduct.
(M/s Bemco Hydraulics Ltd vs Dy Labour Comm 1990 (61) FLR 8

Contents of charge-sheet – Impression of Prejudging Issue:
The test would be whether the words used by the punishing authority in the charge now or other material documents are such as to create in the mind of a person in the position of the delinquent, an impression that having regard to the words complained of, the Authority has to judge the issue and the proceedings are unreal and futile.
The charge-sheet states* by your aforesaid acts, you have temporarily misappropriated the amounts collected towards insurance premiums, tampered with official records, failed to maintain absolute integrity and acted in a manner prejudicial to good conduct and to the detriment of the interests of the corporation*, does create a determination of the matter in dispute by the punishing authority. The contention therefore that the above para in charge memo created impression that the inquiry is a mere formality cannot be said to be unjustified.

Charge Of Misappropriation – Ingredients of section 409 IPC- definition of misappropriation given in the IPC is for the purpose of offences punishable under IPC. The definition of misappropriation cannot be imported in this case to urge that misappropriation is not made out. Misappropriation has to be understood in its common dictionary meaning & thus understood it means utilising the amounts for purposes other than what they are meant.- it cannot be contended
that for establishing charge of misappropriation, the ingredients of Section 409 IPC have to be established  
(M. A. Narayana Shetty vs DM., LIC- 1990 I LLN 825 AP HC)

Joint charge-sheet- order against one:  
Joint charge-sheet was given to the petitioner and Mr Singh. The order was passed against the petitioner's only. There's no justification for passing orders against petitioner only. This is certainly caused serious prejudice to the petitioner. Respondent NO 2 has not applied his mind to the suspect. The order cannot be sustained and is quashed with liberty to pass fresh orders after giving opportunity of hearing to the petitioner.  
(Prabhu Gharan vs. State of Rajasthan (1992 II LLJ 830)

Issuance of second charge-sheet: Earlier inquiry resulted in issuing of administrative warning. It is not open either to issue second charge sheet or to conduct inquiring again  
(R K Singhal Vs. GM, IOB, 1991 LIC 407 Kar HC)  
(H C Chhabra vs. St. of Raj, 1999 (2) LLN 581 HC)

VAGUE CHARGE SHEET: The workman was given a charge-sheet that he was not keeping the loom clean, that he was not putting oil in the loom in spite of jobbers instructions etc, it was held that the charge-sheet was extremely VAGUE. No specific instances of misconduct alleged were cited in the charge-sheet. The charge-sheet was lacking in particulars. A charge-sheet clearly should set out the allegations with sufficient precision and particulars so as to enable the employee to defend himself. That is the very purpose of the charge-sheet. This is the barest requirement of the charge-sheet consistent with the principles of natural justice and any charge-sheet which fails to comply with this requirement is no charge-sheet at all.  
[Miraj Taluka Girni Kamgar Sangh vs. Manager, Shri Gajanan Weaving Mills Ltd- 1991 II CLR 713]

Charge sheet vague and material particulars lacking: A was served a charge-sheet to the effect that he planned to deliver scraps to a contractor by expecting some bribe; it was held that it is wholly vague, imprecise and incapable of understanding correctly. The charge speaks about the plan to deliver unaccounted polythene scrap by expecting some bribe from contractor. The charge taken on its face value does not tantamount to misconduct. Material particulars such as when bribe was demanded are lacking in the charge memo. Planning to do a thing is different from doing that thing. Therefore the charge framed against the petitioner is not only vague, imprecise and ambiguous but also doesn't constitute misconduct with the meaning of by-laws.  
(G. Chandra Kanta vs. Guntur District Milk Producers Union Ltd.)

Charge sheet:  
Charges should be clear. It is expected to state the charges clearly in the light of the duties and responsibilities in a matter like this and then produce the record showing the same and fixing responsibility and then to find out if the delinquent officer failed to act in accordance with the duties and responsibilities assigned to him. The material placed on record does not show anything against the petitioner and this is a case of no evidence.  
(P. K. Jain vs Municipal Corporation of Delhi, 1999 (3) LLN 188).
Non-mention of date, time and location of the incident in the charge-sheet amounts to denial of reasonable opportunity.

ST. of UP Vs. Mohd. Sherif 1982 (2)SLR SC 265

Communication of corrigendum to charge-sheet correcting a typographical error, by a deputy of competent authority does not constitute any irregularity

Paresh Nath vs. Senior Supdt., RMS, 1987 (I) SLR CAT ALL 531

Issue of fresh charge sheet on charges withdrawn earlier but not dropped or adjudicated is proper.

Harbhajan Singh Sethi vs. Union of India 1987 (2) SLR 545

Where charge is amended by issue of corrigendum during the course of inquiry, failure to permit charged official to file reply to amended charge and give opportunity to defend himself vitiates enquiry proceedings, and order of termination is liable to be quashed.

M G Aggarwal vs. Municipal Corp of Delhi, 1987 SLR DEL 545

Dropping charges initially framed on ground of a technical flaw is no bar against framing fresh charges

P Mallaiah vs. Sub-Div. Officer, Telecom 1989 (2) SLR 282

It is only when a charge-memo in a disciplinary proceedings or a charge-sheet in a criminal prosecution is issued to the employee it can be said that the departmental proceedings/criminal prosecution is initiated against the employee.

UOI vs. K.V. Jankiraman (AIR 1991 S.C 201)

Allegation not forming the subject of any charge- Delinquent officers alleged to have secured alternative employment- such allegation not forming subject of any charge- Material regarding same found gathered during inquiry and within the ambit of charge of unauthorised absence- Removal of delinquent from service held not to suffer from jurisdictional error or procedural irregularities or excessive as punishment.

M A Majeed vs. CMD, Dena Bank  2002 I LLJ 737

Show Cause Notice/ Departmental Enquiry

Disciplinary Authority issues a show cause notice for the imposition of a minor penalty after consideration of the reply of the petitioner. It would not be open for the DA to issue another show cause notice for imposition of a major penalty for the same charges on the basis of the evidence led in the enquiry for which a minor penalty is proposed.

Mumbai High Court :: 2004(101) FLR 770  W.P. NO 3472 of 1991

Kunwar Sen Jain and Secretary Textiles Committee, GOI & Others

A MMGS III was charged with irregularities committed while discounting bills etc., and after enquiry, was dismissed from service. Bank took one year and eight months after reply of the officer on the irregularities. The officer challenged the dismissal on several points. The first was delay on the part of the bank in issuing charge sheet, which it did seven years after the said irregularities.
Held: The delay of one year and eight months could not be considered as inordinate delay or without explanation. The High court also did not accept the plea of not supplying the list, as well as copies, of documents.
(W. P No 30073/ 1999 dated 08.03.2006 between Arun Kumar Alva and Vijaya Bank in the High Court of Karnataka)

CONVICTION:
The appellant convicted of an offence under sec.498-A IPC Though the HC has set aside the sentence and directed the Court below to consider whether it was in the fitness of things to release him on probation of good conduct, the findings of guilt and conviction remained untouched. In the circumstances, the appellant’s release on probation of Offenders Act can’t be taken to preclude the department from taking departmental action for the misconduct leading to the offence and his conviction per se, as per law. ..... The challenge of the appellant against the order discharging him from service can’t stand.

Vincent Varghese v. SBI - 11999 LAB IC 2241 ( Kerala)

CROSS EXAMINATION
If the charge-sheeted workman does not want any further time for enabling him to cross examine the witnesses, the enquiry proceedings are not vitiated for non-supply of list of witnesses Delhi Cloth and General Mills vs. Ganesh Dutta (1979) 45 C 834.

DEFENCE ASSISTANT

Charged officer entitled to assistance of legal practitioner when prosecution is represented by legally trained person
Board of Trustees. Port of Bombay vs D.R Nadkarni AIR 1983 109

Restriction on number of cases for the person to take up as defence assistant, to handle not more than two, is genuine and reasonable & also just, proper and necessary in public interest, despite no such restriction for a PO.
IOB vs. IOB Officers Association. SC 2002 (2) SLJ 97

Departmental Enquiry

Disciplinary proceedings- approach and objective different from criminal proceedings- bank employee charged with complicity in unauthorized withdrawals of money from customers account-evidence of handwriting expert and document in question held, not such as would justify interference with findings against employee by inquiry officer and DA.
Lalit Popli  vs Canara Bank 2003 -II- LLJ SC 324

Suspension- Sastry Award Para 557 – enquiry against employee conducted by outside agency-employee entitled to only upon half of salary till completion of enquiry.
[DGM, Canara Bank vs. V. B. Prasad 2003-II-LLJ Patna 911]
ID ACT, 1947, SCH. 3, ITEM 1- SASTRY AWARD- PARA 556- DESAI AWARD, PARA 17.14-
DISCIPLINARY ENQUIRY- Head Cashier- Alleged to have committed fraudulent manipulation and falsification of record- Conclusions arrived at by the DA- Can’t be interfered with on the ground that management relied on its own witnesses without examining single account holder as witness in proof of charges and that the management has arrived at pre determined conclusion etc.
BALLIAH DAVID Vs CENT. BANK OF INDIA (2001 LAB. I.C. 2671
ID Act, 1947-Section 2(k) & 2-A - matters of dispute between employer and workmen and other than discharge, dismissal, retrenchment or termination of service, not industrial dispute – remedy for them lies in civil Court.

ID Act, 1947- Sec. 11A- Power of Labour Court under section – it can interferes in quantum of punishment but not suspend workmen’s discharge itself, without giving opportunity to management to establish misconduct of workmen.
Allahabad Bank vs. PO, CGIT, Kanpur 2003- III- LLJ- ALL 1147

ID ACT, 1947- Sch. 2 Item No. 6- Non-supply of documents requested by delinquent official- non-supply caused any prejudice was not proved by delinquent- inquiry not vitiated- delinquent given full opportunity to cross-examine investigation officer- EO/ DA not relying on investigation report while recording their finding regarding guilt of delinquent- Non supply of IO report does not vitiate proceedings. When the EO finds that the delinquent, a branch manager, while functioning as such had sanctioned loans to himself and another official without the pre-sanction appraisal and post sanction follow-up and follow up & finding is arrived at on the basis of oral and documentary evidence without any rebuttal by the delinquent- the finding cannot be said to be perverse merely because the EO while framing his report has not taken into consideration documentary evidence produced by delinquent nor has considered the answers elicited in cross examination of the management witness, as the defects even if accepted would not alter the finding of the EO.
(Krishnamurthy Beliya Vs. Syndicate Bank  2003- LAB IC NOC 218

DEPARTMENTAL ACTION AND ACQUITTAL

Employer dropping disciplinary proceedings and re-issuing charge memo, upon same charges, 4 years later- On facts, held, previous dropping unconditional not clear and appropriate reasons for dropping given- it is well settled that an employee cannot be charged with the same misconduct twice, by issuing 2 charge memos or by conducting two departmental enquiries. There are, however, two recognised exceptions. One, where the charge memo or inquiry proceedings are quashed by a Court or Tribunal on technical grounds, reserves liberty to issue a fresh charge memo or hold a fresh inquiry. The second is where the charge memo is withdrawn in view of a technical defect by disclosing the reason for such withdrawal, reserving liberty to issue afresh charge memo in regard to the very same misconduct. On the other hand, if the charge memo / enquiry is withdrawn, dropped reserving liberty to initiate fresh action, but without assigning reasons, or assigning reasons which are not relevant or giving assigning wholly inadequate or inappropriate reasons for issue of afresh charge memo or reviving the inquiry, afresh charge memo cannot be issued in regard to the very same charge.
SS of Post Offices B'Iore Vs. Ravindranathan 2003 II LLJ 74
Where accused officer is acquitted on a technical ground relating to a procedural flaw or by giving benefit of doubt, disciplinary proceedings on the same charges can be initiated
*S Krishnamurthy vs. Chief Engineer, S Rly., AIR 1967 MAD 315*

Power of the authority to continue departmental enquiry is neither taken away nor discretion in any way lettered merely because the accused is acquitted
*Corporation of Nagpur vs. Ramachandra 1981(2) SLR SC 274*

Initiation of departmental proceedings for major penalty on the same charge of criminal conspiracy to obtain pecuniary advantage on which the delinquent officer was acquitted earlier by the Court is held valid.
*P H Tripathi Vs. CBI (Bank) 1985 II LLJ. 500 (All)*

Order of dismissal, in a departmental enquiry for the same charges of theft on which he was acquitted by criminal court on the ground that offence is not proved beyond reasonable doubt, is in order.
*N Marrimuthu vs Transport Dept, madras 1986 (2) SLR MAD 560*

*DP AFTER RETIREMENT (RELATED TO RULE 19.3 OF SBIOSR)*
Against retired bank employee - the only course open to the authorities is not to allow the petitioners to retire on superannuation- Proceedings can be initiated against only for the purpose of withholding whole or part of pension provided there is provision therefore.
*(GM. Urban Dist Co-op Bank and vs Ranga Rao 2002-II-LLJ- 983)*

**PARALLEL PROCEEDINGS:**

The Hon'ble Supreme Court while deciding several cases observed that:

a. The approach and the objective in the criminal proceedings and the disciplinary proceedings are altogether distinct and different. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different.

b. There is no legal bar for simultaneous proceedings being taken against the delinquent employee against whom disciplinary proceedings have been initiated, however, there may be cases where it would be appropriate to defer disciplinary proceedings. No straight jacket formula can be arrived for the purpose. It should not be a matter of course, but a considered decision. And a decision to defer the disciplinary proceedings would depend on the facts and circumstances of each case.

c. Departmental Enquiry should not be unduly delayed, and if a criminal case is unduly delayed the same may be a ground for proceeding with Departmental Enquiry, so as to conclude them at an early date, with the view that if the employee is found not guilty his honour may be vindicated.
and in case he is found guilty, management may deal with him promptly as per law.

Shri. Rajinder Kumar Vs State Bank of India, Chandigarh (CR No. 4814/02) the Chandigarh High Court has decided on 29.04.2003, has interpreted the provisions of the Sastry Award and Settlements and observed that if criminal trial does not end within a period of one year of its commencement and the charge sheet against the employee is pending, concurrently Departmental Enquiry can be revived and brought to conclusion. The said judgment of Chandigarh High Court has also been upheld by the Hon'ble Supreme Court.

The Central Vigilance Commission Act, 2003 reads that:
“….. No bi-partite agreement should stand in the way of disciplinary action continuing parallel with criminal investigation/trial. This is necessary in the interest of speedy action in Vigilance cases.

Appellate Authority must give reasons:

The Hon'ble Supreme Court has held that the Appellate Authority (AA) even while affirming the order of the Disciplinary Authority (DA), must give reasons for arriving at the decision. The Bench said; “The order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority”. It said: “The purpose of disclosure of reasons is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also giving reasons minimizes chances of arbitrariness. Hence it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

DISCIPLINARY AUTHORITY
The principles of natural justice have, therefore, to be read into Regulation 7 (2) of PNB OSR (corresponding to Rule 68 (2) (i) of SBIOSR-1992): the result is that whenever the DA disagrees with the IA on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officers and opportunity to represent before it records its findings.
(Punjab National Bank vs K. B. Mishra, AIR 1998 SC 2713
It is open to the DA to issue a show cause notice to the employee concerned, giving him the tentative reasons for disagreement with the enquiry officer’s findings and after considering the reply of the employee to the show cause notice, pass orders recording these reasons. It is clear that no fresh enquiry need be held by the DA but the report of the enquiry officer must be conveyed to the employee concerned with the tentative reasons of the DA for disagreement with the findings of the enquiry officer. The DA need not give opportunity to the employee to lead fresh evidence or
to examine and cross-examine witness but his final order must show that he has considered the explanation of the employee filed in reply to his show cause notice and other relevant material.

High Court of Madras: W.A No 853/2005 dated April 25, 2005
Chennai Metropolitain Water Supply and Sewerage Board Vs P Palanivelan

Refusal to supply copies of statements of witnesses recorded during preliminary enquiry and documents mentioned in the charge-sheet and merely allowing to inspect the documents and take notes and rejecting request for engaging steno where 38 witnesses were examined and 112 documents running into hundreds of pages produced, amounts to denial of reasonable opportunity. 

Kashinath Dikshita vs. Union of India, 1986 (2) SLR SC 620
Charged officer should be given opportunity to inspect documents cited in support of the charge.
State of UP vs. Shatrughan Lal  AIR 1998 SC 3038/ SCC 651

DOCUMENTS - SUPPLY OF

The following propositions can be deduced from the judgment of Chander Rama Tiwari vs Union of India AIR 1988 SC117 decided by the Supreme Court The question whether a document is material or not will depend upon the facts and circumstances of each case
1. the demand of reasonable opportunity of defence and violation of the principles of natural justice must be better mind on facts and circumstances of each case
2. the CSO is entitled to have copies of material and relevant documents only to which may include copies of statements of witnesses recorded during investigation or preliminary inquiry or copy of any other document which may have been relied upon in support of the charges.
3. if, however, it document has no bearing on the charge or if it is not relied upon by the inquiry officer to support the charges or document material was not necessary for cross-examination of the witnesses during inquiry, the officer cannot insist upon the supply of copy of such document.
(CK Surti Vs CMD, Dena Bank GUJ 2002  I LLJ 154)

ENQUIRY/ INQUIRY:
Even if the charged employee admits the charges, the facts of misconduct should be established with documentary/oral evidence.  Natwarbha S Makwana Vs. UOI: 1985 II LLJ 297 (Guj .HC)

Where the disciplinary authority himself is the inquiry officer, there is no report. He becomes the first assessing authority to consider the evidence directly for finding out whether the delinquent is guilty and liable to be punished. The delinquent is not entitled to a copy of the report when the enquiry is conducted by the D.A., he is entitled to a copy of report when enquiry is conducted by the inquiry officer.
EVIDENCE: APPRECIATION
The simple point is, was there some evidence or was there no evidence - not in the sense of the technical rules governance regular court proceedings but in a fair commonsense away as man of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding in a domestic enquiry is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to error of law on the record. The Supreme Court in the case of Bank of India vs Suryanarayana (AIR 1999 SC 2407: 199-III-LLJ-SUPP-1000) held that strict rules of evidence are not applicable to departmental proceedings. The only requirement of law is that allegation against the delinquent employee must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the graveness of the charge against the delinquent employee. The Court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except a case of malafides or perversity, that is where there is no evidence in support of a finding or where a finding is such that no man acting reasonably and with objectivity could have arrive at that finding. The court cannot embark upon re-appreciating the evidence or weighing the same like an appellate authority.

Evidence: Manner of Collection
The principle that a fact sought to be proved must be supported by statements made in the presence of the person against whom the inquiry is held and that statements made behind the back of the person charged are not to be treated as substantive evidence, is one of the basic principles which cannot be ignored on the mere ground that domestic Tribunal are not bound by the technical rules of procedure contained in the Evidence Act. Central Bank of India vs. P C Jain AIR 1969 SC 983

If the deposition of a witness has been recorded by the inquiry officer in the absence of the accused public servant and a copy thereof given to him, and an opportunity is given to him to cross-examine the witness after he affirms in general about the truth of statement already recorded, that would conform to the requirements of natural justice ST. of Mysore vs. Sivabasappa Shivappa AIR 1968 SC 375.

ENQUIRY: COMMON INQUIRY WHERE MORE THAN ONE DELINQUENT OFFICER IS INVOLVED
When more than one delinquent officer are involved then with a view to avoid multiplicity of the proceedings, endless delay resulting from conducting the same and overlapping adducing of evidence or omission thereof and conflict of decision in that behalf, it is always necessary and salutary that common enquiry should be conducted against all the delinquent officers. The competent authority would objectively consider their cases, according to Rules and decide the matter expeditiously after considering the evidence to record findings on proof of misconduct and proper penalty on proved charge and impose appropriate punishment on the delinquent. If one charged officer cites another charged officer as a witness, in proof of his defence, the enquiry need not per se be split up even when the charged officers would like to claim an independent enquiry in
that behalf. If that procedure is adopted normally all the delinquents would be prone to seek split up of proceedings in their bid to delay the proceeding s, and to see that there is conflict of decisions taken at different levels. Obviously, disciplinary enquiry should not be equated as a prosecution for an offence in a Criminal Court where the delinquents disciplinary proceedings, the concept of co-accused does not apply. Therefore, each of the delinquents would be entitled to summon the other person and examine on his behalf as a defence / witness in the enquiry or summon to cross examine any other delinquent officer if he finds him to be hostile and have his version placed on record for consideration by the disciplinary authority. Under these circumstances, the need to splitup the cases is obviously redundant, time consuming and dilatory. It should not be encouraged.

AIR 1997 SUPREME COURT 2229 BALBIR CHAND v. FCI LTD.,

EO/IA - ROLE

EO/IA can put clarificatory questions to witnesses
Manchandani Elec & Radio Ind Ltd. Vs Workmen1975 (I) LLJ SC 391

Report of EO/IA must be reasoned one and discuss evidence. Failure renders termination illegal.
Anil Kumar vs. Presiding Officer 1985 (3) SLR SC 26

No prejudice caused to delinquent by EO/IA asking questions at different stages in the course of enquiry as and when material appeared against the delinquent.
Secy., CBEC, New Delhi vs. K S Mahalingam 1988 (3) SLR MAD 665

No illegality or impropriety in the EO/IA examining witnesses or questioning the delinquent.
H Rajendra Rai vs. Chairman, Canara Bank 1990 (I) SLR KER 127

If the EO/IA examinations the charged employee at considerable length and on great detail; and assumes the role of a cross-examiner, such enquiry is vitiated.
M S Rane Vs State of Maharashtra: 1990 I CLR 337 (Bom HC)

EVIDENCE ACT

Evidence Act not applicable in departmental enquiry.
Union of India Vs T R Varma AIR 1957 SC 882.

EO/IA not bound by strict rules of Law of Evidence.
U R Bhatt vs. Union of India AIR 1962 SC 1344

EVIDENCE - STANDARD OF PROOF:
The rule followed in a criminal trial that an offence is not established unless proved beyond reasonable doubt does not apply to departmental enquiries.
State of Andhra Pradesh Vs. S. Sree Ramaraoo AIR 1963 SC 1723

Tape recorded talks are admissible as evidence
Pratap Singh vs. State of Punjab AIR1964SC 72
Departmental enquiry is not a criminal trial and standard of proof is only preponderance of probability and not proof beyond all reasonable doubt.
Union of India Vs Sardar Bahadur 1972 SLR SC 355

In DE, proof based on preponderance of probability is sufficient.
Nand Kishore Prasad vs. State of Bihar 1978 (2) SLR 46

Rule of establishing guilt beyond reasonable doubt as applicable to criminal trial not applicable to departmental enquiry.
Surjeet Singh vs. New India Assurance 1989 (4) SLR MP 385

EXAMINATION OF WITNESSES
EO/IA putting questions to witnesses, not violative of principles of natural justice
Union of India Vs T R Varma AIR 1957 SC 882
Ex parte Enquiry
Where a charge-sheeted employee withdrew from the enquiry after two witnesses were examined as a result of some dispute and the EO/IA closes the enquiry without proceeding ex-parte, the dismissal on the basis of this enquiry was held invalid.S.C
Imperial Tobacco Co. of India., LLJ  1961 II 414

Where the CSO declines to take part in the DE and remains absent, it is open to EO/IA to proceed on the materials placed before him
U R Bhatt vs. Union of India AIR 1962 SC 1344

Ex-parte order of dismissal without holding departmental inquiry, where delinquent officer failed to reply to charge sheet, is illegal. It is necessary to hold an enquiry ex-parte
Sri Ram Varma vs. District Asst. Registrar 1986 (I) SLR ALL 23

GUILT - ADMISSION OF
In an admission of guilt, admission should be clear and unequivocal
Udaivir Singh vs. Union of India 1987 (I) SLR CAT DEL 213

INQUIRY/ INQUIRY REPORT

Wherever there has been an Enquiry officer and he has furnished a report, holding the delinquent guilty, the delinquent employee is entitled to a copy of such report and making a representation.
Union of India vs. Mohd. Ramzan Khan AIR 1991 SC 471

The Power of the Hon’ble High Court:
The Supreme Court of India in S.K.Sharma (supra) summarized the principles with regard to the power of the high Court over the disciplinary proceedings as under:
  a. An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court of the Tribunal should
enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.

b. A substantive provision has normally to be complied with an explained and the theory of substantive compliance or the test of prejudice would not be applicable in such a case.

c. In the case of a procedural provision which is not a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

d. In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment), keeping in mind the, approach adopted by the Constitution Bench in Managing Director, ECIL vs. B. Karunakar AIR 1994 SC 1074:1993 (4) SCC 727: 1994-I-LLJ-162. The ultimate test is always the same, viz, test of prejudice or the test of fair hearing, as it may be called.

Ref: Labour Law Journal November 2006 issue : Page 577 Case ref Swarna Kumari (K) vs. Government of A.P.

MISCONDUCT:
No disciplinary action can be taken and punishment imposed for conduct not included in enumerated misconduct of service regulations or Standing Orders. It is not open to the employer to fish out some conduct as misconduct and punish the worker.
Ahmedabad Municipal Corporation, LLJ 1985 527SC

SBIOSRs-1992- Rule 50(4) misconduct generally not constituted by negligence or lack of efficiency -- but in case of bank employees, who deals with public funds, in display and although not activated by the promoters, cannot be condoned. Appellate Authority was interested in penalty of reduction by one stage in the basic pay timescale. In his challenge of this penalty through the present petition before the High Court, the officer partially succeeded in that the High Court remitted the matter back to the appellate authority for fresh consideration is to whether in the facts of a case, minor penalty would suffice.

Government servant living with another woman and neglecting his wife and children constitutes unbecoming conduct.
B.S. Kunwar vs. Union of India 2001 (2) SLJ CAT Jaipur 323

The amount of money misappropriated may be small or large; it is the act of misappropriation that is relevant. Quoted SC in MC, Bahadurgarh Vs. Krishna Behari AIR 1996 SC 1249 ( Para 4). The highly objectionable moral fibres of the delinquent employee expressed themselves loudly in her attempt not only to retain the illegal money of the customers for whom she acted as a trustee but also in her attempt to manipulate the entries in the challan (Pass) book. In the
circumstances, if the court were to consider this misconduct of the delinquent employee leniently, it would amount to court placing misplaced sympathy on an undeserved person. Time has come that the unscrupulous and corrupt elements in the public organisations/institutions should be weeded out to keep up keep the integrity and credibility of institutions. Ms Sathayanaramma G. vs. Canara Bank 2003 I LLJ AP 607

Expression “gross misconduct” - not to be viewed in abstract or as it appeared in perception of court - it has to be construed rather with reference to acts and omissions enumerated in service conditions, such as Para 521 (4) & 521 (6) of Sastry award -- on facts - Held, misconduct in question constituted gross misconduct.

The Supreme Court in this case observed that it was beyond comprehension as to how the division bench held that the misconduct attributed to the respondent was not a "gross misconduct". They said misconduct consisted in the respondent, including without authority granting three increments to himself, especially while working in the establishment section of the bank. Service conditions laid out in Sastry Award and Desai award enumerated employee’s acts of commission and omission which would constitute gross misconduct. Availing of increments to which the respondent was not entitled, and that too when he was the dealing person in the section could not be glossed over to be viewed not as gross misconduct without doing violence to the meaning ascribed to expression under the Sastry Award (Para 521 (6) (j)(m) (n)). Rather the Supreme Court pointed out in that regard, punishment imposed by the DA is proper authority, the High Court should not normally interfere with it unless it was impermissible or shocking to its conscience [RM/ DA SBI, Hyderabad Vs. S. Mohd. Gaffar 2002 III LLJ SC 529)

Negligence by bank employee coupled with likelihood of serious loss is sufficient to constitute gross misconduct and proof of serious loss is not necessary and the bank manager giving loans without obtaining adequate security is guilty of gross misconduct SPSDS Hanspal vs. UCO Bank

Mandatory Questions:
it is mandatory that the EO should question the CSO broadly on the evidence appearing against him as per the rule and failures do so is the serious error. MOF vs. S B Ramesh AIR 1999 387

Misconduct: Outside Premises
Riotous behaviour outside premises should have rational connection with employment of assailant and the victim, to constitute misconduct. Tata Oil Mills Co. Ltd. vs. Workman AIR 1965 SC 155

DA competent to decide which are the actions which amount to conduct unbecoming of a government servant by looking to circumstances, as it is not possible to lay down an exhaustive list in Rules. Asst. CIT Vs. Somendra Kumar Gupta 1976 (I) SLR CAL 143

MORAL TURPITUDE
The expression "Moral turpitude" is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of a person charged with the particular conduct. An offence under Sec. 182 IPC whether falling under clause (a) or clause (b) is an offence involving moral turpitude. Baleshwar Singh vs. DM, Banera AIR 1959 all 71
No absolute standard can be laid down for deciding whether a particular offence is to be considered one involving moral turpitude. It is not every punishable act which can be considered to be an offence involving moral turpitude. The Test which should ordinarily be applied in most cases be sufficient for judging whether a certain offence does or doesn’t involve “moral turpitude” appears to be;

a) Whether the act leading to a conviction was such as could shock the moral conscience of society in general
b) Whether the motive which led to the act was a base one, and
c) Whether on account of the act having been committed, the perpetrator could be considered to be of a depraved character or a person who was to be looked down by the society.

*Mangali vs. Chhakki Lal* **AIR 1963 all 527**

**Presenting Officer**

*Rule merely enables disciplinary authority to appoint a Presenting Officer. Appointment of a Presenting Officer is not all obligatory*

Sec.CBSC, New Delhi vs. K S Mahalingam **1988 (3) SLR MAD 665**

Appointment of Presenting Officer is not mandatory.

H Rajendra Rai vs. Chairman, Canara Bank **1990 (I) SLR KER 127**

*A witness cannot be a Presenting Officer*

Anil Kumar Ghosh Vs Union of India **1990 I CLR 299 (Cal H C)**

**PRINCIPLES OF NATURAL JUSTICE:**

_PNJ_: BIAS (No body can be a judge in his own cause)

SBI(Supervising Staff) Service Rules-1975- Rule 50 (3) (ii)

[Corresponding to Rule 68 (3)(ii) of SBIOSRs ]- Principles of natural justice requires to be read into Rule- When DA doesn’t agree with findings of IA, it must record its tentative reasons for such disagreement and give delinquent officer an opportunity to represent before it records its findings-

_Dismissal without giving such opportunity, held, not sustainable albeit no prejudice shown by denial of such opportunity.*

SBI Vs. K.P. Narayanan Kutty **2003 II LLJ SC 1**

EO/IA himself giving evidence violates principles of natural justice

State of Uttar Pradesh Vs Mohammed Noor **AIR 1958 SC 86**

Each charge should also have a separate statement of imputations. There must be a reasonable likelihood of bias - mere suspicion of bias is not sufficient

A K Kraipak & Others vs. Union of India **AIR 1970 SC 150**

Where charges against an employee relate to his misconduct against Disciplinary Authority, such Disciplinary Authority passing order of dismissal amounts to his being a judge in his own cause and violates rules of natural justice.

*Arjun Chowbey vs. Union of India 1984 (2) SLR SC 16*
PNJ: Prejudice (audi alteram partem)

PNJ- SBI (supervising staff) Service Rules, 1975 - Rule 50 (3)(ii) – PNJ is required to be read into the rule- when DA doesn’t agree with findings of inquiry officer, it must record its tentative reasons for such disagreement and give delinquent officer opportunity to represent before it records a finding- dismissal without giving such opportunity, held, not sustainable albeit no prejudice shown as caused by denial of said opportunity.
[SBI vs. K. P.Narayanan Kutty 2003_II LLJ SC 4]

PNJ- The petitioner was removed from service for failure to discharge his duties with utmost integrity, honesty, devotion and diligence and to have violated Rule 50(4) of State Bank of India Officers Service Rules governing his terms of service in the Bank. The petitioner preferred appeal to the appellate authority and the appeal was rejected. Petitioner challenged the punishment for not providing opportunity of hearing at the appellate stage. The High Court of Andhra Pradesh held that there is no right to a personal hearing at the appellate stage and the rules of natural justice do not require that in all cases a right of audience to be proved at the appellate stage. [W.P No 26789/2001 dated 27.01.2006 in the High Court of Andhra Pradesh between Malleswara Rao Y. vs Chief General Manager, SBI Hyderabad and others]

Punishment- United Bank of India Officers Employees’ Regulations , 1996- Reg. 4 – Penalty not imposed – Appeal not maintainable as the officer was only cautioned and no penalty imposed- Reg. 18- Reviewing authority has general power of review- even in absence of appeal. [Madhusudan Jena vs United Bank of India 2004 -I-LLJ 717].

Punishment - Refusal by a bank to accept deposits would result in undermining the confidence of the depositors in the bank. The argument that there was heavy rush or paucity of time was not sufficient to justify refusal to accept the deposits. If a person comes to a bank to deposit some amount of money and the amount is not received by the cashier even though valid notes were given, and no reason is even for refusal to accept the money, the confidence of the banker is likely to be shaken in the working of the bank. Section 36AD, Banking Regulation Act was incorporated to take care of this kind of situations. In criminal law, the efforts of an act done by person is ordinarily taken to be intended. If the act of refusal to accept notes have the effect of undermining the confidence of the people, it will be deemed to be intended and it cannot be argued that the cashier intended only to avoid counting notes of small value and not to undermine confidence in the bank. Hence employee was liable for prosecution.
Uma Sabnis Vs. State of Bihar  VOL 93 Comp Cases 946

It is pertinent to notice that the question of violation of principles of natural justice and denial of opportunity would have arisen only if the charged employees had made a request to examine the documents or witnesses in his defence and the same was declined by the EO.
Vittal, M vs. DA/ RM SBH, Hyderabad 2003 I LLJ AP 812

Where a workman demanded that another person may be allowed to be present during the enquiry not with a view to assisting him but watching the proceedings, refusal of such demand does not vitiate the enquiry.
Swatantra Bharat Mills Ltd., LLJ 1961 I 558
The principles of natural justice require that the employee should have a fair opportunity to meet, explain and controvert it before he is condemned. 

PNJ: Venue of Enquiry
Change of the venue of enquiry at short notice where the charged employee could not keep his witnesses present is violative of the principles of natural justice
Murari Mohan Deb Vs The Secretary to the Govt of India and Others 1985 II LLJ 176 (SC)

The petitioner was afforded an opportunity to participate in the enquiry which she declined on the own stating that she was under no obligation to participate in the enquiry. Having refused to avail the opportunity, the petitioner can not be permitted to turn around and assault the order on the ground that she was not afforded any opportunity of hearing or that the order was bad on account of violation of natural justice.

It is now well settled that in the departmental enquiry, if a delinquent does not participate, then the plea of violation of natural justice is not available to him at a later stage. (Bank of India V. Apporva Kumar Saha)

Madhya Pradesh High Court- Indore Bench :: W.P. No 1910 of 1997
[2004 (102)FLR 536
Mrs. Lila Bhan and Daly Colleger, Indore and another (April 1,2004)

PNJ: Personal Hearing:

Natural Justice-Personal Hearing-Held, principles of natural justice cannot be put in a straitjacket- Where relevant service rule did not provide for a personal hearing, then a decision taken with full application of mind but without giving personal hearing cannot be said to be vitiated.

Ganesh Santa Ram Sirur Vs. State Bank of India & Anr. (2005) 1 SCC 13

PUNISHMENT:
Punishment - scope of interference by Courts with punishment awarded- if the charged employee had been in position of trust, as the respondents here was, where honesty and integrity were in built requirements of functioning, it would not be proper to take the matter leniently. The Court or Tribunal while dealing with the quantum of punishment had to record reasons as to why it felt a punishment was not commensurate with the proved charges.
RM, UPS RTC vs. Hoti Lal SC 2003 II LLJ 267

Punishment - of withholding 5 increments- Employer deducting cumulative sum of 5 increments from basic pay- Withholding of annual increments means denying said increment when it actually accrues or fall due - Employer can't assume any future circumstances and deduct cumulative sum of future increments - Punishment- Withholding of 5 increments- When punishment of stoppage of increments is imposed without specifying whether increments to be stopped with cumulative
effect or not, benefit to go to the employee. (Non cumulative effect if not specifically stated otherwise). Petitioner died during the pendency of the WP- Question of re-fixation of pay doesn’t arise & since there is cumulative loss of Rs. 18,000/-, said amount to be paid to petitioner. Venkata Sastry Y. (D) - by LRs  Vs. SBI, Bombay 2001-II-LLJ 407 AP

Punishment : dismissal:
The Appellant fraudulently withdrew an amount of over Rs 8400/- from the account of a dead customer- fraud committed by employee, established- plea of denial of opportunity at time of inquiry also not made out- punishment held not excessive.
Vittal, M vs. DA/ RM SBH, Hyderabad 2003 I LLJ AP 812

A respondent workman was dismissed from after the enquiry for theft of goods belonging to petitioner, Employer Company. The Industrial Tribunal by its award held the workman entitled to reinstatement without back wages. The petition was filed by the Company against the award. The petition was allowed. The High Court observed an acquittal by the criminal Court on a technical ground could have no bearing on the Disciplinary Proceedings. The punishment of the DA was held appropriate as the charge was grave in nature.

Braithwaite Buru and Jessop Construction Ltd & Fourth Industrial Tribunal, West Bengal & Others

The contention of the appellant’s counsel that lesser punishments were imposed in many cases where even gross misconduct of more serious nature than the one founded in the instant case was established and hence the action of the management is discriminatory and is hit by Article 14 of the constitution of India is not correct and that the petitioner has not placed any material before us in support of the said contention at the time of arguing that case enabling us to take a different view.
Vittal, M vs. DA/ RM SBH, Hyderabad 2003 I LLJ AP 812

PUNISHMENT HEARING PROVISION

While the right to represent against the finding in the report is part of the reasonable opportunity available during the first stage of the enquiry, viz. before the DA takes into consideration the findings in the report, the right to show cause against the penalty proposed belonged to the second stage when the DA has considered the findings in the report and has come to the conclusion with regard to the guilt of the employee and proposes to award penalty on the basis of its conclusions.

The first right is to prove innocence. The second right is to plead for either no penalty or a lesser penalty although the conclusion regarding the guilt is accepted. It is the second right exercisable at the second stage which has been taken away by the 42nd Amendment. (K B Mishra, SC – Ibid applicable for Award Staff in the context of Bank)
SBI Head Clerk charged - Scooter loan but didn’t purchase the same- Based on Enquiry Report, Competent Authority ordered on Sept. 16, 1970, under 521 (5) (d) of Sastry Award punishment of Stoppage of increment due on April 1, 1970, for one year and informed that same will fall due on April 1, 1971- The DB of Madras HC, referring to Para 85, ibid, agreed with the Industrial Tribunal that increments can’t be stopped retrospectively. Held, the increments that could be stopped could only be those which would be falling due after the employee was found guilty as per the procedure.- No justification in stopping the increment of the employee due on April 1970, in the hope that the employee would possibly be found guilty of misconduct in future. Management can stop something by way of punishment which is to come in future and not what has already accrued to the employee.

(Workmen, SBI, Madras Vs. S & T, SBI, Madras & Others 1984-II-LLJ- 239 (Madras-DB)

PREVENTION OF CORRUPTION ACT

The Honorable Supreme Court referred Section 19 of 1988 Act and observed that sanction for prosecution of a public servant under section 7, 10, 11, 13 of the Act had to be obtained from an authority competent to remove him from service.

The case was not a case of irregularity or omission but it went to the root of the prosecution. Sub-section (1) of Section 19 prohibited taking cognizance except with previous sanction. There was thus a fundamental error which invalidated the cognizance as without jurisdiction. However having regard to gravity of allegations against the respondent, the Supreme court permitted the competent Authority to issue fresh sanction order and proceed from the stage of taking cognizance of the offence.

Hon’ble Supreme Court of India:: Cr.A No 215/2004 dated September 29,2005 State of Goa and Babu Thomas

SEALED COVER PROCEDURE:

" The recommendations of the Departmental Promotion Committee can be placed in a "sealed cover" only if on the date of consideration of the name for promotion, the departmental proceedings had been initiated and were pending or on its conclusion, final orders had not been passed by the appropriate authority. UOI vs. Dr. Smt. Sudha Salhan AIR 1998 SC 1094

SCOPE OF SECOND CHARGE SHEET/ENQUIRY:

(Delhi High Court-2004 LAB I.C,2699)

W.P(C) No.3704 of 2001 dated 12.05.2004

First Charge Sheet was issued to the Petitioner on 18.08.1998 alleging gross misconduct under clause 19.5(a) and 19.5(b) of the Bipartite Settlement The petitioner preferred a civil writ petition before the Hon’ble high Court of Delhi against the said charge sheet. An interim order passed on 08.09.98 by the high Court not to submit the final report by the Enquiry Officer. High Court passed
the order on 15.05.2000 confirming the order passed on 08.09.98. At the time when the rule was issued on 15.05.2000; it was noted by the High Court that counsel for the Bank states that the Bank would like to amend the Charge-Sheet issued to the petitioner. The Bank issued a second Charge-Sheet on 20.11.2000 removing the defect of the first charge sheet and in the covering letter under which the charge-sheet has been served the reference of Charge Sheet dated 18.08.98 were made and the reference of Court Judgement was included. It was also mentioned that the charge sheet dated 18.08.1998 previously issued to him stands withdrawn. Petitioner (The employee) prays the charge-sheet dated 20.11.2000 be quashed as the charge-sheet was vague. The petitioner filed a writ petition in the court and prayed that the charge sheet dated 18.08.98 be quashed which was dismissed as infructuous vide order dated 09.11.2001. Petitioner filed another application probably due to the fact that order dated 09.11.2001 was passed without notice to the petitioner. On 07.08.2003 the court passed the following order:-

"The Charge Sheet pursuant to which this writ petition has been filed was subsequently withdrawn by the respondent. Thereafter the respondent has initiated fresh proceedings against the petitioner. The petitioner has challenged those proceedings by way filing writ petition. This writ petition has become infructuous."

Facts and circumstances of this case did not reveal that neither a de move enquiry is being held nor is it a case where the rule against double jeopardy is attracted. No enquiry was held at the first instance because the petitioner obtained the stay. Indeed, grievance of the petitioner being that the charge sheet issued to him was vague and this prejudiced him. Petitioner can have no grievance if the respondent furnishes to him the particulars of the imputations constituting the charge against the petitioner. The writ petition was dismissed finding no merit in it.

(B K Kalra petitioner Vs. Punjab National Bank, Respondent.

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Speaking orders:

Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at. Failure to give reasons amounts to denial of justice. (Alexander Machinery Dudley Ltd. vs. P. Crabtree 1974 LCR 120). A mere statement that it is disproportionate would not suffice. It is not only the amount involved but the mental setup, the type of duty performed and similar relevant circumstances which go into the decision-making process while considering whether the punishment is disproportionate or otherwise.

(RM, UPSRTC vs. Hoti Lal SC 2003 II LLJ 272 ( Para 10).

Suspension: Provisions - Treatment of period etc.

Employee under suspension cannot be compelled to attend office and to mark attendance at the office daily during working hours.

ZM, FCI vs. Khaleel Ahmed Siddiqui 1982 (2) SLR AP 779)

Rule 68A - Suspension of officer under rule 68A - does not come to an end automatically on discharge of employee from criminal case. Dr Prasana K. Agarwal was Medical Officer of SBI in North East Circle. The Bank filed an FIR alleging criminal conspiracy. The CSO got discharged from the criminal case in 1998- The bank kept the CSO under suspension since November '89 and
issued a show cause notice to him in March 94 and on receipt of the reply issued the charge-sheet in April 2000 and also refused to revoke the suspension orders. The officers succeeded in his challenge but the Bank continued his suspension-charge-sheet challenged before a single judge. The bank made appeal to Dealing Bench which set aside the single judge. The High Court observed that the officer could be continued under suspension even after discharge by the criminal court by virtue of Rule 68A of SBI officers Service Rules. While the Sitting Judge had quashed the charge-sheet on two counts:- delay in initiating discipline the proceedings and also the charge contained some allegations as were made in the criminal case- discharged in the criminal case, no department inquiry could be held on the same set of allegations. As the Dealing Bench differed from the Sitting Judge on both the above grounds. On the facts, the High Court held there was no delay in initiating the department proceedings. The High Court further held that acquittal of delinquent officer by criminal court did not conclude department proceedings in respect of the same charge. Moreover the subject matter of CBI case was not the same as a show cause notice served by the Bank for conducting departmental inquiry.  

SBI vs Dr P. K. Agarwal 2002 -III- LL J. 46.

VOLUNTARY RETIREMENT/ RESIGNATION:

resignation- can be withdrawn any time before termination of jural relationship between employer and employee. 

Sameer Agarwal vs Punjab National Bank 2003 II LLJ 85

The letter of acceptance was a conditional one inasmuch as, though option of the appellant for voluntary retirement under the scheme was accepted but it was stated that the release memo along with detailed particulars would follow. Before the appellant was actually released from the service, he withdrew this option for retirement by sending two letters, but there was no response from the respondent. Later on, the appellant was released from service, next day after second letter was given by him. It is not disputed that appellant was paid his salary till the date of release and therefore the jural relationship between the appellant and respondent did not come to an end on the date of acceptance of the voluntary retirement and the said relationship continued till the date of release. In view of settled position of the law and the terms of the letter of acceptance, the appellant had the locus poenitentiae to withdraw his proposal for voluntary retirement before the relationship of employer employee came to an end.

S M Sinha Vs. PDIL 2002 (3) SCC 437

IN THE SUPREME COURT 


The employee applied for voluntary retirement on November 30, 2000 under the Voluntary Retirement Scheme introduced and which was operative from 15.11.2000 to 14.12.2000. but withdrew the application on December 2,2000. However on January 25, 2001 he withdrew the retrital benefits deposited in the Bank in his name, on the Bank accepting his application for Voluntary Retirement. His Challenge of the Bank’s acceptance succeeded in the High Court. Hence the appeal is filed. The Supreme Court allowed it. It observed that the respondent, who sought voluntary retirement and subsequently wrote for his withdrawal but had withdrawn the amount of retrital benefits as per the Voluntary Retirement Scheme, was not entitled to the withdrawal of his application for Voluntary Retirement. (Bank of India & Others Vs. Pale Ram Dhania- Reference ::J 2004-September p.264)
WITNESSES - SECURING OF
EO/IA can take no valid or effective steps to compel attendance of witnesses; parties themselves should take steps to produce their witnesses.
Tata Oil Mills Co. Ltd. vs. Workman AIR 1965 SC 155

Where the object of delinquent official in summoning a witness is only to create harassment and embarrassment, EO/IA's decision not to summon him does not violate natural justice
Insp Asst. Comm of Inc. Tax vs. S K Gupta 1976 (I) SLR CAL 143

WITNESSES - EXAMINATION OF
Where a witness is giving evidence, the other witnesses should not be present at the enquiry.
Sharada Prasad Viswakarma Vs State of U.P. 1968 (I) LLJ ALL45

Previous statements made by a witness cannot be relied upon without offering the person as a witness for cross-examination during the inquiry.
MOF vs. SB Ramesh AIR 1999 SC 853

Failure to furnish copies of previous statements of witnesses cited in the charge-sheet causes prejudice
State of UP vs. Shatrughan Lal AIR 1998 SC 3038

Enquiry proceedings - Representation by lawyer- PO not a legally trained mind- Delinquent would not be entitled to permission for being defended by a lawyer

Reference : Labour Law Journal
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<td>6.</td>
<td>67(e)</td>
<td>CDO/P&amp;CCIR/46</td>
<td>24.10.96</td>
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<td>7.</td>
<td>68(2)(iii)</td>
<td>CDO/PM/A421/CIR/82</td>
<td>11.02.2K</td>
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<td>8.</td>
<td>67</td>
<td>CDO/PM/1424/CIR/1</td>
<td>13.04.2K</td>
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<td>9.</td>
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<td>68(1)(ii)</td>
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<td>68 (2) (i)</td>
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<td>68(4)(i)</td>
<td>CDO/PM/1424/CIR/1</td>
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<td>14.</td>
<td>68 (4)(iv)</td>
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<td>15.</td>
<td>69 (2)(i),(iii)</td>
<td>CDO/PM/1424/CIR/1</td>
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<td>16.</td>
<td>3(1)(v), 19 (1), 20(3), 25(3), 38, 50(3), 50(4), 51(1), 51(4), 62(4), 67,72</td>
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<td>17.</td>
<td>Rule 68</td>
<td>CDO)/PM Cir 32</td>
<td>22.09.2004</td>
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State Bank of India

Vision
My SBI.
My Customer first.
My SBI: First in customer satisfaction.

Mission
We will be prompt, polite and proactive with our customers.
We will speak the language of young India.
We will create products and services that help our customers achieve their goals.
We will go beyond the call of duty to make our customers feel valued.
We will be of service even in the remotest part of our country.
We will offer excellence in services to those abroad as much as we do to those in India.
We will imbibe state of art technology to drive excellence.

Values
We will always be honest, transparent and ethical.
We will respect our customers and fellow associates.
We will be knowledge driven.
We will learn and we will share our learning.
We will never take the easy way out.
We will do everything we can to contribute to the community we work in.
We will nurture pride in India.