

DISCIPLINARY PROCEEDINGS IN INVESTIGATIVE CASES

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ABSTRACT

Disciplinary procedures are management tool which are basically utilised when an employee breach the code of conduct. Disciplinary procedures have a negative impression around the employee domain but if utilised properly it can be an added advantage to management of company. In our research paper we will deal with various cases on disciplinary procedures to give a solidify picture of this Management tool.

Keywords: *Disciplinary procedures, code of conduct, code of ethics behavioural misconduct, case laws, charge sheet formats of charge sheet.*

RESEARCH OBJECTIVES

The objectives of the present research work are as follows:-

- To find out the exact meaning of disciplinary proceedings.
- To learn about what are the various aspects of disciplinary Proceedings against various employment departments.
- To understand the legal framework of charge sheet.
- To understand the advantages & disadvantages of disciplinary proceedings.

RESEARCH METHODOLOGY

Research Methodology is the specific procedures or techniques used to identify, select, process and analyse information about a topic.

Research Methodology are of two types:

- **Primary Research:** Primary Research Methodology is defined as a methodology used by researchers to collect data directly, rather than depending on data collection from previously done research. It is done by interviews, online surveys, observations etc.
- **Secondary Research:** Secondary Research Methodology is defined as a methodology involved in already existing data. It includes research materials published in research reports and similar documents.

Tool of Research: We have used Secondary Research Methodology. As secondary research methodology involves data that has been collected by or made by somebody else previously so it is called "Past Data" and is accessible via past researches, government records, various online offline resources. It involves reanalyzing, interpreting or reviewing past data. We use this as we want the previously collected information to inform our current research.

Sources of Research: We have relied upon external sources such as following: -

- Newspapers Articles,
- Government Reports,
- Recognized Think Tanks Reports,
- Research Journals and Statistical Reports.

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1. WHAT IS DISCIPLINARY PROCEEDING?

Every organization and employee therein are bound with the code of conduct delivered to them, any breach will cause to invoke Disciplinary Proceeding against the convict. Even organization or firm of professionals are liable to comply with their code of conduct, any non-compliance will result into Disciplinary Proceedings against them. In short, “non-compliance of code of conduct will lead to disciplinary proceedings.”

Disciplinary procedures is a management tool which is implemented by the management as a process for dealing with employee misconduct. Disciplinary procedure has its negative impact on employee job satisfaction whereas on the other hand, if disciplinary procedures implemented properly against the convicted employee, then it will work as employee job satisfaction.

The purpose of disciplinary action is to rectify the error not to punish the convict. These action are taken whenever an employee breach the code of conduct discussed with them during the initial phase of employment.

There are two types of disciplinary procedure: Formal & Informal. As the name suggest, those which are mentioned in company handbook or employment contract are called Formal disciplinary procedure which are strictly followed by the management. Its discrepancy may lead to employment court of justice. Informal disciplinary procedures are not recorded anywhere but only followed by manager of organizations.

Previously employer used to hire any employee and dismiss them. Now a days an employer may thrust discipline on employee after considering certain legislative requirements, which depend on organization. CCS (CCA) Rules, 1965 & Article 311 of the Constitution are the two legislations which covers various aspects of disciplinary proceedings.

a) **Disciplinary Proceedings Against Government Servant**

The conditions of employment in relation to persons appointed in connection with the affairs of the State are covered by Section XIV of the Constitution. Any action brought against the workers of the Government of the Union and of the State Governments should comply with certain Constitutional provisions, which confer some rights on the servants of the Government. These rules refer only to personnel in different ministries, departments and subordinate offices. In addition, as citizens of the country, workers also enjoy fundamental rights guaranteed under Part III of the Constitution and can enforce them through the courts' written jurisdiction. In addition to the statutory provisions, such laws relate to the operation of proceedings relating to the taking of steps against erring employees. The 1965 Rules of Central Civil Services (Classification, Control, and Appeal) cover the vast majority of employees of the central government. In addition, in a variety of facilities, there are also many other laws that apply to different parts of the workers.

b) Semi-Governmental Organisations

By this, we say government-controlled Public Sector Undertakings and Autonomous Bodies and Communities. The workers of these organisations are not bound by the provisions of Section XIV of the Constitution. However, because these organizations can be included in the meaning of the word 'State' as found in Article 12 of the Constitution, the workers of these organizations are protected by their employer's orders against the infringement of their fundamental rights. The employer's conduct can be contested on the basis of arbitrariness, etc., by the workers of these organizations. Such companies also have their own set of rules to deal with situations involving administrative action against their workers.

c) Purely Private Organisations

These are regulated by the country's different industrial and labour laws and the authorised standing orders that relate to the establishment.

2. DISCIPLINARY PROCEEDINGS: STEP BY STEP

Following are the different steps of Disciplinary proceedings –

Phase 1: To inspect the possibilities,

Phase 2: Issuance of charge sheet,

Phase 3: Performing a disciplinary meeting,

Phase 6: Initiating an inquiry Phase 7: Order of Punishment,

Phase 8: Subsequent to the disciplinary process.

A disciplinary process is a normalize way to deal with an employee:

- Inappropriate behaviour,
- Efficiency.

Before beginning a disciplinary process an employer can first check whether the issue can be settled through any casual method. Simple and fast way may also be this.

- Interacting with employers in person,
- Their perspective shall be given importance,
- Promising for betterment,
- Training session shall be organised.

Employers will occasionally find it appropriate to punish an employee if they believe an act of wrongdoing or gross misconduct has been committed by the employee. However, prior to implementing a disciplinary penalty, an employer must pursue a fair and appropriate disciplinary process.

When being punished, workers have certain rights, such as the right to be accompanied by a work colleague or a trade union representative to a disciplinary hearing. However, at the investigation level, an employee does not have this privilege.

What is perceived as gross misconduct will rely on the organization. If the employer has considered attempting informally to fix the issue, but thinks they need to initiate a disciplinary action, they must immediately notify the employee. This should be done in writing and must contain the following:

- Adequate knowledge of the suspected wrongdoing or poor results,
- Possible effects, such as a formal warning,

To plan for a disciplinary hearing, the employee should have this information in time.

The employer must ensure that they are following a complete and equitable process throughout. This is for the safety of the worker, the employer and their business.

Once the prima facie case of wrongdoing is found, the management should proceed to issue the employee with a charge sheet. The charge sheet is merely a notice of the fee and offers an opportunity for the employee to justify his conduct. The charge sheet is also commonly regarded as a notice of show cause. Each fee should be clearly stated in the charge sheet. With each claim, there should be a separate charge and the charge should not apply to any matter that has already been agreed upon.

The clarification given should be considered when receiving the response for the charge sheet served, and if it is appropriate, no disciplinary action needs to be taken. In the opposite, if the management is not pleased with the response of the employee, it will continue with a full- fledged enquiry.

In order to get as much information as they possibly can about the suspected wrongdoing or poor performance of their employee, the employer must initiate an investigation.

If the employee's wrongdoing is proven, disciplinary action may be taken. When determining the nature of disciplinary action, it is important to consider the past record of the employee, precedents, consequences of the action on other employees, etc.

It is important to keep the disciplinary result and information confidential. Where relevant, however, it might be a good idea for the supervisor to meet privately with any workers who knew that the disciplinary action was taking place.

This will help to prevent any negative effects on the business, such as:

- Poor feeling or a bad feeling,
- Gossips,
- Intimidation,
- Low morale at work.

If the employee believes that the investigation conducted was not right and that the action taken was unjustified, he must be given an opportunity to make an appeal.

Each workplace may have its own version of disciplinary results. They should be written in the disciplinary procedure or instructions of the workplace.

It is a good practice for the employer to provide clear targets and time frames for changes to the employee for a disciplinary result that is not a dismissal.

Few important Terms:

a. What Counts As Misconduct?

Misconduct is when an employee's inappropriate behaviour or action breaks workplace rules. Some misconduct examples include:

- bullying,
- harassment,
- refusing to do work ('insubordination'),
- being absent without permission (some people call it absent without leave or 'AWOL').

b. When Gross Fraud Occurs?

Some acts, since they are very serious or have very serious consequences, count as 'gross misconduct.'

When an employer discovers that there has been gross misconduct, an investigation and the whole disciplinary process should also be carried out. Without warning or payment in lieu of notice, they will then vote on dismissal.

In the workplace, examples of gross misconduct might include:

- Fraud,
- Physical assault,
- Lack of commitment to their duties or to other persons ('gross negligence'),
- Extreme insubordination, such as refusing to take legitimate and fair orders from a boss.

c. What Is Charge Sheet?

Charge Sheet is a written declaration of the charges to convey to the defendant whatever is done is law-breaking and not permissible in compliance with the code of conduct. The motto of the charge sheet is to highlight and discuss the exact point of wrongdoing committed by the worker and suggest that an explanation be submitted in his/her defence and addressed to the organization's management.

It is important to remember that the format of the Change Sheet should also include the exact location of time and the incidents and the way the incident took place.

d. When To Write Charge Sheet?

Charge sheet is given to an employee if an employee is involved with the office colleagues in some kind of wrongdoing or bad actions or if the employee is involved in the theft of the property of the company or if he/she is absent from his/her duties or if he/she is not performing well. In the above-mentioned situations, the employee is given a charge sheet for which he must provide a justification for the charges levied against him and if the employee neglects the charge sheet, a serious action is taken against him that may result in the organization's termination of employment.

e. Four Annexures To The Charge Sheet.

Annexure – I: Articles of Charge,

Annexure – II: Statement of misconduct or misbehaviour,

Annexure – III: List of Documentary evidence,

Annexure – IV: List of Oral witnesses.

f. Various Formats Of Charge – Sheet For Different Aspects.

- i. Standard Form Of Charge – Sheet For Proceedings Under Rule 9 Of The Central Civil Services (Pension) Rules, 1972.¹

No.....

Government of India Ministry/Department of.....

MEMORANDUM Dated the.....

- 1) In pursuance of the sanction accorded by the President under Rule 9 of the Central Civil Services (Pension) Rules, 1972, for instituting departmental proceedings against Shri.....vide

¹ http://www.referencer.in/CS_Regulations/DisciplinaryProceedings/Files/Handbook_IO_DA.pdf

Ministry/Department of.....Order No....., dated ...it is proposed to hold an inquiry against the said Shri..... in accordance with the procedure laid down in Rules 14 and 15 of the CCS (CCA) Rules, 1965. The enquiry shall be conducted by..... (Here specify the authority by whom the departmental proceedings are to be conducted in accordance with the Presidential sanction) at..... (Here specify the name of the place where proceedings are to be conducted).

- 2) The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed. (Annexures III and IV).
- 3) Shri. is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
- 4) He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
- 5) Shri.....is further informed that if he does not submit his written statement of defence on or before the date specified in para. 3 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rules 14 and 15 of the CCS (CCA) Rules, 1965, or the orders/directions issued in pursuance of the said Rules the inquiring may hold the inquiry against him ex parte.

- 6) The receipt of this Memorandum may be acknowledged.

By order and in the name of the President

Name and designation of competent authority*

Footnote; * - To be signed by an officer in the appropriate

Ministry/Department authorized under Article 77 (2) of the Constitution to authenticate orders on behalf of the President.

To Shri.....

.....

ANNEXURE - I

Statement of articles of charge framed against Shri..... (Names of the retired Government servant) formerly.....

Article - I

That the said Shri.....while functioning as.....during the period.....

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri.....

Article - III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri.....

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri..... (Name of the retired Government servant) formerly.....

Article - I Article - II Article - III

ANNEXURE - III

List of documents by which the articles of charge framed against Shri.....

(Name of retired Government servant) formerly.....are proposed to be sustained.

ANNEXURE - IV

List of Witnesses by whom the articles of charge framed against Shri. (Name of the retired Government servant) formerly.....are proposed to be sustained.

ii. Standard Form Of Charge-Sheet For Major Penalties [Rule 14 Of CCS (CCA) Rule]²

No.....

Government of India. Ministry of

Dated.....

- 1) The President/undersigned proposes to hold an inquiry against Shri... .. under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures - III and IV).
- 2) Shri is directed to submit within 10 days of the receipt of his Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
- 3) He is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should, therefore, specifically admit or deny each article of charge.
- 4) Shri..... Is further informed that if he does not submit his written statement of defence on or before the date specified in Para. 2 above, or does not appear in person before the inquiring authority or other wish fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.
- 5) Attention of Shri Is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring of attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government, if any representation is received on his behalf

² http://www.referencer.in/CS_Regulations/DisciplinaryProceedings/Files/Handbook_IO_DA.pdf

from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rules 20 of the CCS(Conduct) Rules, 1964.

6) The receipt of the Memorandum may be acknowledged.

(By order and in the name of the President)

Name and designation of Competent Authority

To

Shri

.....

ANNEXURE – 1

Statement of articles of charge framed against Shri (Name and designation of the Government Servant).

Article I

That the said Shriwhile functioning asDuring the period

Article II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri

Article III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri.....

ANNEXURE-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri (Name and designation of the Government servant)

Article I Article II Article III

ANNEXURE-III

List of documents by which the articles of charge framed against Shri..... (Name and designation of Government servant) are proposed to be sustained.

ANNEXURE-IV

List of witnesses by whom the articles of charge framed against Shri..... (Name and designation of Government servant) are proposed to be sustained.

3. **PROS & CONS OF DISCIPLINARY PROCEEDINGS**

The goal of disciplinary action is to correct, not to punish, conduct related to work. Everyone the employee is expected to uphold performance and behaviour expectations as defined by the immediate supervisor and to comply with the rules, procedures and laws applicable. If there's an employee do not meet the standards set by the manager or other relevant authority, Counselling and/or disciplinary steps can be taken to remedy the actions of the employee.

Pros:

- It offers a straightforward explanation of the repercussions of not obeying the rules of the employer or not meeting requirements.
- For various staff, it offers the potential for continuity and fairness in disciplinary procedures.
- It offers an employee the chance to improve their behaviour. This is particularly true in situations where the worker might not have known that they were violating the rules or causing a problem.
- It allows the employer the ability to clarify to the worker what steps can be done to change the situation; this is a coaching and mentoring opportunity.
- It presents options to termination for minor offenses to the employer. This facilitates the retention of employees.
- It may also increase the morale of workers when the employees know that the employer will not fire them for a minor problem. Morale may also be improved by the understanding that other people's bad conduct will be handled.
- It offers proof that the employer gave the worker every chance to improve.

Cons:

Such a policy can appear inflexible; when to deviate from the progressive measures, HR and executives need to make judgment calls (as may be necessary when considering all circumstances).

- If all employees are not systematically followed, this could appear to be discriminatory. (Note: This issue occurs if different disciplinary steps are taken for multiple workers who have committed the same breach; it is not exclusive to employers who use progressive discipline.) If this happens, the primary concern here is the potential for litigation.
- Many fear that such a policy means that before any termination, the steps must be taken, which may have the effect of an implicit contract indicating that without these steps, an employee would never be terminated. The fear is that this could endanger the job's "at-will" status.
- In practice, particularly for organizations with limited resources, it can be time consuming to use. Not only does the procedure itself take time, but it also includes advance preparation, documentation and follow-up after each event.
- It may not be realistic to follow these steps for certain companies, particularly small organizations, as it may not be practical to retain an employee on staff who breaks any law. Or, keeping the company going with a suspended employee might not be feasible. For every organisation, it just might not be feasible to incorporate.

4. CASE LAWS RELATED TO DISCIPLINARY PROCEEDINGS

Case 1: Double Jeopardy – Criminal Prosecution Verses Disciplinary Proceedings:

The purpose of the disciplinary proceedings is to determine whether it is sufficient for the officer concerned to be retained in service. On the other hand, the purpose of the criminal investigation is to find out if the ingredients of the crime have been produced as specified in the penal statute. Furthermore, Article 20(3) of the Indian Constitution does not refer to a departmental investigation since the official is not being tried for any criminal offense. (Bhagwan Singh vs Deputy Commissioner And Anr., 1961).

Case 2: Departmental Inquiry During The Pendency Of A Criminal Prosecution:

Keeping a departmental investigation in respect of the same subject-matter during a pending criminal trial does not lead to a disdain of the court. The departmental authorities shall be free to exercise the legal powers

conferred upon them by the rules and regulations of the department, and such exercise of bona fide powers shall not fall within the scope of the law of contempt, in particular when the departmental authorities have not published their orders or attempted to influence the court in any way. (Mehra Singh vs. Supdt of Post offices, 1962).

Case 3: Natural Justice In Disciplinary Proceedings:

- Natural Justice's goal is to ensure justice, or to put it negatively, in order to avoid the miscarriage of justice. These rules function only in areas which are not protected by any law that has been validly created. They do not supplant, in other words, the rule, but complement it. (A.K. Kraipak vs. Union of India, 1970).
- The fact that our rules of procedure are founded on the concept of natural justice, which demands that men should not be condemned unheard, that decisions should not be made behind their backs, that proceedings involving their lives and property should not continue in their absence, and that they should not be excluded from engaging in such proceedings must always be present to men's minds. (Ramseth vs. Collector of Dharbang, 1955).
- The word 'misconduct' applies to an act committed deliberately with a wrong motive and as applied to competent individuals; it involves unprofessional actions, but these acts are not necessarily unlawful. It also indicates a dereliction of duty or deviation. (Nahood Ali Khan, Inre, AIR 1958 AP 116).

Case 4: Issue And Service Of Charge-Sheet:

Postal authority endorsements on letters "not found", "not traceable", "not known", "left" do not amount to service, but a "refused" endorsement does. The charge sheet is provided when it is framed and shipped to the employee, regardless of its actual service to the employee, the Supreme Court has determined. (Delhi Development Authority vs. H.C. Khurana, 1993(2) SLR SC 509 and Union of India vs. Kewal Kumar, 1993(2) SLR SC 554).

Case 5: Disagreement Of Disciplinary Authority With The Findings Of The Inquiring Authority:

On the issue of the disciplinary body disagreeing with the findings of the investigative authority, the Supreme Court held that the High Court's logic that it is imperative to examine the materials in depth and contest the investigating officer's conclusion when the Disciplinary Committee varies from the investigating officer's

findings is rather unfair and contrary to the findings of the investigating officer. In the report of the Investigation Officer, the Disciplinary Committee was neither an appeal nor a revision body. It must be borne in mind that the investigation is mainly intended to give the criminal officer a fair opportunity to satisfy the charges against him and also to provide the punishing authority with the materials obtained in such investigation as well as the opinions expressed thereon by the investigation officer. The investigation officer's conclusions are merely his views on the materials, but those findings are not binding on the disciplinary authority, because the decision-making authority is the punishing authority, and that authority may therefore, of course, come to its own conclusion, taking into account the views expressed by the investigation officer. However, it is not mandatory for the disciplinary authority to "discuss materials in detail and contest the inquiry officer's conclusions." Otherwise, the disciplinary authority's role will be reduced to a subordinate rank. (High Court of Judicature at Bombay vs. Shashikanth S. Patil 2000(1) SLJ SC 98).

Case 6: Standard Of Proof In The Departmental Inquiry:

- In a departmental oral inquiry, the standard of evidence needed varies materially from the standard of evidence required in a criminal trial. In that regard, the Supreme Court has issued clear rulings that a disciplinary proceeding is not a criminal proceeding and that the level of evidence needed in a disciplinary prosecution is that of preponderance of probability and not of evidence beyond reasonable doubt, which is the evidence required in a criminal proceeding. (Union of India vs. Sardar Bahadur, 1972 SLR SC 355; State of AP vs. Sree Rama Rao AIR 1963 SC 1723 and Nand Kishore Prasad vs. State of Bihar, 1978(2) SLR SC 46).
- Where two opinions are practicable, the court shall not intervene in judicial review by substituting its own satisfaction or opinion for the satisfaction or opinion of the authority exercising that power. (Union of India vs. Harjeet Singh Sandhu, 2002(1) SLJ SC 1).
- The power of judicial review is intended to ensure that equal care is obtained by the individual and not to ensure that the decision reached by the authority is inherently right in the eye of the court. The single judge of evidence is the disciplinary authority. Through its power of investigation, the Court/Tribunal cannot serve as an appellant to re-appreciate the facts and to arrive at its own independent conclusions on the evidence. (B.C. Chaturvedi vs. Union of India, 1995).

Case 7: Fresh Inquiry, In Case Proceedings Are Quashed By Court On Technical Grounds:

If the civil court annuls departmental proceedings on technical grounds of irregularity in the proceedings and where the merits of the claim have never been investigated, a new departmental inquiry can be conducted on the same facts. (Devendra Pratap Narain Rai Sharma vs. State of Uttar Pradesh, AIR, 1962).

Case 8: Action against Disciplinary Authority for Lapses in Conducting Proceedings:

- In the case of that if a superior officer holds the inquiry in a very slipshod manner or dishonestly, the State can certainly take action against the superior officer and in an extreme case even dismiss him for his dishonesty. (Dwarakachand vs. State of Rajasthan, AIR 1958 RAJ 38).
- The Central Administrative Tribunal, Madras held that disciplinary authority can be proceeded against in disciplinary action for misconduct of imposing a lenient penalty. (S. Venkatesan vs. Union of India, 1999(2) SLJ CAT MAD 492).

Case 9: Cross-Examination Of A Witness:

The examination of a witness by the adverse party shall be called his cross-examination. The purpose of the cross-examination is to test the veracity of the witness. No evidence affecting a party is admissible against that party unless the latter has had an opportunity of testing its truthfulness by cross-examination. (Maganlal vs. King Emperor AIR 1946 Nagpur 126).

Case 10: Suspension Of A Government Servant:

Utmost Caution to be exercised while ordering suspension. (Subramanian vs. State of Kerala, (1973) SLR 521).

Case 11: Sanction under the Prevention of Corruption Act, 1988 necessary for Prosecution

In order to protect a public official who has behaved in good faith when doing his duties, the issue of retribution is of paramount importance. In order not to be unnecessarily abused by a public servant on the grounds of an accusation against an unscrupulous individual, the executive authority is obliged to defend him... If the statute demands a penalty and the court continues without sanction against a public servant, the public servant shall have the right to raise the question of jurisdiction, as the whole action may be annulled ab-initio. (ANIL KUMAR & ORS vs. M.K. AIYAPPA & ANR, 2013-TIOL-50-SC-SERVICE).

Case 12: Charge And Punishment For Passing Wrong Order In Adjudication Proceedings:

- Unless intentional and acted upon by Mala Fides, an inconsistency in the application of the law cannot be a cause for wrongdoing. If wrongdoing were to constitute an error of law, it would be impossible for a quasi-judicial officer to act independently. On appeal, such an action will still be corrected. (Zunjarrao Bhikaji Nagarkar vs. Union of India and others - 2002-TIOL-130-SC-CX).
- In order to exercise quasi-judicial powers, disciplinary proceedings may be instituted against a government servant concerned if the act or omission is such as to reflect on the reputation of the government servant for his honesty or good faith or devotion to duty; if there is a prima facie material manifesting recklessness or incompetence in discharge of the official duty. (Union of India and others vs. Shri K.K. Dhawan - 2002-TIOL-441-SC- MISC-LB).
- When conducting judicial or quasi-judicial duties, disciplinary proceedings may be instituted if the authority behaved negligently or omitted the necessary requirements required for the exercise of such power. (Union of India and others vs. Duli Chand - 2006- TIOL-78-SC-MISC-LB).
- The failure of the officers to give effect to the orders of the authorities' superior to them in the appeal hierarchy leads to abuse of the assessee by ignoring the views of the appeal authority. The Revenue Officers were kept bound by the decisions of the appeal authorities in quasi-judicial proceedings and the rules of judicial discipline require the same to be upheld. (Union of India and others vs. Kamlakshi Finance Corporation Limited - 2002- TIOL-484-SC-CX-LB).

Bibliography

A.K. Kraipak vs. Union of India, 150 (Supreme Court 1970).

ANIL KUMAR & ORS Vs. M.K. AIYAPPA & ANR, 2013-TIOL-50-SC-SERVICE.

B.C. Chaturvedi vs. Union of India, , (6) 749 (SCC 1995).

Bhagwan Singh vs Deputy Commissioner And Anr., 232 (Allahabad High Court November 2 , 1961).

Delhi Development Authority vs. H.C. Khurana, 1993(2) SLR SC 509 and Union of India vs. Kewal Kumar, 1993(2) SLR SC 554.

Devendra Pratap Narain Rai Sharma vs. State of Uttar Pradesh, AIR , 1334 (Supreme Court 1962).

Disciplinary procedure: step by step. (n.d.). Retrieved from Acas working for everyone : <https://www.acas.org.uk/disciplinary-procedure-step-by-step>

Disciplinary Proceedings. (n.d.). Retrieved from law blacks: <https://www.lawblacks.com/personal/employment-law/disciplinary-proceedings/>

Duryodhan Bhavtekar Versus State of M.P. & Ors, 21426 (MP High Court Aug 07, 2020).

Dwarakachand vs. State of Rajasthan, AIR 1958 RAJ 38.

Employee Disciplinary Procedure - When can court to interfere in the order of suspension of an employee? (n.d.). Retrieved from what is human resource: <http://www.whatishumanresource.com/employee-disciplinary-procedure>

Gorry, T. (2014, November 08). *A Step by Step Disciplinary Procedure-From Verbal Warning to Dismissal*. Retrieved from employment rights: <https://employmentrightsireland.com/a-step-by-step-disciplinary-procedure-from-verbal-warning-to-dismissal/>

Gov, K. (n.d.). *Kerala Gov.* Retrieved from Kerala Gov: <http://www.lc.kerala.gov.in/images/forms/IE/iemso.pdf>

High Court of Judicature at Bombay vs. Shashikanth S. Patil 2000(1) SLJ SC 98.

Maganlal vs. King Emperor AIR 1946 Nagpur 126.

Mehra Singh vs. Supdt of Post offices, 72 (MP 1962).

Nahood Ali Khan, Inre, AIR 1958 AP 116.

Pandey, A. (2018, August 28). *How to conduct disciplinary inquiry under the Industrial Establishment (Standing Orders) Act and Rules, 1946*. Retrieved from IP Leaders: <https://blog.ipleaders.in/disciplinary-inquiry/>

Ramanjeet. (n.d.). *Disciplinary Proceedings against a Govt. Servant*. Retrieved from legal services india: [http://www.legalservicesindia.com/article/1927/Disciplinary-Proceedings-against-a-Govt.-Servant.html#:~:text=Depending%20upon%20the%20gravity%20of,to%20the%20imposed%20on%20him.&text=\(i\)Censure%20\(ii\),of%20pay%2C%20without%20cumulative%20effect](http://www.legalservicesindia.com/article/1927/Disciplinary-Proceedings-against-a-Govt.-Servant.html#:~:text=Depending%20upon%20the%20gravity%20of,to%20the%20imposed%20on%20him.&text=(i)Censure%20(ii),of%20pay%2C%20without%20cumulative%20effect)

Ramnath Prasad vs The Collector Of Darbhanga And ., 345 (Patna High Court February 4, 1955).

Ramseth vs. Collector of Dharbang, 345 (Patna High Court 1955).

S. Venkatesan vs. Union of India, 1999(2) SLJ CAT MAD 492.

Subramanian vs. State of Kerala, (1973) SLR 521.

The Central Civil Services (Classification, Control & Appeal) Rules, 1965. (n.d.). Retrieved from referencer: [http://www.referencer.in/CS_Regulations/CCS\(CCA\)Rules1965/Rule_12.aspx](http://www.referencer.in/CS_Regulations/CCS(CCA)Rules1965/Rule_12.aspx)

U.P.S.S. Corp.Ltd. Vs K.S.Tandon, AIR , 1235 (SC NA NA, 2008).

Union of India and others vs. Duli Chand - 2006-TIOL-78-SC-MISC-LB.

Union of India and others vs. Kamlakshi Finance Corporation Limited - 2002-TIOL-484-SC-CX-LB.

Union of India and others vs. Shri K.K. Dhawan - 2002-TIOL-441-SC-MISC-LB.

Union of India vs. Harjeet Singh Sandhu, 2002(1) SLJ SC 1.

Union of India vs. Sardar Bahadur, 1972 SLR SC 355; State of AP vs. Sree Rama Rao AIR 1963 SC 1723 and
Nand Kishore Prasad vs. State of Bihar, 1978(2) SLR SC 46.

What is Charge Sheet? Charge Sheet Meaning with Sample format. (n.d.). Retrieved from hr help board:
<https://www.hrhelpboard.com/contract-letters/charge-sheet.htm>

Zunjarrao Bhikaji Nagarkar vs. Union of India and others - 2002-TIOL-130-SC-CX.

