CHAPTER X

DISCIPLINARY PROCEEDINGS I

INITIAL ACTION

1. Disciplinary Rules

1.1. The disciplinary penal provisions and procedures for departmental disciplinary proceedings have been laid down in different sets of rules applicable to different categories of Government servants. The rules having the widest applicability are the Central Civil Services (Classification, Control & Appeal) Rules, 1965, hereafter referred to as Classification, Control & Appeal Rules, which apply to all civil Government servants including the civilian Government servants in the Defence services, except:

a) Railway servants, as defined in Rule 102 of the Indian Railway Establishment Code (Vol.I).

b) Members of the All India Services;

c) Persons in casual employment;

d) Persons subject to discharge from service on less than one month’s notice;

e) Persons for whom special provisions is made, in respect of matter covered by these rules by or under any law for the time being in force or by or under any agreement entered into by or with the previous approval of the President in regard to matters covered by such special provisions; and

f) Officers holding posts borne on the cadres of Branch “A”
and Branch “B” of I.F.S. including non-career Heads of Missions or Posts.

The President may, however, by order exclude any class of Government servants from the operation of all or any of the provisions of these Rules.

1.2. A Government servant governed by the Classification Control and Appeal Rules who is transferred temporarily to the Railways will continue to be governed by the Classification, Control & appeal Rules.

1.3. Among the excepted categories, the Railway servants are governed by the Railways (Discipline & Appeal) Rules, the members of All India Services by the All India Services (Discipline & Appeal) Rules, 1969, and officers holding posts borne on the cadres of Branch ‘A’ and Branch ‘B’ of the Indian Foreign Service by the Indian Foreign Service (Conduct & Discipline) Rules, 1961.

1.4. The Defence services personnel (other than Civilian Government servants in the Defence Services) who are paid out of the Defence Services Estimates and are subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950 are governed by the disciplinary provisions contained in the respective Acts and the Rules made thereunder.

1.5. The employees of public sector undertakings, statutory corporations, etc, are governed by the discipline and appeal rules framed by the respective public undertaking or corporation in exercise of the powers conferred upon it by the statue or by the Articles of Memorandum constituting it. In certain cases, they are laid down in the contract of service. The Central Vigilance Commission on the basis of the report of a Working Group, including representatives of important Public Undertakings, had also approved the draft of a set of Model Conduct, Discipline and Appeal Rules for Public Sector Undertakings. These Model
Rules were circulated by the Bureau of Public Enterprises to all the Public Undertakings for their adoption. Many of the Public Undertakings have adopted these rules and others are in the process of their adoption.

1.6. The various sets of discipline rules pertaining to Government servant have been framed in conformity with the provisions of Article 311 of the Constitution. The basic provisions in them are therefore similar in character. As the bulk of Government servants in civil employ are governed by the C.C.A. Rules, the procedures discussed in the Manual are those prescribed in those rules. While a reference to variations of an important nature in other rules has been made in appropriate places, the Chief Vigilance Officer/Vigilance Officer should take care to ensure that the provisions of the respective rules are observed where they vary from those prescribed in the CCA Rules. This is particularly necessary in the case of Public Sector, Enterprises, and Statutory Corporations, as their employees are governed by the rules framed by the respective organisations.

2. Penalties

2.1. Under Rule 11 of the CCA Rules, the competent authority may, for good and sufficient reasons, impose on a Government servant any of the following penalties:

   *Minor penalties*

   (1) Censure;
   (2) Withholding of promotion’

   (Explanation : Non-promotion of a Government servant, whether in a substantive or officiating capacity, after consideration of his case for promotion to a service, grade or post which he is eligible will not amount to a penalty).
(3) Recovery from his pay of the whole or part of any pecuniary loss caused by the Government servant to the Government by negligence or breach of orders;

(3A) 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 his pension;

(4) Withholding of increments of pay;

(Explanation : The following will not amount to a penalty:—

(i) Withholding of increments of pay of a Government servant for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;

(ii) Stoppage of a Government servant at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar.

*Major penalties*

(5) Reduction to a lower stage in the time-scale of pay, for a specified period with further directions as to whether or not the Government servant will earn increments of 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;

(6) Reduction to a lower time-scale of pay grade, post or service which shall ordinarily be a bar to the promotion of the
Government servant to the time-scale of pay, grade, post or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grade of post or service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or Service;

(Explanation : The following shall not amount to a penalty: -

(i) Reversion of a Government servant officiating in a higher Service, grade or post to a lower Service grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade of port or on any administrative ground unconnected with his conduct;

(ii) Reversion of a Government servant, appointed on probation to any other Service, grade or post to his permanent Service grade or post during or at the end of the period of promotion in accordance with the terms of his appointment of the rules and order governing such probation;

(iii) Replacement of the services of a Government servant, whose services had been borrowed from a State Government or an authority under the control of a State Government at the disposal of the State Government or the authority from which the services of such Government servant had been borrowed.

(7) Compulsory retirement

(Explanation : Compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement does not amount to penalty).
8) Removal from service which shall not be a disqualification for future employment under the Government;

(Explanation: Termination of service in the undermentioned circumstances will not amount to a penalty of removal from service:—

(i) of a Government servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation, or

(ii) of a temporary Government servant in accordance with the provisions of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965; or

(iii) of a Government servant, employed under an agreement, in accordance with the terms of such agreement).

(9) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

Provided that, in every case in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (8) or clause (9) shall be imposed;

Provided further that in any exceptional case and for special reasons recorded in writing any other penalty may be imposed.

3. Warning
3.1. An order of censure is a formal act intended to convey that the person concerned has been held guilty of some blame-worthy act or omission for which it has been found necessary to award him a formal punishment. There may be occasions, however, when a superior officer may find it necessary to criticise adversely the work of an officer working under him (e.g. point out negligence, carelessness, lack of thoroughness, delay etc.) or he may call for an explanation for some act or omission and taking all factors into consideration, it may be felt that, while the matter is not serious enough to justify the imposition of the formal punishment of censure, it calls for some formal action, such as, the communication of a written or oral warning, admonition reprimand or caution. Administration of a warning in such circumstances does not amount to a formal punishment. It is an administrative device in the formal punishment. It is an administrative device in the hands of the superior authority for conveying its criticism and disapproval of the work or conduct of the person warned and for making it known to him that he has done something blame-worthy, with a view to enabling him to make an effort to remedy the defect and generally with a view to toning up efficiency and maintaining discipline.

3.2 The punishment of censure can be imposed only for “good and sufficient reasons” after following the prescribed procedure and the imposition of the punishment is conveyed by a formal written order. A record of the punishment is kept on the officer’s confidential roll and will have its bearing on the assessment of his merit or suitability for promotion to higher rank. A warning may, however, be administered verbally or in writing. If a warning/displeasure/reprimand is issued in writing, a copy of it should be placed in the personal file of the officer concerned. At the end of the year (or period of report), the reporting authority, while writing the confidential report of the officer, may decide not to make a reference in the confidential report to the warning/displeasure/reprimand, if, in the
opinion of that authority, the performance of the officer reported on after the issue of the warning or displeasure or reprimand, as the case may be, has improved and has been found satisfactory. If, however, the reporting authority comes to the conclusion that despite the warning/displeasure/reprimand, the officer has not improved, it may make appropriate mention of such warning/displeasure/reprimand, as the case be, in the relevant column in Part-III of the form of confidential Report relating to assessment by the Reporting Officer, and, in that case, a copy of the warning/displeasure/reprimand referred to in the confidential report should be placed in the CR dossier as an annexure to the confidential report for the revenant period. The adverse remarks should also be conveyed to the officer and his representation, if any, against the same disposed off in accordance with the procedure laid down in the instructions issued in this regard.

3.3. Any superior authority can administer a warning to an official working under it. It is, however, desirable that the authority administering the warning should not normally be lower than the authority which initiates the confidential report on the official to be warned.

3.4. Where a departmental proceeding has been completed and it is considered that the officer concerned deserves to be penalised, he should be awarded any of the statutory penalties mentioned in rules 11 of the CA Rules. In such a situation a record-able warning should not be issued as it would for all practical purposes amount to a “Censure” which is a formal punishment to be imposed by a competent disciplinary authority after following the procedure prescribed in the relevant disciplinary rules. The Delhi High Court has, in the case of Nadhan Singh Vs. the Union of India, expressed the view that “warning” kept I the confidential Report Dossier has all the attributes of “Censure”. In the circumstances, where it is considered after the conclusion of disciplinary proceedings that some blame attaches to the officer concerned which necessitates cognizance of such fact, the disciplinary authority should award any of the
appropriate penalties. If the intention of the disciplinary authority is not to award a penalty of “Censure”, then no recordable warning should be awarded. There is no restriction on the right of the competent authority to administer warnings purely as an administrative measure and not as a result of disciplinary proceedings.

3.5. A warning or reprimand, etc., may also be administered when as a result of a preliminary investigation or inquiry the competent disciplinary authority comes to the conclusion that the conduct of the official is somewhat blameworthy, though not to the extent calling for the imposition of a formal penalty. In such cases the warning should be administered on the orders of the competent disciplinary authority only. In cases where a preliminary inquiry was started at the instance of an authority higher than the competent disciplinary authority, the result of the inquiry should be shown to that authority also before the case is closed with the administration of a warning.

4. Displeasure of Government

On occasions, an officer may be found to have committed an irregularity or lapse of a character which though not considered serious enough to warrant action being taken for the imposition of a formal penalty or even for the administration of a warning but the irregularity or lapse is such that it may be considered necessary to convey to the officer concerned the sense of displeasure over it. Such displeasure is usually communicated in the form of a letter and a copy of it may, if so decided, be placed on the character roll of the officer in the manner indicated in para 3.2. for placing a copy of the warning on the CRs. Where a copy of the letter communicating the “Displeasure of the Government” is kept in the character roll of the officer, it will constitute an adverse entry and the officer concerned will have the right to represent against the same in accordance with the existing instructions relating to communication of adverse remarks in Confidential Reports and consideration of
representations against them.

5. Reduction of Pension

A Government servant ceases to be subject to the disciplinary rules after retirement. Pension and Gratuity once sanctioned cannot be reduced, withheld or withdrawn except in accordance with the provisions of rule 9 of the CCS(Pension) Rules, 1972 or the Rule 6 of the AIS (Death-cum-Retirement Benefit) Rules, 1958 in the case of officer of All India Services. The procedure to be followed in such cases is given in Chapter XV.

6. Disciplinary Authority

6.1. Rule 2 (g) of the CCA Rules defines the term disciplinary authority as the authority competent to impose on a government servant any of the penalties specified in Rule 11. The penalties specified in clauses (i) to (iv) (i.e. any of the minor penalties) may, however, also be imposed by an authority lower than the appointing authority on a member of a Central Civil Service or on a holder of a post included in the General Central Service as specified in the schedule in the CCA Rules or by any other authority empowered in this behalf by a general or special order of the President.

6.2. Rule 12 of the CCA Rules also provides that:-

(1) The President may impose any of the penalties specified in Rule 11 on any Government servant; and

(2) in respect of a member of a Central Civil Service Class III (other than the Central Secretariat Clerical Service) or of a Central Service Class IV, any of the penalties specified under Rule 11 may be imposed by:-
(a) the Secretary to the Government of India in a Ministry/Department of the Government of India if the Government servant concerned is serving in that Ministry or Department, or

(b) if he is serving in any other office, by the head of the office, except where the head of that is lower in rank than the authority competent to impose a penalty as specified in the schedule to the CCA Rules.

6.3. The Schedule to the CCA Rules referred to in sub-paragraph 6.1. and 6.2. above enumerates the services and posts under different Ministries/Departments/offices and the authority empowered to impose penalties on member of the services and holders of posts. Every Chief Vigilance Officer/Vigilance Officers should keep the Schedule in so far as it pertains to services and posts with which he is concerned under a constant review to ensure that necessary amendment is made to the Schedule as soon as a new service or a post not covered by the existing Schedule is created or an amendment becomes necessary for any other reason.

6.4. The exercise of the power by the disciplinary authority is subject to the provisions of sub-rule (4) of Rule 12 of CCA Rules wherever that rule is attracted.

6.5. The disciplinary authority is determined with reference to the post held by an official at the time disciplinary proceedings are instituted against him. Therefore, if a Government servant is promoted to a higher post, the disciplinary authority shall be determined with reference to that higher post even if the promotion is on a temporary basis. Similarly where a Government servant is reverted to a lower post and at the time of institution of proceedings is holding a lower post, the disciplinary authority shall be determined with reference to that lower post.

7. Authority competent to institute disciplinary proceedings
under CCA Rules.

7.1. The President (or any other authority empowered by him by a general or special order) may institute or may direct a disciplinary authority to institute disciplinary proceedings against any Government servant.

7.2. Even if disciplinary authority is competent to impose only a minor penalty, it is competent to initiate disciplinary proceedings as for a major penalty.

8. Authority competent to initiate proceedings under the A.I.S. (D & A) Rules, 1969.

8.1. Under Rule 7 of the All India Services (Discipline and Appeal) Rules, 1969, disciplinary proceedings against a member of the All India Services may be instituted:-

a) by the Government under whom he is for the time being serving, if the act or omission which has rendered him liable to a penalty was committed before his appointment to an All India Service;

b) by the Government under whom he was serving at the time of the commission of such act or omission if the act or omission was committed after his appointment to an All India Service.

8.2. The Central Government can initiate disciplinary proceedings against a member of an All India Service if the act or omission was committed while he was serving under the Central Government or while on deputation to any public sector undertaking or local authority under the Central Government. The Central Government can also initiate
disciplinary proceedings against a member of an All India Service who has gone back to the State if the act or omission was committed while he was on deputation under the Centre.

8.3. A State Government can similarly initiate proceedings against a member of an All India Service for the imposition of any of the penalties, including any of the major penalties, if the act or omission was committed while he was serving under the State Government. But under rule 7(2) of A.I.S. (D&A) Rules, the penalty of dismissal, removal or compulsory retirement shall not be imposed on a member of the Service except by an order of the Central Government.

8.4. Cases relating to disciplinary proceedings against members of All India Services are dealt with the Ministry of Home Affairs and the Department of Personnel and Training.

9. Authorities competent to initiate disciplinary proceedings against officers lent or borrowed by one department to another or State Government etc.

Where the services of a Government servant have been lent or borrowed by one Department to or from another Department or have been lent to or borrowed from a State Government or an authority subordinate thereto or a local or other authority, the borrowing authority will have the powers of the disciplinary authority for initiating disciplinary proceedings against the Government servant. The lending authority will, however, be informed forthwith of the circumstances leading to the commencement of the disciplinary proceedings. Even if the misconduct was committed while the officer was serving under the lending authority, the borrowing authority is competent to initiate action in respect of such misconduct.

10. C.B.I. Reports
10.1 In cases relating to Gazetted Officers and other category “A” officers (see para 3.1.1. Chapter II) the CBI send their reports recommending regular departmental action or such action as deemed fit to the Central Vigilance Commission. Simultaneously, a copy of the report is sent by the CBI to the disciplinary authority concerned. If the disciplinary authority has any comments on such a report, the same should be sent to the Central Vigilance Commission within two months of the receipt of the CBI report, so that the Commission may take them into consideration while tendering its advice. It will, however, be open to the Ministries/Departments, if there are any special circumstances, to approach the Commission in individuals cases for reasonable extension of time to enable them to furnish their comments. If no comments are received within the prescribed/extended period, the Commission will tender advice, on the basis of material before it.

It is not necessary to call for the explanation of the officer at this stage as the comments of the authorities required are only on the CBI report. The comments of the Ministries/Departments/Public Undertakings/Nationalised Banks should specifically deal with the following:-

(i) If the CBI report deals with technical matters, does the disciplinary authority agree with view taken by the CBI on such question?

(ii) If the CBI report deals with departmental procedure and practices, has the position been stated correctly?

(iii) Has the factual position as obtainable from the records of the Department correctly stated by the CBI?

(iv) If the report deals with the use or abuse of discretion by the
accused officer, what has the disciplinary authority to say about the discretionary powers and their use by the accused officer in the case (s) under discussion and also about the exercise of such discretion by other officers in similar situations?

(v) In the Department’s view, are there some material witnesses who should have been examined by the CBI but whom the CBI has not, in fact, examined?

(vi) Are there any extenuating circumstances in favour of the accused? If so, what are these?

(vii) Does the Department agree with the conclusion drawn by the CBI? If not, what are its own conclusions/recommendations?

(viii) If the accused has submitted any representation to the Department relating to the CBI report, the Department should also give its comments on such representation.

The above list is only illustrative and the Department is not precluded from offering comments of a general nature or bringing any other relevant matter to the Commission’s notice that it may consider necessary. While furnishing the comments to the Central Vigilance Commission, the Ministries/Departments/Public Undertakings/Nationalised Banks may clearly indicate the respective functions, duties and responsibilities of all the Suspect Officers involved in the case with regard to the impugned transaction.

10.2. The CBI need not send the original documents to the disciplinary authorities as a matter of course. If in any particular case the disciplinary authority feels the necessity of examining the records in original, it should make a request for the particular records to the CBI.
who will arrange to produce the requisitioned documents before the disciplinary authority expeditiously. The disciplinary authorities will, however, ensure the safety of the records.

10.3. The report of the Central Bureau of Investigation is a confidential document and should not be produced before the Inquiry Officer or even before a Court of Law. Privilege can be claimed in a Court of Law under Section 123 or 124 of the Evidence Act. No direct reference should be made about the CBI Report in the statements/affidavits filed in the Courts of Law, as it would be difficult to claim privilege for the production of documents before a court of law, if a direct reference is made in the statements/affidavits. Reference in the statements/affidavits may be restricted to the material which is contained in the statements of charges and allegations served on the accused public servant.

**11. Institution of formal proceedings**

11.1 Once a decision has been taken, after a preliminary inquiry, that a prima facie case exists and that formal disciplinary proceedings should be instituted against a delinquent Government servant under the CCA Rules, the disciplinary authority will need to decide whether proceedings should be taken under Rule 14 (i.e. for imposing a major penalty) or under Rule 16 (i.e. for imposing a minor penalty).

11.2 The choice of the rule at this stage is a matter of vital significance. It will determine the procedure to be followed for the further conduct of the proceedings. The procedure under Rule 14 is much more elaborate than that prescribed under Rule 16. It will be waste of time and effort to adopt the lengthy procedure of Rule 14 in cases in which only a minor penalty is indicated. In a case in which proceedings are initiated under rule 14 (as for a major penalty), if after examining the report of oral inquiry the disciplinary authority considers that it would be sufficient
to impose a minor penalty, he can do so. But in a case in which proceedings are initiated under Rule 16 (as for a minor penalty) it would not be possible for the disciplinary authority to impose a major penalty. He would have to start proceedings de novo under Rule 14 if he wants to do it.

11.3 A decision has to be taken by the disciplinary authority on the basis of the circumstances of each case as revealed by preliminary inquiry and by determining provisionally the nature of the penalty - whether major or minor - that may be imposed upon the Government servant in the event of the satisfactory substantiation of the allegations.

11.4 Certain types of vigilance cases in which it may be desirable to start proceedings for imposing a major penalty are given below as illustrative guidelines:-

(i) Cases in which there is a reasonable ground to believe that a penal offence has been committed by a Government servant but the evidence forthcoming is not sufficient for prosecution in a court of law, e.g.:

a) Possession of disproportionate assets;

b) Obtaining or attempting to obtain illegal gratification;

c) Misappropriation of Government property, money or stores;

d) Obtaining or attempting to obtain any valuable thing or pecuniary advantage without consideration or for a consideration which is not adequate.

(ii) Falsification of Government records;
(iii) Gross irregularity or negligence in the discharge of official duties with a dishonest motive.

(iv) Misuse of official position or power for personal gain;

(v) Disclosure of secret or confidential information even though it does not fall strictly within the scope of the official Secrets Act;

(vi) False claims on the Government like T.A claims reimbursement claims, etc.

11.5 In cases in which the institution of proceedings is advised by the Central Vigilance Commission, the Commission will also advise, keeping in view the gravity of the allegations, whether proceedings should be initiated for the imposition of a major penalty or a minor penalty.


12.1. In cases in which the disciplinary authority decides that proceedings should be initiated for imposing a minor penalty, the disciplinary authority will inform the Government servant concerned in writing of the proposal to take action against him by a Memorandum accompanied by a statement of imputations of misconduct or misbehaviour for which action is proposed to be taken, giving him such time as may be considered reasonable, ordinarily not exceeding ten days, for making such representation as the Government servant may wish to make against the proposal. In this Memorandum no mention should be made of the nature of the penalty which may be imposed. The Memorandum and the statement of imputations of misconduct or misbehaviour should be drafted by the Chief Vigilance Officer/Vigilance Officer. The memorandum should be signed by the disciplinary authority and not by any one else on its behalf.
12.2. If the competent disciplinary authority in respect of the Government servant against whom action proposed to be taken is the President, the file should be shown to the Minister concerned before the charge-sheet is issued and the memorandum should be signed in the name of the President by an officer competent to authenticate orders on behalf of the President under Article 77 (2) of the Constitution.

12.3 Rule 16 of the CCA Rules does not provide for the accused Government servant being given the facility of inspecting records for preparing his written statement of defence. There may, however, be cases in which documentary evidence provides the main grounds for the action proposed to be taken. The denial of access to records in such cases may handicap the Government servant in preparing his representation. Request for inspection of records in such cases may be considered by the disciplinary authority on merits.

12.4. After taking into consideration the representation of the Government servant or without it if no such representation is received from him by the date specified, the disciplinary authority will proceed, after taking into account such evidence, as it may think fit, to record its findings on each imputation of misconduct or misbehavior.

12.5. If as a result of its examination of the case and after taking the representation made by the Government servant into account, the disciplinary authority is satisfied that the allegations have not been proved, it may exonerate the Government servant. An intimation of such exoneration will be sent to the Government servant in writing.

12.6. In case the disciplinary authority is of the opinion that the allegations against the Government servant, stand substantiated, it may impose upon him any of the minor penalties specified in Rule 11 of the CCA Rules. In the order imposing a formal penalty it is not desirable to
refer to the advice given by the Central Vigilance Commission to the disciplinary authority.

12.7. In cases in which minor penalty proceedings were instituted on the advice of the Central Vigilance Commission, consultation with the Commission at the stage of imposition of the penalty is not necessary if the disciplinary authority decides to impose one of the minor penalties specified in Rule 11 of the CCS (CCA) Rules, 1965 or other corresponding rules. In such cases a copy of the order imposing minor penalty should be endorsed to the Commission. This does not apply to minor penalty cases where oral inquiry has been ordered. In such cases, the Commission would tender second stage advice after considering the report of the Inquiring Authority. This does not also apply to cases where the disciplinary authority decides not to impose any of the minor penalties. In other words, cases in which the disciplinary authority decides to hold oral Inquiry or to drop the proceeding will have to be referred to the Commission. While referring the case, the records of the case will have to be sent to the Commission. Where any statement have been made in the representation of the Government servant to controvert the allegations, the Commission’s attention will be specifically drawn to the correct facts.

12.8. In case the Government servant is one whose services had been borrowed from another department or, office of a State Government or a local or other, authority and if other borrowing authority, who has the powers of disciplinary authority for the purposes of conducting a disciplinary proceedings against him, is of the opinion that any of the minor penalties specified in clauses (i) to (iv) of Rule 11 of the CCA Rules should be imposed, it may make such orders on the case as it deems necessary after consultation with the lending authority. In the event of difference of opinion between the borrowing authority and the lending authority, the services of the Government servant will be replaced at the disposal of the lending authority.
12.9. Under Rule 16(1) (b) of the CCA Rules, the disciplinary authority may, if it thinks fit, in the circumstances of any particular case, decide that an inquiry should be held in the manner laid down in sub-rules (3) to (23) of Rule 14 of the CCA Rules. The implication of this rule is that on receipt of representation of Government servant concerned on the imputations of misconduct or mis-behaviour communicated to him, the disciplinary authority should apply its mind to all facts and circumstances and the reasons urged in the representation for holding a detailed inquiry and form an opinion whether an inquiry is necessary or not. In a case where a delinquent Government servant has asked for inspection of certain documents and cross examination of the prosecution witnesses, the disciplinary authority should naturally apply its mind more closely to request and should not reject the request solely on the ground that an inquiry is not mandatory. If the records indicate that, notwithstanding the points urged by the Government servant, the disciplinary authority could after due consideration, come to the conclusion that an inquiry is not necessary, it should say so in writing indicating its reasons, instead of rejecting the request for holding inquiry summarily without any indication that it has applied its mind to the request, as such an action could be construed as denial of natural justice. In cases in which it is decided to hold an inquiry, all the formalities beginning with the framing of articles of charge, statement of imputation etc, will have to be gone through. The procedure to be followed will be the same as prescribed for an inquiry into a case in which a major penalty is proposed to be imposed. Such inquiry will be entrusted to one of the Commissioners for Departmental Inquiries attached to the Central Vigilance Commission in cases in which the proceedings were instituted on the advice of the Central Vigilance Commission. Form E (1-A) is to be issued for initiation of minor penalty proceedings in cases where the disciplinary authority decides to hold the enquiry.

12.10 If in a case it is proposed after considering the representation, if any, submitted by a Government servant, to withhold increments of
pay for a period exceeding three years or to withhold increments of pay with commulative effect for any period or if the penalty of withholding of increments is likely to affect adversely the amount of pension payable to the Government Servant, an oral inquiry shall invariably be held in the manner laid down in sub-rules (3) to (23) of rule 14 of the CCA Rules.

12.11 In cases in which proceedings have been initiated under rule 16(1) (a) of the CCA Rules and where no oral inquiry has been held, a reference will be made to the UPSC, in cases in which consultation with UPSC is required, after the representation, if any, of the Government servant against the proposal to take action against him has been received in the form of an official letter. In cases in which proceedings were initiated under rule 16(1)(b) of the CCA Rules and where an oral inquiry has been held, the UPSC will be consulted after the receipt of the report of the Inquiring Authority. The record of the case will be forwarded to the Commission with clarifications/comments, where necessary to explain any factual/procedural points only in the light of any remarks contained in the Inquiry Report. This note will form part of the record.

12.12 The record of proceedings in such cases shall include :

(i) A copy of the intimation to the Government servant of the proposal to take action against him;

(ii) A copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) His representation, if any;

(iv) The evidence produced during the inquiry if an inquiry is held in the manner laid down in sub rules (3) to (23) of Rules 14 of CCA Rules;
(v) The advice of the Union Public Service Commission, if any;

(vi) The findings on each imputation of misconduct or misbehaviour; and

(vii) The orders on the case together with the reasons thereof.

13. Procedure for imposing major penalties

13.1 Rule 14(1) of the CCA Rules provides that no order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry has been held in the manner prescribed in Rules 14 and 15 of the CCA Rules or in the manner provided by the Public Servants (Inquiries) Act, 1850, where an inquiry is held under that Act.

13.2 Ordinarily an inquiry will be made in accordance with the provisions of Rule 14 of the CCA Rules. However, in respect of a Government servant who is not removable from his office without the sanction of Government, the disciplinary authority, which will be the President in the case of such a Government servant, may decide to make use of the procedure laid down in the Public Servants (Inquiries) Act, 1850 (hereafter referred to as the “Act”) if it is considered that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour on his part.

13.3 The choice of the procedure is a matter within the discretion of the disciplinary authority. It is not obligatory to proceed under the Act when Government proposes to take action against a Government servant covered by the Act (Venkataraman Vs. Union of India A.I.R. 1954, SC 375).

13.4 There is no material difference in the scope of the two procedures which is to make a fact-finding inquiry to enable Government to determine
the punishment which should be imposed upon the delinquent officer. Like the proceedings under the CCA Rules the Commission (s) appointed under the Act to make the inquiry do not constitute a judicial tribunal though they possess some of the trappings of a court. The findings of the Commissioner (s) upon the charge are a mere expression of opinion and do not partake of the nature of a judicial pronouncement and the Government is free to take any action it decides on the report.

13.5. The holding of an inquiry against a Government servant under the Act does not involve any discrimination and will not give him cause to question the conduct of an inquiry against him on that ground within the meaning of Article 14 of the Constitution. A person against who an inquiry has been held under that Act could not claim a further or a fresh inquiry under the CCA Rules (Venkataraman Vs. Union of India).

13.6. The procedure under the Act is, however, distinguishable from the provisions of the disciplinary rules in that while an inquiry made under the Act is a public inquiry, a departmental inquiry made under the relevant disciplinary rules is not so. Another distinguishing feature is that the Commissioner (s) appointed under the Act have the power of punishing contempts and obstructions to the proceedings and of summoning witnesses and to compel production of documents. These factors will need to be taken into account in deciding whether in any particular case the procedure of the Act should be adopted or not. An inquiry under the provisions of the Act is generally made in a case in which a high official is involved and it is considered desirable in the circumstances of the case to have a public inquiry. Generally a judicial officer like a Judge of a High Court is appointed as a Commissioner to conduct an inquiry under the Act. That procedure will, however, not be found suitable in a case which might involve the disclosure of information or production of documents prejudicial to national interest or to the security of the State.

14. Articles of charge
14.1. As soon as a decision has been taken by the competent authority to start disciplinary proceedings for a major penalty, the Chief Vigilance Officer/Vigilance Officer will draw up on the basis of the material gathered during the Investigation:-

i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles or charge;

ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge which shall contain:

   a) a statement of all relevant facts including any admission or confession made by the Government servant; and

   b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

In cases when the charge-sheet has been drafted by the departmental officers or by the C.B.I., the Chief Vigilance Officer should personally scrutinise the charges.

14.2. A charge may be described as the prima-facie proven essence of an allegation setting out the nature of the accusation in general terms, such as, negligence in the performance of official duties, inefficiency, acceptance of sub-standard work, false measurement of work executed, execution of work below specification, breach of a conduct rule, etc. a charge should briefly, clearly and precisely identify the misconduct/ misbehaviour. It should also give time, place and persons or things involved so that the public servant concerned has clear notice of his
The articles of charge should be framed with great care. The following guide lines will be of held:-

a) Each charge should be expressed in clear and precise terms, it should not be vague;

b) If a transaction/event amount to more than one type of misconduct then all the misconducts should be mentioned;

c) If a transaction/event shows that the public servant must be guilty of one or the other of misconducts, depending on one or the other set of circumstances, then the charge can be in the alternative;

d) A separate charge should be framed in respect of each separate transaction/event or a series of related transactions/events amounting to misconduct, misbehaviour;

e) Multiplication or splitting up of charges on the basis of the same allegation should be avoided;

f) The wording of the charge should not appear to be an expression of opinion as to the guilt of the accused;

g) A charge should not relate to a matter which has already been the subject-matter of an inquiry and decision, unless it is based on benefit of doubt or on technical considerations;

h) A charge should not refer to the report on Preliminary Investigation or the opinion of the Central Vigilance Commission;
15. Statement of imputations

The statement of imputation should give a full and precise recitation of the specific and relevant acts of commission or omission on the part of the Government servant in support of each charge including any admission or confession made by the Government servant and any other circumstances which it is proposed to take into consideration. A statement that a Government servant allowed certain entries to be made with ulterior motive was held to be much too vague. A vague accusation that the Government servant was in the habit of doing certain acts in the past is not sufficient. It should be precise and factual. In particular, in cases of any misconduct/misbehaviour, it should mention the conduct/behaviour expected or the rule violated. It would be improper to call an Investigating Officer’s Report a statement of imputations. While drafting the statement of imputations, it would not be proper to mention the defence and enter into a discussion of the merits of the case. Wording of the imputations should be clear enough to justify the imputations despite the likely version of the Government servant concerned.

16. List of Witnesses

A number of witnesses are usually examined during the course of the preliminary inquiry and their statements are recorded. The list of such witnesses should be carefully checked and only those witnesses who will be able to give positive evidence to substantiate the allegations should be included in the statement for production during the oral
inquiry. Formal witnesses to produce documents only need not be mentioned in the list of witnesses.

17. List of documents

The documents containing evidence in support of the allegations which are proposed to be listed for production during the inquiry should be carefully scrutinised. All material particulars given in the allegations, such as dates, names, makes, figures, totals of amount, etc., should be carefully checked with reference to the original documents and records.

18. Draft articles of charge prepared by Special Police Establishment

In cases investigated by the Special Police Establishment, a draft of articles of charge, statement of imputations, and list of documents and witnesses will be drawn up by the Special Police Establishment and sent to the disciplinary authority along with their report. The Chief Vigilance Officer/Vigilance Officer should carefully scrutinise them. If there is any discrepancy or a doubt arises about the correctness of any item and any amendment is considered necessary, the matter should be promptly discussed and cleared with the Special Police Establishment.

19. Standard form of articles of charge

Standard skeleton forms of the articles of charge and the statement of imputations and of the covering memorandum are given in Section E. The covering memorandum should be signed by the disciplinary authority or in case in which the President is the Disciplinary Authority by an officer who is authorised to authenticate orders on behalf of the President.

20. Delivery of articles of charge

20.1. the disciplinary authority will deliver or cause to be delivered
a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each charge is proposed to be sustained to the Government servant in person if he is on duty and his acknowledgement taken or by registered post, acknowledgement due. The acknowledgement of the Government servant should be added to the case.

20.2. If the Government servant evades acceptance of the articles of charge and/or refuses to accept the registered cover containing the articles of charge, the articles of charge will be deemed to have been duly delivered to him as refusal or a registered letter is normally tantamount to proper service of its contents.

20.3. A copy of the articles of charge and the accompanying papers will be endorsed to the Special Police Establishment in cases in which disciplinary proceedings are instituted on the basis of an investigation made by them.

21. Statement of defence

21.1 The Government servant should be required to submit his reply to the articles of charge (i.e. his written statement of defence) by a date to be specified in the covering memorandum and should also be required to state whether he pleads guilty and whether he desires to be heard in person. Ordinarily the time allowed to the Government servant for submitting his written statement of defence should not exceed 10 days.

21.2. Unlike the CCA Rules of 1957, the CCS (CCA) Rules, 1965, do not provide for inspection of documents by the charged official for the submission of written statement of defence. Rule 14 (4) is not intended for submission of elaborate statement of defence, but only to give an opportunity to the Government Servant to admit or deny his guilt. For admitting or denying the charges, no inspection of documents
is necessary and that is why such inspection has not been provided for in Rule 14(4). If a Government servant admits the charges, there will be no need to hold an inquiry. If he does not, an inquiry will be held at which he will be provided with the fullest opportunity to inspect and take extracts of various documents. However, notwithstanding the above position or rules, in the interest of timely conclusion of departmental proceedings, as far as possible, copies of the documents and the statements of witnesses relied upon for proving the charges may be furnished to the charged officer along with the charge-sheet. If the documents are bulky and the copies cannot be given to the Government Servant, he may be given an opportunity to inspect these documents in about 15 days time.

22. Action on receipt of the written statement of defence

22.1. On receipt of the written statement of defence, the disciplinary authority should examine it carefully. If all the charges have been admitted by the Government servant, the disciplinary authority will take such evidence as it may think fit and record its findings on each charge. Further action on the findings will be taken in the manner described in Chapter XII. All cases pertaining to Gazetted Government servants and other category “A” officers (please see para 3.1.1. Chapter II) in respect of whom the Central Vigilance Commission is required to be consulted, will be referred to the Commission for advice (second stage advice). The scheme of consultation with the Commission in respect of major penalty cases pertaining to such officers envisages consultation with the Commission at two stages. The first stage of consultation arises when initiating disciplinary proceedings, while second stage consultation is required before a final decision is taken at the conclusion of the proceedings. It follows, therefore, that the Commission should also be consulted for second stage advice in cases where the disciplinary authority having initiated action for major penalty proceedings proposes to close the case on receipt of the Statement of Defence.
22.2. The disciplinary authority has the inherent power to review and modify the articles of charges or drop some of the charges or all the charges after the receipt and examination of the written statement of defence submitted by the accused Government servant under rule 14(4) of the CCS (CCA) Rules, 1965. The disciplinary authority is not bound to appoint an Inquiry Officer for conducting an inquiry into the charges which are not admitted by the accused Government servant but about which the disciplinary authority is satisfied on the basis of the written statement of defence that there is no further course to proceed with. The exercise of the powers to drop the charges after consideration of the written statement of defence will be subject to the following conditions:-

1. In cases arising out of investigation by the Central Bureau of Investigation, latter should be consulted before a decision is taken to drop any of or all the charges on the basis of the written statement of defence. The reasons recorded by the disciplinary authority for dropping the charges should also be intimated to the Central Bureau of Investigation.

2. The Central Vigilance Commission should be consulted where the disciplinary proceedings were initiated on the advice of the Commission and the intention is to drop any of or all the charges.

22.3. It will be observed from para 22.1. of this Chapter that the Central Vigilance Commission is consulted at two stages of departmental proceedings against gazetted officer of the Central Government and other category “A” officers, i.e. before initiating departmental proceedings and again before a final decision is taken on the cases against such officers. A second reference to the Commission is also required to be made for reconsideration of its advice in cases in which the disciplinary authority proposes to disagree with its advice. In many cases the
disciplinary authority “decides” to disagree with the Commission and then send the case back to the Commission for reconsideration of its advice. This is not quite in order and requests for reconsideration should be made at a stage prior to the final decision, for once the competent authority has ‘decided’ or resolved to differ with the Commission, the case will be treated as one of non-acceptance of the Commission’s advice.

22.4. With a view to bringing about greater uniformity in examining on behalf of the President the advice tendered by the Commission and taking decisions thereon, it has been laid down that the Department of Personnel and Training should be consulted before the Ministries/Departments finally decide (i.e. after second reference to the CVC for reconsideration), vide previous paragraph, to differ from/not to accept any recommendation of the Commission in those cases which relate to Gazetted Officers for whom the appointing authority is the President. Such a reference to that Department in those cases should be made at the following stages:-

i) where the CVC advises at the first stage but the authority concerned does not propose to agree with the advice;

ii) where the authority concerned proposes not to accept or differ from the advice of the CVC at the Second Stage.

Cases in which the Heads of Department or other authorities like Commissioner of Income-tax, Collector of Central Excise, Chief engineer, etc. are the disciplinary authorities, need not be referred to the Department of Personnel and Training.

Similar cases relating to officers of the Public Sector Undertakings in which decisions are to be taken by the Board of Directors need not also be referred to the Department of Personnel and Training. However, in such cases copies of the final orders passed by the concerned public
sector undertaking together with a separate note giving reasons for differing from, or non-acceptance of, any recommendation of the Central Vigilance Commission, should be sent to that Department for information as soon as possible.

23. Appointment of Inquiring Authority for charges which are not admitted

23.1 If the disciplinary authority finds that any or all the charges have not been admitted by the Government servant in his written statement of defence or if no written statement of defence is received by him by the date specified, the disciplinary authority may itself inquiry into such charges or appoint an Inquiring Authority to inquire into the truth of the charges. Though the CCA Rules permit such an inquiry being made by the disciplinary authority, itself, the normal practice is to appoint another officer as inquiring authority. It should be ensured that the officers so appointed has no bias and had no occasion to express an opinion in the earlier stages of the case.

23.2. In all cases pertaining to category “A” officers (para 3.1.1. Chapter II) in respect of whom the Central Vigilance Commission is required to be consulted or in any other case in which disciplinary proceedings for imposing a major penalty have been initiated on the advice of the Central Vigilance Commission, the inquiry will be entrusted to an officer appointed as the Inquiring Authority. In cases where non-gazetted officers are involved with gazetted Officers, the departmental inquiry will be entrusted to a Commissioner for Departmental Inquiries. In all cases where the Commission advises initiation of major penalty proceedings, it also nominates simultaneously a Commissioner for Departmental Inquiries to whom the inquiry should be entrusted. In case the charges are not admitted by the officer concerned or if he does not file a written statement of defence within the prescribed time limit, orders appointing the Commissioner for Departmental Inquiries as the Inquiring Authority
should be issued by the disciplinary authority straightaway. This procedure obviates correspondence between the Commission and the disciplinary authority at a later stage and the time taken in completing the major penalty proceedings is thus reduced. The appointment of the Commissioner for Departmental Inquiries as the Inquiring Authority should be made only after the receipt of the officer’s reply to the charge-sheet or on the expiry of the date by which his reply was to be received whichever is earlier (Judgement of the Orissa High Court in the case of Rabindranath Mohanty Vs. State of Orissa).

23.3. If in any particular case covered by the sub-para 23.2 above, the disciplinary authority feels that for any special reasons the inquiry should not be entrusted to a Commissioner for Departmental Inquiries, the disciplinary authority may approach the Central Vigilance Commission indicating the circumstances which would warrant an exception being made together with the name and designation of the officer proposed to be appointed as Inquiring Authority. If the Commission accepts the proposal of the disciplinary authority, the latter may appoint an officer other than a C.D.I. as Inquiring Authority. The officer selected should be of sufficiently senior rank and one who is not suspected of any prejudice or bias against the accused officer and who did not have an occasion to express an opinion on the merits of the case at an earlier stage.

23.4. As soon as the disciplinary authority has decided upon the person who will conduct the oral inquiry, it will issue an order appointing him as the Inquiring Authority in the form given in Section E.

23.5. In order to expedite disposal of departmental inquiries being conducted by the officers other than the CDIs, the Departments having a large number of inquiries pending should earmark some officers on a full-time basis to complete these inquiries within a specified time limit to be indicated by the disciplinary authority. The time limit should be
indicated as an administrative instructions having regard to the nature of
the charges and the evidence involved. Similarly where part time Inquiry
Officers are appointed, the disciplinary authority could, having regard to
the nature of the charges and the evidence involved, specified time limit
for the completion of the inquiry as an administrative instruction. The
competent authority, with in its financial powers may consider sanction
of suitable honorarium, where inquiries are not part of their sphere of
duties to the Inquiry Officer subject to a minimum of Rs.250 and maximum
of Rs.500. The amount payable on each occasion may be decided on
merits taking into account the quality/volume of work and its quick and
expeditious completion.

24. Appointment of a Presenting Officer

24.1. the disciplinary authority which initiated the proceedings will
also appoint simultaneously a Government servant or a legal practitioner
as the Presenting Officer to present on its behalf the case in support of
the articles of charge before the Inquiring Authority. Ordinarily a
Government servant belonging to the departmental set up who is
conversant with the case will be appointed as the Presenting Officer except
in cases involving complicated points of law where it may be considered
desirable to appoint a legal practitioner to present the case on behalf of
the disciplinary authority. An officer who made the preliminary
investigation or inquiry into the case should not be appointed as Presenting
Officer.

24.2. While the disciplinary rules under which departmental inquiries
are conducted against Central Government employees and Railway
servants provide for the appointment of a Presenting Officer by the
disciplinary authority to present its case before the Inquiring Authority,
the disciplinary rules of certain public undertakings do not contain such
a provision. As the appointment of a Presenting Officer would help in
the satisfactory conduct of departmental inquiry, the Central Vigilance
Commission has advised that even in cases where the disciplinary rules do not contain a specific provision for the appointment of a Presenting Officers, the disciplinary authorities may consider appointing a Presenting Officer for presenting the case before the Inquiring Authority.

24.3 In cases in which the initiation of disciplinary action is the result of investigation made by the Special Police Establishment, the disciplinary authority will request the S.P.E. for a Presenting Officer. The formal appointment will be made by the disciplinary authority after the S.P.E. nominates an officer.

24.4. In order to expedite disposal of departmental inquiries, the competent authority within its financial powers may consider sanction of suitable honorarium, where inquires are not part of their sphere of duties, to the Presenting Officer subject to a minimum of Rs.100 and a maximum of Rs.300. The amount payable on each occasion may be decided on merits taking into account the quality/volume of work and its quick and expeditious completion.

25. Assistance to the charged Government servant in the presentation of his case

25.1. In the copy of the order appointing the Presenting Officer, endorsed to the Government servant concerned, he should be asked to finalise the selection of his Defence Assistance before the commencement of the proceedings. The Government servant may avail himself of the assistance of any other Government servant, as defined in rule 2 (h) of the CCS(CCA) Rules, posted in any office either at this headquarters or at the place where inquiry is held. The Government servant may take the assistance of any other Government servant posted at any other station if the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing so permits.
25.2. If the Presenting Officer appointed by the disciplinary authority is a legal practitioner, the Government servant will be so informed by the disciplinary authority as soon as the Presenting Officer has been appointed so that the Government servant may, if he so desires, engage a legal practitioner to present the case on his behalf before the Inquiry Officer. The Government servant may not otherwise engage a legal practitioner unless the disciplinary authority, having regard to the circumstances of a case, so permits. If for example, the facts and the mass of evidence are very complicated and a layman will be at sea to understand the implications thereof and prepare a proper defence, the facility of a lawyer should be allowed as part of the reasonable opportunity.

25.3. When on behalf of the disciplinary authority, the case is being presented by a Prosecuting Officer of the Central Bureau of Investigation or by a Government Law Officer (such as Legal Adviser, Junior Legal Adviser), there are evidently good and sufficient circumstances for the disciplinary authority to exercise his discretion in favour of the delinquent officer and allow him to be represented by a legal practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the court as arbitrary and prejudicial to the defence of the delinquent Government servant.

25.4. No permission is needed by the charged Government servant to secure the assistance of any other Government servant. The latter also is not required to take permission for assisting the accused Government servant. It will, however, be necessary for him to obtain the permission of his controlling authority to absent himself from office in order to assist the charged Government servant during the inquiry.

25.5. Government servants involved in disciplinary proceedings may also take the assistance of retired Government servants subject to the following conditions:-
(i) the retired Government servant concerned should have retired from service under the Central Government;

(ii) if the retired Government servant is also a legal practitioner, the restrictions on engaging a legal practitioner by a delinquent Government servant to present the case on his behalf, contained in Rule 14(8) of the C.C.S. (CCA) Rules, 1965 and paras 25.2. and 25.3 would apply;

(iii) the retired Government servant concerned should not have, in any manner, been associated with the case at investigation stage or otherwise in his official capacity.

(iv) For payment of travelling and other expenses, the retired Government servant will be deemed to belong to the Grade of Government servants to which he belonged immediately before his retirement. The expenditure on this account will be borne by the Department or office to which the delinquent Government servant belongs.

26. Documents to be forwarded to the Inquiry Officer

C(26) 26.1. As soon as the order of appointment of the Inquiry Officer is issued, the disciplinary authority will forward to him the following papers along with that order :-

C(41)  

i) A copy of the articles of charge and the statement of imputations of misconduct or misbehavior;

ii) A copy of the written statement of defence submitted by the Government servant. If the charged Government servant has not submitted a written statement of defence, this fact should be clearly brought to the notice of the Inquiring Authority;
iii) List of witnesses by whom the articles of charge are proposed to be sustained;

iv) A copy each of the statement of witnesses by whom the articles of charge are proposed to be sustained. In the case of common proceedings, the number of copies of the statements of witnesses should be as many as the number of accused Government servants covered by the inquiry;

v) List of documents by which the articles of charge are to be proved;

vi) A copy of the Covering Memorandum to the Articles of charge addressed to the Government servant concerned;

vii) Evidence proving the delivery of the documents to the Government servants. The date of receipt of the document by the charged officer should be clearly indicated. The date of receipt of the articles of charge by the Government servant will need to be taken into account by the Inquiring Authority in fixing the date of the first hearing;

viii) A copy of the order appointing the Presenting Officer;

ix) Bio-data of the officer in the prescribed form.

26.2. The above documents and all other relevant paper should be made available to the Presenting Officer at the earliest possible. If the Government servant has submitted a written statement of defence, the Presenting Officer will carefully examine it. If there are any facts which the Government servant has admitted in his statement, without admitting the charges, a list of such facts should be prepared by the Presenting Officer.
Officer and brought to the notice of the Inquiry Officer at an appropriate stage of the proceedings so that it may not be necessary to lead any evidence to prove the facts which the Government servant has admitted (c.f. para 7.1 of Chapter XI).

26.3. Before referring a case to the Inquiry Officer the disciplinary authorities may ensure that they are in possession of the listed documents. While forwarding the case to the Inquiry Officer, the disciplinary authorities may specifically mention that all the listed documents are available with them or with the presenting officer concerned.

27. Inquiries entrusted to the Commissioner for Departmental Inquiries against an officer under suspension

27.1 In inquiries in which a Commissioner for Departmental Inquiries of the Central Vigilance Commission is appointed as the Inquiring Authority against an officer who is under suspension, that fact should be specifically brought to the notice of the Commissioner for Departmental Inquiries indicating the date from which the officer has been under suspension so that the Commissioner for Departmental Inquiries may be able to give priority to such a case.

27.2. Similar intimation should be sent to Inquiry Officers other than CDIs as well, as this would enable them to accord priority to such cases.

28. Common Proceedings

28.1. Under Rule 18 of Classification, Control and Appeal Rules where two or more Government servants are concerned in any case, the President or any other authority competent to impose the penalty of dismissal from service on all the accused Government servants may make an order directing that disciplinary action against all of them be taken in a common proceeding. If the authorities competent to impose the penalty of dismissal from service on such Government servants are different, an
order for common proceedings may be made by the highest of such authorities with the consent of the others. Such an order should specify:

- i) the authority which may function as the disciplinary authority for the purpose of such common proceedings;

- ii) the penalties which such disciplinary authority will be competent to impose;

- iii) whether the proceedings shall be initiated as for a major penalty or for a minor penalty.

A standard form of the order is given in Section E.

28.2. If the alleged misconduct has been committed jointly by a person who has retired from Government service and a person who is still in service, common proceedings against them cannot be started. Proceedings against the retired person will be held under Rule 9 of the CCS (Pension) Rules, 1972 and against the persons in service under Rule 14 of the CCA Rules. The oral inquiry against both of them could, however, be entrusted to the same Inquiring Authority.

28.3. A joint proceeding against the accused and accuser is an irregularity which should be avoided.

28.4. It may also happen that two or more Government servants governed by different disciplinary rules may be concerned in a case. In such cases proceedings will have to be instituted separately in accordance with the rules applicable to each of the Government servant concerned.

29. Special procedure in certain cases
29.1. Rule 19 of CCA Rules provides that notwithstanding anything contained in Rules 14 to 18 :

i) where any penalty is proposed to be imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or

ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in the CCA Rules, or

iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in the CCA Rules the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit. The Union Public Service Commission will be consulted where such consultation is necessary before any order are made in any case under this rule.

29.2. In a case where a public servant has been convicted by a Court of Law of any penal offence but dealt with under Section 3 or 4 of the Probation of Offenders Act, 1958, he shall not suffer any disqualification because of the provisions of Section 12 of the Probation of Offenders Act, 1958 which reads as follows:-

“Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of Section 3 or Section 4 shall not suffer disqualification if any, attaching to a conviction of an offence under such law.
Provided that nothing in the section shall apply to a person who, after his released under section 4, is subsequently sentenced for the original office”.

The question whether action under Rule 19(1) of the CCA Rules can be taken against a Government servant, who though convicted by a Court of Law but is not to suffer any disqualification because he has been dealt with under Section 3 or 4 of the Probation of Offenders Act, has been considered in consultation with the Ministry of Law and on the basis of the Andhra Pradesh High Court’s Judgement in A. Satyanarayana Murthy Vs. Zonal Manager, L.I.C. (AIR 69 A.P. 371). It has been decided that the order under Rule 19(i) of CCA Rules should be passed on the ground of conduct which led to the conviction of the Government servant and no because of the conviction, in view of Section 12 of the Probation of the Offenders Act.

29.3. In cases where an inquiry is to be dispensed with in the interest of the security of the State vide (iii) above, the order of the President should be obtained in such cases. For this purpose, it will be sufficient if the orders of the Minister-in-charge are obtained as the Supreme Court, in Shamsher Singh’s Case (AIR 1974 SC 2192) have over ruled their earlier decision in the case of Sardari Lal Vs. The Union of India and others (Civil Appeal No.576 of 1969), under which each such case has to be submitted to the President, for orders. The Supreme Court has now clearly pointed out that the Rules of Business and the allocation among the Ministers of the said business, indicate that the rules of business made under Article 77 (3) in the case of President and Article 166 (3) in the case of Governor of the State is the decision of the President or the Governor respectively. In the said judgement it has been held that neither the President nor the Governor has to exercise the executive functions personally. It would thus, be clear that the requirement of proviso (c) to Article 311 (2) of the Constitution and Rule 19 (iii) of the CCS (CCA) Rules, 1965 would be satisfied if the matter is submitted to
the Minister-in-charge under the relevant rules of business and it receives
the approval of the Minister.

30. Inquiry into charges against members of All India Services.

30.1. The All India Services (Discipline & Appeal) Rules, 1969 are
to a great extent in conformity with CCS (CCA) Rules, 1965. Under
Rule 7 of the All India Services (Discipline & Appeal) Rules, 1969,
disciplinary proceedings can be initiated in cases of act or omission
committed before the officer was appointed to the service by the
Government under whom he is for the time being serving. In respect of
an act or omission committed after appointment to the service, the
Government under whom such member was serving at the time of the
commission of such act or omission alone is competent to institute the
disciplinary proceedings. The Government under whom he is serving at
the time of the institution of the disciplinary proceedings shall be bound
to render all reasonable facilities to the Government instituting and
conducting such proceedings.

30.2. The Central and the State Governments have a concurrent
jurisdiction to initiate proceedings in respect of members of All India
Services. The State Governments are also competent to impose any of
the penalties mentioned in Rule 6 except the penalty of dismissal, removal
or compulsory retirement. These penalties can be imposed only by the
Central Government. In cases where the State Government has conducted
the disciplinary proceedings but is of the opinion that the penalty of
dismissal, removal or compulsory retirement should be imposed, the State
Government shall forward the records of the inquiry to the Central
Government suggesting the imposition of these penalties. The
Government may act on the evidence on record or may, if it is of the
opinion that further examination of any of the witnesses is necessary in
the interest of justice, recall the witness and examine, cross examine and
re-examine such witnesses. If the Central Government do not find
justification for imposing any of the penalties in a case referred to it by a State Government, the Central Government shall refer the case back to the State Government.

30.3. In cases where the disciplinary proceedings are initiated and conducted by the Central Government, the Central Vigilance Commission will be consulted at all appropriate stages as laid down in the instructions issued by the Commission from time to time. In cases where the proceedings are initiated and conducted by the State Governments but the final order is to be passed by the Central Government, the Central Government will consult the Central Vigilance Commission before passing the final order.