

IMMEDIATE

No. 48/01/2008-3Vig.II
HARYANA GOVERNMENT
Vigilance DEPARTMENT
(Vigilance-II Branch)

Dated: Chandigarh, **15** the March, 2022

To

All the Administrative Secretaries to Govt. Haryana,
 All the Heads of Departments of Haryana,
 All the Managing Directors/Heads of Board/Corporations of Haryana Government,
 All the Divisional Commissioners in Haryana.
 All the Deputy Commissioners and Sub-Divisional Commissioners in Haryana.
 All the Registrars of Universities in Haryana,

Subject : Guidelines regarding how to conduct departmental inquiry by the Inquiry Officer.

Sir/Madam,

I am directed to invite your attention to the subject cited above and to say that due to non-availability of guidelines regarding conducting of inquiry, it has been pointed out by some of the Disciplinary Authorities that the Inquiry Officers empanelled by Government are conducting the inquiries in disparate manner as a result it becomes difficult for them to take decisions in disciplinary cases.

2. Government has considered the matter and decided to issue the detailed guidelines regarding how to conduct the departmental inquiry by the empanelled Inquiry Officers or Departmental Inquiry Officers, which are as under :-

1. Basic responsibility of the Inquiry Officer:

Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government employee, and the inquiry is entrusted to an Inquiry Officer under Rule 7(A)(2) of the Haryana Civil Services (Punishment & Appeal) Rules, 2016 it becomes the responsibility of the Inquiry Officer to produce truth of the imputation of misconduct or misbehavior of charged person.

2. Who should be an Inquiry Officer (IO):

The principles of natural justice imply "fair hearing", "unbiased judgement" and "clear speaking order". It, therefore, follows that the person to be appointed as Inquiry Officer:-

- (i) should not be interested in the subject matter or the inquiry in any manner;
- (ii) should not be an accused officer in any pending inquiry;
- (iii) should have impeccable integrity and clean service record;
- (iv) should not be biased;
- (v) should be Gazetted officer and minimum one step senior to the charged person to

evoke confidence of all concerned because inquiry by a junior officer cannot command confidence which it deserves;

- (vi) should not have expressed an opinion about the merits of the case;
- (vii) should not be a witness or a complainant in the matter to be inquired into;
- (viii) should not be a close relative or a known friend of the charged person;

Unless it is unavoidable, the disciplinary authority should refrain from being the Inquiry Officer and should instead appoint another officer for the purpose of conducting inquiry.

3. Verification of appointment order and the enclosed documents by the IO:

Inquiry Officer should scrutinize the order appointing him/her as Inquiry Officer and the enclosed documents thoroughly. The appointment of Inquiry Officer is required to be made by the Disciplinary Authority and no authority lower than the Disciplinary Authority is competent for this purpose. The complete proceedings will be liable to be quashed if the Inquiry Officer is appointed by someone lower than the Disciplinary Authority.

4. Steps to be taken by the Inquiry Officer: Whenever an inquiry is entrusted to the Inquiry officer he/she should take following steps :-

- (i) Acknowledge the appointment.
- (ii) Undertaking by the Inquiry Officer
- (iii) Preparation of the Daily Order Sheet – This will be done throughout the Inquiry
- (iv) Analysing and understanding the Charges
- (v) Fixing the date for preliminary hearing
- (vi) Sending communication to the parties about hearing.
- (vii) Informing the controlling officer of charged person
- (viii) Informing the Presenting Officer
- (ix) Ascertaining as to whether the charged person has finalised a Defence Assistant and if so informing the Controlling Officer of the Defence Assistant.

5. Acknowledging the appointment order :

It is a good practice for the Inquiry Officer to acknowledge his/her appointment. This will keep the Disciplinary Authority informed that the Inquiry Officer has taken charge of the matters and is proceeding with the task. In case the Inquiry Officer is not able to take up the appointment, on account of any valid reason, it is all the more important that the Disciplinary Authority is informed well in time. While a person is not expected to turn down the appointment as Inquiry Officer due to personal reasons, there may be circumstances wherein the Inquiry Officer may have to decline to act so in the interest of the case or due to other administrative reasons. Such occasions should be extremely rare. But when such circumstances arise, the Inquiry Officer should inform the Disciplinary Authority without any

delay with complete reasons.

6. Undertaking by Inquiry Officer.

The Inquiry Officer shall require to give an undertaking as follows:-

- (i) that he/she is not a witness or a complainant in the matter to be inquired into or a close relative or a known friend of the charged person(s).
- (ii) that he/she shall maintain strict secrecy in relation to the documents he/she receives or information/data collected by him/her in connection with the inquiry and utilize the same only for the purpose of inquiry in the case entrusted to him.
- (iii) that no such documents/information or data shall be divulged to any one during the Inquiry or after presentation of the Inquiry Report.
- (iv) that he/she will submit all Inquiry Reports before two months from the date of end of his/her tenure.

7. Inquiry Officer to take initiative for removing the deficiency, if any, in the Charge Sheet:

Inquiry Officer has full liberty to bring to the notice of the Disciplinary Authority any discrepancy which is of the nature of clerical or typographic mistake, i.e. patent errors which are apparent in the face of the record. In case there is any patent defect in the charge sheet, the Inquiry Officer should bring it to the notice of the Disciplinary Authority well in time so that the defect can be cured. Inquiry Officer should not take upon himself the role of refinement or reinforcement of the charge sheet. he/she should confine himself only to the patent errors in the charge sheet and not try to make qualitative improvement in it. An illustrative list of patent errors is as under:-

- (a) Typographic mistakes
- (b) Quoting wrong rule number.
- (c) Whether charge sheet has been issued with reference to Rule 7 of Haryana Civil Services (Punishment & Appeal) Rules, 2016 or quoting wrong number of rule.
- (d) Incompatibility between the same figures mentioned in different parts of the Charge Sheet.
- (e) Names of persons or places mis-spelt in the Charge Sheet
- (f) Inconsistency between the numeric and verbal description of an amount e.g. Rs. 75,50,900/- (Rupees Seventy lakh fifty thousand nine hundred only)
- (g) Wrong mention of the reference number and/or date of communication as well as Government instructions.

An illustrative list of errors which Inquiry Officer should not try to rectify is as under:-

- (i) Any logical inaccuracies
- (ii) Insufficiency of evidence
- (iii) Vagueness of charge
- (iv) Ambiguity in charge
- (v) Lack of coherence between the misconduct and the charge.
e.g. Unauthorised absence is shown as lack of absolute integrity, while it would have been better described as lack of devotion to duty.

8. Inquiry Officer should maintain Daily Order Sheet (DOS):

It needs to be appreciated that Daily Order Sheet (DOS) will be the most authentic record for ascertaining as to what happened in the course of inquiry because it is signed by all present. Inquiry Officer should therefore pay adequate care to the accurate recording of Daily Order Sheet. Copy of DOS must be given to the parties present and signing it.

While conducting ex-parte proceedings, it would be a good practice to dispatch the copies of the DOS to the charged person. This action will manifest the bona-fide of the authorities, in case the charged person alleges denial of reasonable opportunity, bias, malafide, etc.

All the opportunities granted to the Presenting Officer needs to be recorded without fail because these will help in countering the allegation, if any, of inadequate opportunity raised by the charged person at the later stage. While no definite format has been prescribed for the purpose, it is desirable to indicate the following in the Daily Order Sheet.

- (a) Serial No of the order:
- (b) Date :
- (c) Parties present :
- (d) What happened [e.g.: State Witness No. 3 and 4 examined, cross examined and re-examined. At the conclusion of hearing, charged person intimated that he/she may not be able to attend hearing for two weeks because he/she had received message from his/her native place stating that his/her mother is not well. he/she accordingly requested that the next hearing may be held after two weeks. Request has been agreed to. Date of Next Hearing will be intimated to the parties after two weeks]
- (e) Signature of the parties concerned :

9. When the Daily Order Sheet is to be prepared:

Daily Order Sheets are to be prepared whenever there is a progress in the case and not only when hearing takes place. Thus the first daily order sheet may be made on the day when Inquiry Officer received his/her appointment order. It may read as under:

Daily Order Sheet No.	1
Dated :	25 th January, 2021
Parties present:	None
What happened :	<p>Received Order No. _____, dated _____ from _____ appointing me as the Inquiry Officer to look into charges framed against _____ vide Memorandum No. _____ dated _____.</p> <p>The following papers were also received along with the Charge Sheet:</p> <p>(i) Copy of the charge sheet.</p> <p>(ii) Copy of the written statement of defence.</p> <p>(iii) Copy of order No. dated appointing Shri as Presenting Officer in the case.</p> <p>An acknowledgement was sent to the Disciplinary Authority.</p> <p style="text-align: right;">Sd/- Name _____ Designation _____</p>

10. Inquiry Officer should analyze and understand the charge(s):

Inquiry Officer has to perceive the charge sheet based on the Charge – Fact – Evidence correlation. This will help in analyzing and appreciating evidence. This will help the Inquiry Officer to proceed with the task with clarity right from the initial stage.

11. Stages of Inquiry :

Witnesses are examined through the under mentioned three stages:-

- (a) Examination in chief
- (b) Cross examination
- (c) Re-examination

12. Who conducts the above three stages of examination:

Examination in Chief is conducted by the party who is producing the witnesses i.e. examination in chief of the State witness will be done by the Presenting officer and examination in chief of the defence witnesses will be done by the charged person assisted by the Defence Assistant, if any. Cross examination is done by the opposite party. i.e. Cross examination of State witnesses will be done by the Charged person, assisted by the Defence Assistant, if any, and cross examination of the defence witnesses will be done by the Presenting officer. Re-examination will be done by the party who performed examination in chief.

13. What is the scope of Examination in Chief?

Examination in chief is confined to the relevant issue i.e. issues relating to the transaction on which the charges have been framed in the case of State witnesses and the points mentioned in the statement of defence in respect of defence witnesses.

14. What is the scope of cross examination :

Scope of cross examination is a bit wide. Questions for assailing the credibility of the witness can also be raised. The following questions are however, prohibited during cross examination:

- (a) Questions without any basis.
- (b) Questions which are obscene or indecent.
- (c) Questions which are intended to vex or annoy the witnesses.

15. What is the scope of re-examination?

Re-examination will be confined to the issues on which cross-examination was conducted.

16. Is there any scope for a second cross – examination?

In case any new issue was raised during re-examination with the permission of the Inquiry Officer, one more opportunity for cross-examination must be afforded.

17. Precautions to be taken by the Inquiry Officer during the pre-hearing stage:

The date for the preliminary hearing must be chosen in such a way as to provide reasonable opportunity to the parties concerned. For example if the parties are posted out of station, date of hearing must be fixed so that there is adequate time for the communication to reach the parties and adequate time for the parties for undertaking the travel and reaching the

venue.

18. Action by the Inquiry Officer when the charged person presents an order from the Court staying the proceedings:

When charged person presents an order from the Court staying the proceedings in such case the Disciplinary Authority must be promptly informed of the development, to enable the Disciplinary Authority to seek legal advice regarding scope of the order and to explore the possibility of filing appeal against the stay order. Inquiry Officer should not proceed with the inquiry unless the stay order is vacated by the court or the Disciplinary Authority informs, based on legal advice that the stay order does not apply to the case in question.

19. Functions of the Inquiry Officer during the Preliminary Hearing stage:

During preliminary hearing, Inquiry Officer is required to perform the following actions:-

- (i) Making arrangements for conducting the hearing.
- (ii) Setting the stage for smooth conduct of hearing.
- (iii) Asking the statutory questions.
- (iv) Finalisation of the question of Defence Assistant.
- (v) Fixing dates for Inspection of the originals of the documents.
- (vi) Fixing dates for the submission of the list of additional documents and witnesses required by the charged person for the purpose of his/her defence.
- (vii) Finalisation of the documents and witnesses admissible for defence.
- (viii) Taking action for procuring the additional documents required for the defence.
- (ix) Settling the issue of disputed documents.
- (x) Taking the documents on record.
- (xi) Issue of certificates of attendance to the parties. This will be done during regular hearing stage also.
- (xii) Deciding on the requests for adjournment.

20. Activities to be performed by the Inquiry Officer during the regular hearing stage:

During regular hearing stage, Inquiry Officer will continue to prepare and issue Daily Order Sheets and certificate of attendance as was being done earlier. In addition, Inquiry Officer will also performing the following activities:-

- (i) Summoning witnesses.
- (ii) Monitoring the conduct of the examination of witnesses.

- (iii) Recording the statements of the witnesses.
- (iv) Recording the demeanor of the witnesses.
- (v) Deciding objections about the questions raised during examination of witnesses.
- (vi) Deciding requests for introducing additional witnesses.
- (vii) Deciding requests for recalling witnesses.
- (viii) Asking the charged person to state his/her defence on conclusion of the case of the Disciplinary Authority.
- (ix) Putting the mandatory questions on conclusion of the case of the defence.
- (x) Checking up from the charged person as to whether he/she got sufficient opportunity for his/her defence.
- (xi) Giving directions for the submission of the written briefs by the Presenting Officer and the charged person.

21. Inquiry Officer has no power to enforce attendance of witnesses:

Inquiry Officer does not have power to enforce attendance of witnesses, except when an adhoc notification in respect of the particular inquiry has been issued by the Government authorizing the Inquiry Officer to exercise powers specified in Section 5 of Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act 1972.

22. Action when listed witness does not turn up for inquiry:

In case a Government official who has been named as a witness in a departmental proceeding fails to turn up, the matter may be reported to the higher authorities of the witnesses. Refusal to appear as witnesses can be construed as sufficient cause for initiating disciplinary proceedings against him.

23. Post hearing activities to be performed by the Inquiry Officer:

During the last hearing, the Inquiry Officer will fix time limit for the Presenting Officer and the charged person to submit their respective written briefs. Thereafter, the Inquiry Officer prepares his/her report and submits the same to the Disciplinary Authority together with the records of the case.

24. Time frame within which the Inquiry is to be completed by the Inquiry Officer :

Inquiry Report is to be submitted by the Inquiry Officer within three months from the date of receipt of copy of appointment letter and extension in time beyond this period shall not be permissible except in exceptional circumstances. In case the inquiry is not completed in

time, the honorarium to be paid to the Inquiry Officer would be reduced by 50%.

25. Precautions to be observed by the Inquiry Officer in preparing the report:

The Inquiry Officer should confine to stating as to whether the charges have been proved or otherwise. Any mention by the Inquiry Officer regarding the quantum of penalty may raise serious doubts about its neutrality. The following observation by the Hon'ble Supreme Court in the case of State of Uttaranchal and Ors. Vs. Kharak Singh [JT2008(9)SC205, (2008)8SCC236, 2009(1)SLJ375(SC)] is relevant in this connection:

13. Another infirmity in the report of the inquiry officer is that he/she concluded the inquiry holding that all the charges have been proved and he/she recommended for dismissal of the delinquent from service. The last paragraph of his/her report dated 16.11.1985 reads as under:

During the course of above inquiry, such facts have come into light from which it is proved that the employee who has doubtful character and does not obey the order, does not have the right to continue in the government service and it is recommended to dismiss him/her from the service with immediate effect.

(emphasis supplied)

Though there is no specific bar in offering views by the inquiry officer, in the case on hand, the inquiry officer exceeded his/her limit by saying that the officer has no right to continue in the government service and he/she has to be dismissed from service with immediate effect. As pointed out above, awarding appropriate punishment is the exclusive jurisdiction of the punishing /disciplinary authority and it depends upon the nature and gravity of the proved charge/charges and other attended circumstances. It is clear from the materials, the officer, who inspected and noted the shortfall of trees, himself conducted the inquiry, arrived at a conclusion holding the charges proved and also strongly recommended severe punishment of dismissal from service. The entire action and the course adopted by the inquiry officer cannot be accepted and is contrary to the well-known principles enunciated by this Court.

Instead of any reference of quantum of penalty, the Inquiry Officer should take care of the following while preparing the report:

- (i) It must be ensured that all the findings and conclusions in the report are based on evidence produced during the inquiry.
- (ii) Only on the material made available to the charged person and in respect of which opportunity was provided for controverting the same can be relied upon for drawing conclusions.
- (iii) Inquiry Officer should ensure not to import its personal knowledge in preparing

the report.

26. The material based on which the Inquiry Report is made:

The Inquiry officer should obtain input for Inquiry Report from the following :-

- (i) Charge sheet
- (ii) Documents submitted in the course of the inquiry (Listed documents as well as additional documents demanded by the charged person)
- (iii) Statements of the witnesses during Examination in Chief, Cross Examination and Re-examination
- (iv) Statement of defence given by the charged person under Rule 7(A)(4) of the Haryana Civil Services (Punishment & Appeal) Rules or corresponding rule under which the inquiry is being held
- (v) Submissions by the Presenting Officer and the charged person including written brief, if any.
- (vi) While the core material for the Inquiry Report would be available in the above documents, Daily Order Sheets and the orders passed during the inquiry may also supply useful material in answering allegations of inadequate opportunity if any raised by the charged person.

27. Situation where inquiry establishes a charge other than the one mentioned in the Charge Sheet:

It is the statutory responsibility of the Inquiry Officer to give its finding on any article of charge different from the original article of charge if the same is established in the course of the inquiry. This is subject to the condition that the charged person had an opportunity of defending himself against such a charge.

28. Form of the Inquiry Report :

After the conclusion of the inquiry, a report shall be prepared and it shall contain:-

- (i) the articles of charge and the statement of the imputations of misconduct or misbehaviour;
- (ii) the defence of the Government employee in respect of each article of charge;
- (iii) an assessment of the evidence in respect of each article of charge;
- (iv) the findings on each article of charge and the reasons therefor.

Apart from the above, there is no statutory format for the Inquiry Report. However, the following format may be suggested:

- (i) an introductory paragraph in which reference will be made to the appointment of the Inquiry Officer and the dates on which and the places where the hearings were held;
- (ii) charges that were framed;
- (iii) charges which were admitted or dropped or not pressed, if any;
- (iv) charges that were actually enquired into;
- (v) brief statement of facts and documents which have been admitted;
- (vi) brief statement of the case of the disciplinary authority in respect of the charges enquired into;
- (vii) brief statement of the defence;
- (viii) points for determination;
- (ix) assessment of the evidence in respect of each point set out for determination and finding thereon;
- (x) finding on each article of charge;

29. Other documents to be sent along with the report:

The Inquiry Officer, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include :-

- (i) the report prepared by the Inquiry Officer.
- (ii) the written statement of defence, if any, submitted by the charged person;
- (iii) the oral and documentary evidence produced in the course of the inquiry;
- (iv) written briefs, if any, filed by the Presenting Officer and the charged person during the course of the inquiry; and
- (v) the orders, if any, made by the disciplinary authority and the Inquiry Officer in regard to the inquiry.

Separate folders containing each of the following are required to be sent along with the Inquiry Report:-

- (i) Documents produced in the course of inquiry.
- (ii) Documents produced on behalf of the Disciplinary Authority.
- (iii) Documents produced on behalf of the charged person.

- (iv) Statements of witnesses by way Examination in Chief, Cross Examination and Re-examination in the order in which the witnesses were examined.
- (v) Daily Order Sheets relating to the Inquiry.
- (vi) Written Statements of defence made under Rule 7(A)(4) of the Haryana Civil Services (Punishment & Appeal) Rules or corresponding rule under which the inquiry was held.
- (vii) Submissions by the Presenting Officer and the charged person including written brief, if any, during the inquiry.
- (viii) Orders passed by the Inquiry Officer and the Disciplinary Authority in the course of inquiry; the following, for example:
 - (a) Copy of order relating to allowing or rejecting the request by charged person seeking additional documents for defence
 - (b) Copy of order relating to request for appointment of a Legal Practitioner as defence Assistant.
 - (c) Copy of order on the request of the charged person for change of Inquiry Officer, etc.
- (ix) Correspondence entered into during the inquiry.

30. To whom the Inquiry Report is to be sent :

Inquiry Report is to be sent to the Disciplinary Authority. It must be clearly noted that the Inquiry Officer should not send copy of the report to the charged person.

31. Inquiry Report can neither be recalled nor modified by the Inquiry Officer:

The Inquiry Officer after signing and sending the report to the Disciplinary Authority becomes functus officio and cannot thereafter recall or make any modification in the report. However, the Disciplinary Authority, on examination of the Inquiry Report is empowered to remit the case back to the Inquiry Officer for further Inquiry. In such an eventuality, the Inquiry Officer is duty bound to comply with the instructions of the Disciplinary Authority.

32. Responsibility of the empaneled Inquiry Officer before the receipt of payment:

Before the payment is received by the Inquiry Officer, it will be his/her responsibility to ensure that:-

- (i) The inquiry report (two ink signed copies) properly documented and arranged is handed over to the Disciplinary Authority.
- (ii) All the records, reports etc. available with the Inquiry Officer have been duly returned to the authority which appointed him/her as such, at the time of

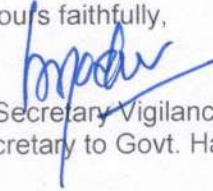
presentation of the Inquiry Report.

The report returns findings on each of the Article of Charge which has been enquired into and should specifically deal and address each of the procedural objections, if any, raised by the charged persons as per the extant rules and instructions.

- (iv) There should not be any ambiguity in the inquiry report and therefore every care should be taken to ensure that all procedures for conducting departmental inquiries have been followed in accordance with the relevant rules/instructions of disciplinary proceedings to which the charged persons are governed.

- 3. These instructions may please be brought to the notice of all concerned.

Yours faithfully,


Under Secretary, Vigilance,
for Chief Secretary to Govt. Haryana.

15/12/22

Proforma regarding status of Departmental Inquiries as on _____

1.	Name of the Department/Office :	
2.	Name of the Inquiry Officer :	
3.	Number of charged persons involved in the Inquiry :	
4.	Name and designation of the charged person(s) :	
5.	Date of appointment for an Inquiry:	
6.	Number of Inquiries marked before the 1 st January of the current calendar year and still pending:	
7.	Number of Inquiries marked during the 1 st /2 nd / 3 rd / 4 th quarter of the current calendar year :	
8.	Number of Inquiries pending with the Inquiry Officer out of the same marked during the current calendar year:	
9.	Number of Inquiries finalized within the prescribed period by the Inquiry Officer during the current calendar year:	
10.	Number of Inquiries finalized by the Inquiry Officer during the current calendar year but not within the prescribed period:	

Signature of Disciplinary Authority _____

Name : _____

Designation : _____