

FOREWORD



The Conduct, Discipline and Appeal Rules applicable to the executives of Bharat Dynamics Limited (BDL) were first issued in 1975 and consequent to several changes in the Government procedures & policies, these were revised & updated in 2020. Conducting Departmental Inquiry is a major activity as part of Disciplinary proceedings against an Executive. Departmental disciplinary proceedings are quasi-judicial in nature for which there is no specific Standard Operating Procedure (SOP) in existing BDL (CDA) Rules, 2020.

In this regard, an "SOP on Conducting Departmental Inquiry" has been prepared by the Vigilance Department which will be part of BDL(CDA) Rules, 2020. I put on record my special appreciation for Dr. Upender Vennam, IPoS, Chief Vigilance Officer, BDL and his team for investing massive efforts in authoring this excellent supplement to BDL (CDA) Rules, 2020.

Primary objective of this SOP is to help the Inquiring Authority, Presenting Officer and the Charged Employee to follow proper procedure to elicit the truth through inquiry process. This SOP contains the exhaustive procedure step-by-step that need to be followed in conducting departmental inquiry. The SOP would definitely serve as valuable document for all Executives and facilitate an effective, transparent Vigilance Management in BDL. My compliments to the Vigilance and HR Department for coming up with the booklet on "SOP on Conducting Departmental Inquiry".


CMDE. SIDDHARTH MISHRA (RETD.)
CHAIRMAN & MANAGING DIRECTOR

Date: 13 JAN 2023

SOP FOR CONDUCTING DEPARTMENTAL INQUIRY BHARAT DYNAMICS LIMITED (CONDUCT, DISCIPLINE & APPEAL) RULES, 2020

Rule	Contents	Page No.
1.	Departmental Inquiry Process- Step-by-step Rule 25.PROCEDURE FOR IMPOSING MAJOR PENALTIES	1-3
2.	Appointment of Inquiring Authority/ Inquiry Officer	3-4
3.	Change of IA in between: Part-head Inquiry	4-6
4.	Appointment of Presenting Officer	6
5.	Common Proceedings	7-8
6.	Inquiry when Sexual Harassment case is received	9-10
7.	Preparing for Preliminary Hearing	10-14
8.	Preliminary Hearing Proceedings	14-17
9.	Writing for Defence/ Additional Documents and asking for list of Defence Witnesses	17-19
10.	Detailed Disciplinary Procedure is to be gone through by the IO before commencement of Prosecution Evidence	19-25
11.	Regular Hearing Begins	25
12.	Examination of Prosecution Witnesses during Regular Hearing	25-34
13.	Calling for New Evidence or Re-call or Re-examine Witness	34-35
14.	Asking for Defence Statement	35-36
15.	Defence Witnesses Examination	36-37
16.	General Questioning of CE by IO	37-38
17.	Asking for Arguments/ Briefs	38-41
18.	Preparation of IO Report	41-42
19.	Preparation and Forwarding IO Report to Disciplinary Authority	42-47
20.	CVC Instructions	47-49
21.	Certificates by IO	49-50
22.	Progress Report of Hearing in Departmental Inquiries	50-53

SOP FOR CONDUCTING DEPARTMENTAL INQUIRY BHARAT DYNAMICS LIMITED (CONDUCT, DISCIPLINE & APPEAL) RULES, 2020

ISSUED VIDE PC No. 03/2023, Dated 13.01.2023.

STAGES OF RULE-25 OF BDL CDA RULES, 2020 MAJOR PENALTY PROCEEDINGS PROCESS

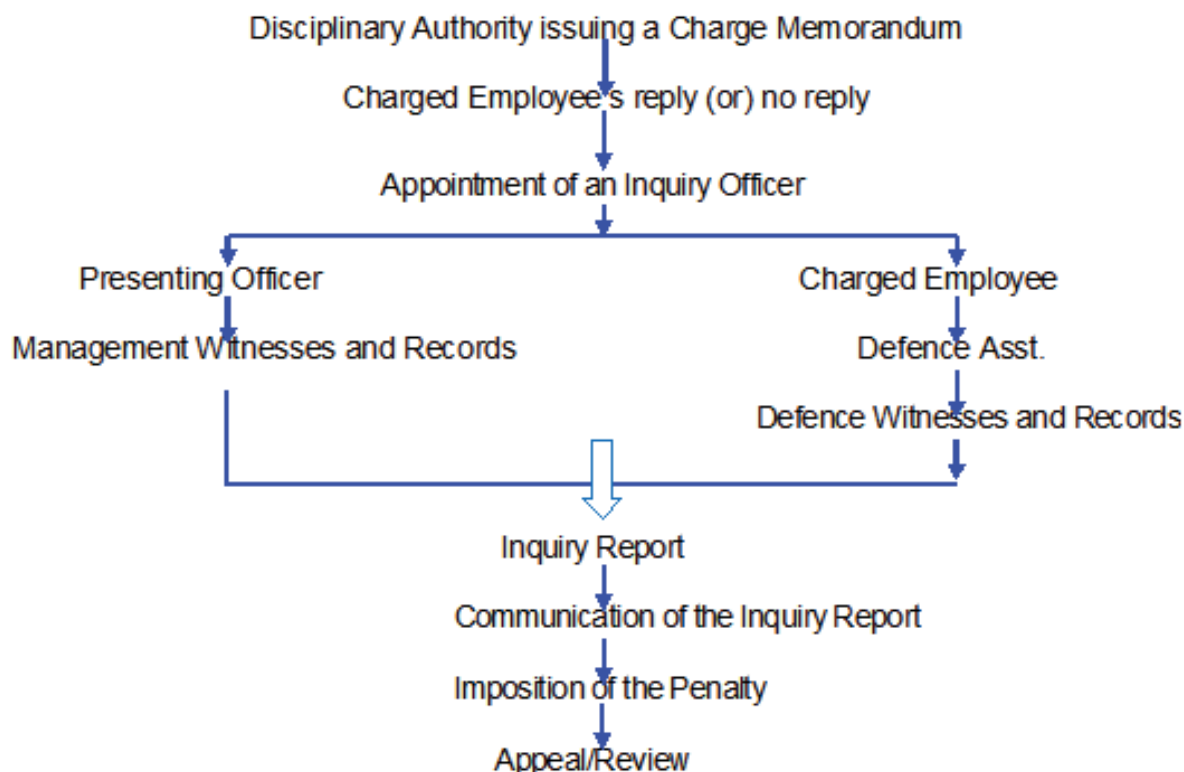
1. Departmental Inquiry Process - Step-by-step

Rule 25. PROCEDURE FOR IMPOSING MAJOR PENALTIES:

Rule 25 (1). No order imposing any of the major penalties specified in Clauses (f) to (j) of Rule 23 shall be made except after an inquiry is held in accordance with this rule.

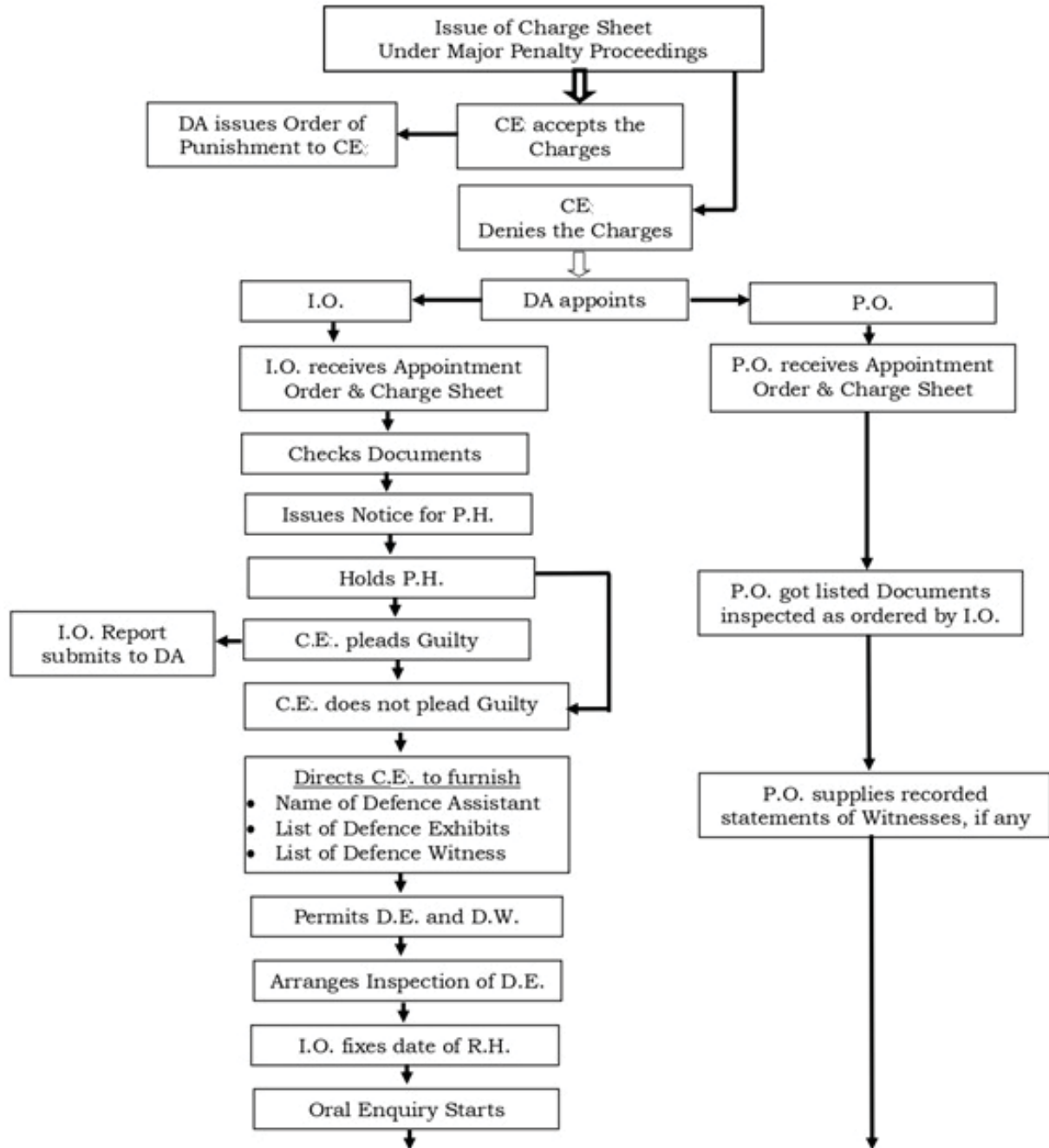
- Various stages broadly that need to be followed in conducting Departmental Inquiry are as depicted below:
- Note: The words 'Inquiry Officer', 'Inquiring Authority' or 'Inquiring Officer' are to be treated as having same meaning. Similarly, the word 'Prosecution' means 'Management' also. Also, the word 'Domestic Inquiry' means 'Departmental Inquiry'.

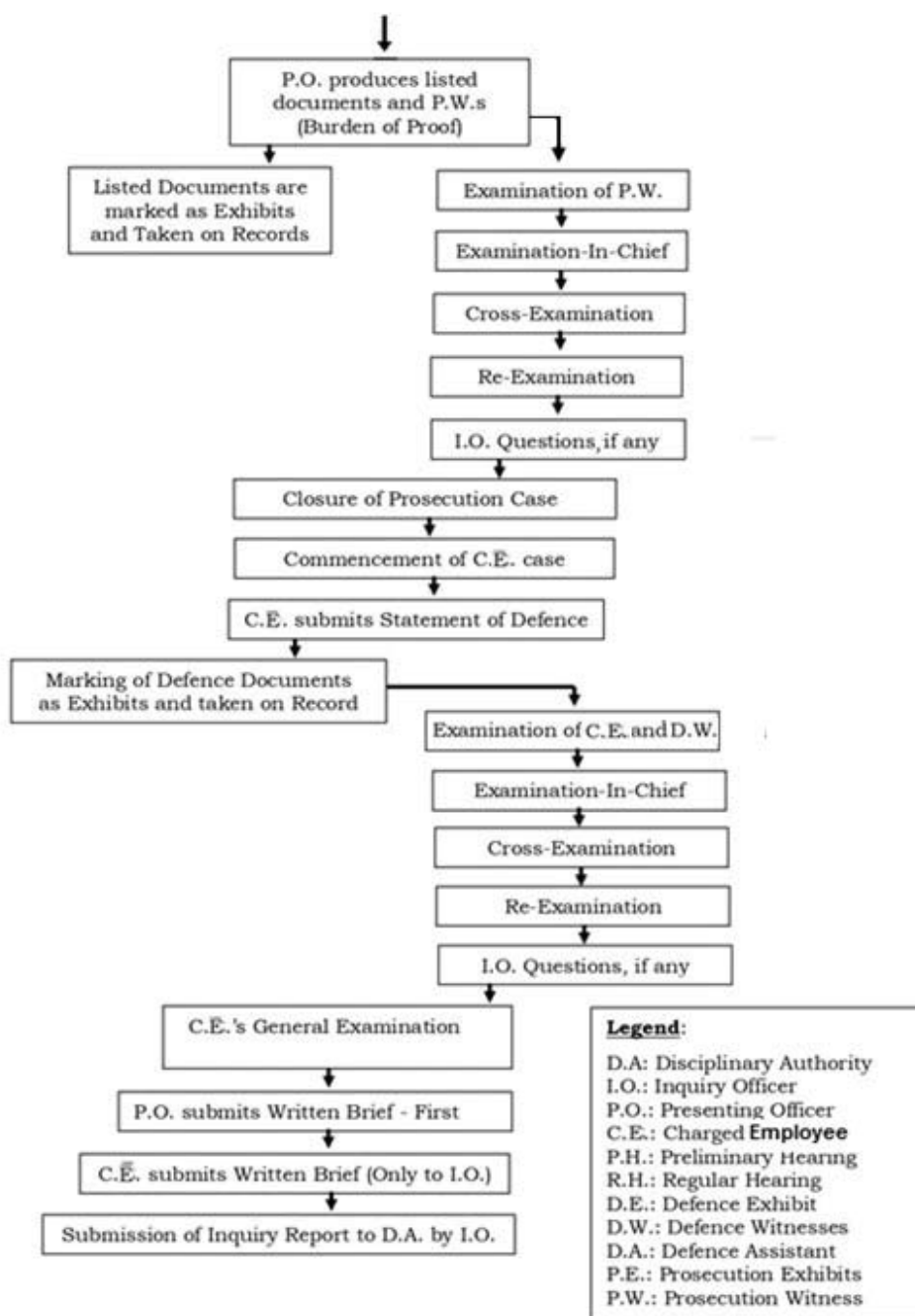
DEPARTMENTAL INQUIRY



- Various stages step-by-step that need to be followed in conducting Departmental Inquiry are as shown below:

STAGES OF RULE-25 OF BDL CDA RULES, 2020 MAJOR PENALTY PROCEEDINGS PROCESS





2. Appointment of Inquiring Authority/Inquiry Officer

Rule 25 (2). 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 an employee, it may itself enquire into, or appoint any inquiring authority to inquire into the truth thereof. Provided that where there is a complaint of sexual harassment within the meaning of Rule 4(3) above, the complaints Committee for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the Disciplinary Authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for

the complaints committee for holding the inquiry into the complaints of sexual harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

The Disciplinary Authority shall appoint the Inquiring Authority/Inquiry Officer as in the following format:

Standard Form of Order relating to Appointment of Inquiring Authority

[Rule 25 of BDL CDA RULES, 2020]

Bharat Dynamics Limited

Dated.....

Place of issue: Hyderabad

Whereas an inquiry under Rule 25 of BDL CDA Rules, 2020 is being held against Shri..... (Name and designation of the Charged Employee).

AND WHEREAS the undersigned considers that an Inquiring Authority needs to be appointed to inquire into the charges framed against the said Shri.....

NOW, THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule (2) of the said rule, hereby appoints Shri..... (Name and designation of the Inquiring Officer) as the Inquiring Authority to inquire into the charges framed against the said Shri.....

Signature

Designation of the Competent Authority

1. Copy to (name and designation of Inquiring Authority)
2. Copy to (name and designation of the Charged Employee)
3. Copy to (name and designation of the Presenting Officer)

3. Change of IA in between: Part-heard Inquiry

Rule 25 (18). Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another Inquiring Authority which has, and which exercises, such jurisdiction, the Inquiring Authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses, whose evidence has already been recorded is necessary in the interest of justice, it may recall examine, cross-examine and re-examine any such witnesses as herein before provided.

Efforts should be made and it should be seen that only disinterested officers to be appointed as Inquiry Officers in departmental proceedings. While there is no bar to the immediate superior officer holding an inquiry, as a rule, persons who undertake this task should not be suspected of any bias in such cases and that the authorities

concerned should bear this in mind before an Inquiry Officer is appointed in a disciplinary case.

Whenever an application is moved by a Charged Employee against whom disciplinary proceedings are initiated under the BDL CDA Rules, 2020 against the Inquiry Officer on grounds of bias, the proceedings should be stayed and the application referred; along with the relevant material, be sent to the Disciplinary Authority for considering the application and passing appropriate orders thereon. There upon, Charged Employee can prefer Appeal to the Appellate Authority.

➤ **Change of the IO: Rule 25 (18) of BDL CDA Rules, 2020**

- If for any reason, the IO is changed during the course of inquiry, the successor IO shall proceed from the stage from which the predecessor left
- In the interest of justice, the succeeding IO may take the following action in respect of witnesses, whose evidence has already been recorded
 - ✓ Recall the witnesses
 - ✓ Examine the witnesses
 - ✓ Cross-examine the witnesses
 - ✓ Re-examine the witnesses

➤ **For any reasons, if there is a change in the IO, following format shall be used:**

Standard Form of Order relating to Appointment of Inquiry Officer

(In place of Inquiry Officer originally appointed)

Bharat Dynamics Limited

Dated.....

Place of issue: Hyderabad

ORDER

WHEREAS an inquiry under Rule 25 of BDL CDA Rules, 2020, is being held against Shri..... (Name and designation of the public servant facing enquiry).

WHEREAS Shri..... (Name and designation of the authority who was holding inquiry) was appointed Inquiring Authority to inquire into the charges against Shri..... (Name and designation of the public servant facing inquiry), vide Order No. ... Dated..... (Give the No. and date of the previous order).

AND WHEREAS Shri..... (Name of the previous Inquiry Officer) after having heard and recorded the whole /part of the evidence had since been transferred, is not available and it is necessary to appoint another officer as Inquiring Authority to inquire into the charges against Shri....

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub-rule (18) of Rule 25 hereby appoints Sri / Smt(Name

and designation of the new Inquiring Authority) as Inquiring Authority to inquire into the charges framed against the said Shri..... (Name of the public servant facing the enquiry) vide Shri.... (Name of the previous Inquiry Officer).

Signature

Designation of the Competent Authority

Copy to:

1. Name and designation of the Government Servant, i.e. Charged Employee.
2. Inquiring Authority.

4. Appointment of Presenting Officer

Rule 25 (5). Where the Disciplinary Authority itself inquires or appoints an Inquiring Authority for holding an inquiry, it may, by an order appoint an employee to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

Accordingly, simultaneously, the Presenting Officer shall be appointed by the Disciplinary Authority as in the following Format.

Standard Form of the Order relating to the Appointment of Presenting Officer

Bharat Dynamics Limited

Ministry of Defence

Dated.....

Place of issue: Hyderabad

ORDER

WHEREAS an inquiry under Rule 25 of BDL CDA Rules, 2020, is being held against Shri..... (Name and designation of the Charged Employee).

AND WHEREAS the undersigned considers that, a Presenting Officer should be appointed to present on behalf of the undersigned the case in support of the articles of charge.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub-rule (5) (c) of rule 14 of the said rules, hereby appoints Shri... (Name and designation of Presenting Officers) as the Presenting Officer.

Disciplinary Authority

Copy to

1. The Presenting Officer
2. The Charged Employee
3. The Inquiring Authority

Disciplinary Authority

5. Common Proceedings

Rule 29. COMMON PROCEEDINGS:

Where two or more employees are concerned in a case, the authority competent to impose a major penalty on all such employees may make an order directing that disciplinary proceedings against all of them may be taken in a common proceedings and the specified authority may function as the Disciplinary Authority for the purpose of such common proceedings.

Standard Forms for Appointment of Inquiring Authority and Presenting Officer in Common Proceedings

➤ Standard Form for Appointment of Inquiring Authority in Common Proceedings

Bharat Dynamics Limited
Hyderabad dated the....

ORDER

WHEREAS an inquiry under Rule 25 of BDL CDA Rules, 2020, is being held against the officers specified below-

1. Shri.....
2. Shri.....
3. Shri.....
4. Shri.....

WHEREAS common proceedings have been ordered against the said officers.

AND WHEREAS the undersigned consider that, an Inquiring Authority should be appointed to inquire into the charges framed against the said Employees.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by Rule 29 of BDL CDA Rules, 2020 hereby appoints Shri..... (Name and designation of Inquiry Officer) as the Inquiring Authority to enquire into the charges framed against the said Employees.

Disciplinary Authority

Copy to: -

1. The accused Employees.
2. Presenting Officer.
3. Inquiring Authority with the relevant documents.
4. The Central Vigilance Commission*.

Disciplinary Authority

*Delete where not applicable.

➤ **Standard form for Appointment of Presenting Officer in Common Proceedings**

Bharat Dynamics Limited
Hyderabad dated the....

ORDER

WHEREAS an inquiry under Rule 25 of BDL CDA Rules, 2020, is being held against the officers specified below-

1. Shri.....
2. Shri.....
3. Shri.....
4. Shri.....

WHEREAS common proceedings have been ordered against the said Employees.

AND WHEREAS the undersigned considers it necessary to appoint a Presenting Officer to present the case in support of the articles of charges against the said officers before the Inquiring Authority.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by Rule 29 of BDL CDA Rules, 2020, hereby appoints Shri..... (Name and designation of the Presenting Officer) as the Presenting Officer to present the case in support of the articles of charges against the said employees before the Inquiring Authority.

Disciplinary Authority

Copy to: -

1. The Charged Employees
2. Presenting Officer.
3. Inquiring Authority
- **4 The Central Vigilance Commission.
- **5. Central Bureau of Investigation.

Disciplinary Authority

*Delete where not applicable.

**Note: To be used where applicable.

6. Inquiry when Sexual Harassment case is received

Rule 4 (3)(3) of BDL CDA Rules, 2020.Prohibition of Sexual Harassment of Women:

- 1) No employee shall indulge in any act of sexual harassment of any woman at any work place.
 - 2) Every employee who is in-charge of a work place shall take appropriate steps to prevent sexual harassment to any woman at the work place.
 - 3) The Complaints Committee will be deemed to be an inquiry authority and the report of the Complaints Committee shall be deemed to be an inquiry report under these rules.
- Thereafter, the Disciplinary Authority will act on the report in accordance with the rules.

Rule 25. PROCEDURE FOR IMPOSING MAJOR PENALTIES:

25(2). 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 an employee, it may itself enquire into, or appoint any inquiring authority to inquire into the truth thereof. Provided that where there is a complaint of sexual harassment within the meaning of Rule 4(3) above, the complaints Committee for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the Disciplinary Authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

Accordingly, an Internal Complaints Committee shall hold the inquiry as far as practicable in accordance with the procedure laid down in the Rule 25. PROCEDURE FOR IMPOSING MAJOR PENALTIES of BDL CDA Rules, 2020.

In the light of the Proviso to the Rule 4(3) (3) mentioned above, the Complaints Committee would normally be involved at two stages. The first stage is investigation. The second stage is when they act as Inquiring Authority. It is necessary that the two roles are clearly understood and the inquiry is conducted as far as practicable as per Rule 25. PROCEDURE FOR IMPOSING MAJOR PENALTIES of BDL CDA Rules, 2020.

Failure to observe the procedure may result in the inquiry being vitiated.

As the Complaints Committees also act as Inquiring Authority in terms of Rule 4(3)(3) mentioned above, care has to be taken that at the investigation stage impartiality is maintained. Any failure on this account may invite allegations of bias when conducting the inquiry and may result in the inquiry being vitiated. When allegations of bias are received against an Inquiring Authority, such Inquiring Authority is required to stay the inquiry until the Disciplinary Authority takes a decision on the allegations of bias. Further, if allegations of bias are established against one member of the Committee on this basis, that Committee may not be allowed to conduct the inquiry until the bias application is disposed by the Disciplinary Authority.

On receipt of the Investigation Report submitted by the Internal Complaints Committee, the Disciplinary Authority should examine the report with a view to see as to whether a formal Charge Sheet needs to be issued to the Charged Employee. As per Rule 25(3), Charge Sheet is to be drawn and issued. In case the Disciplinary Authority decides on that course, the Charged Employee should be

given an opportunity of replying to the Charge sheet. After that, a decision on conducting the inquiry has to be taken after consideration of the reply of the Charged Employee.

In case the Charged Employee denies the charges and his reply is not convincing, the Charge sheet along with his reply may be sent to the Complaints Committee for formal inquiry, and documents will be forwarded to the Complaints Committee.

6.1 Special provisions to deal with threats or intimidation

Rule 30 of BDL CDA Rules, 2020. SPECIAL PROCEDURE IN CERTAIN CASES:

Notwithstanding anything contained in Rule 25 or 26 or 27, the Disciplinary Authority may impose any of the penalties specified in Rule 23 in any of the following circumstances: –

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 enquiry in the manner provided in these Rules;

Disciplinary Authority may also dispense with inquiry under Rule as per Rule 30(ii) and action may be taken without the inquiry when the Disciplinary Authority concludes that it is not reasonably practicable to hold such an inquiry. The circumstances leading to such a conclusion may exist either before the inquiry is commenced or may develop in the course of the inquiry.

6.2 As far as practicable, the inquiry in such cases should be completed within 1(one) month and in no case should it take more than 90 days as per the limit prescribed under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

7. Preparing for Preliminary Hearing

7.1 On receipt of order appointing as Inquiring (Inquiry) Authority (Officer), the IO shall verify receipt/availability of the following:

Receipt of documents

- See that the following documents are received from the Disciplinary Authority: -
- ✓ Appointment order of the Inquiry Officer (IO) issued by the Disciplinary Authority
- ✓ Memorandum of charges containing Annexure I to IV with copies of the documents listed in Annexure III and statements of witnesses, if any, listed in Annexure IV
- ✓ Proof in support of having served the Memorandum of charges on the Charged Employee (CE)
- ✓ A copy of the written statement of defense, if any, submitted by the CE
- ✓ A copy of the order appointing the “Presenting Officer” (PO)

7.2 Thereafter, the IO shall issue Notice for Preliminary Hearing. The model format is shown below:

Notice for Preliminary Hearing

- Issue notice to the PO and CE, through respective Controlling Officers, for preliminary hearing.
- Ensure service of the notices on the PO and CE.
- Ensure that preliminary hearing is held within ten days from the date of receipt of order of appointment as IO.

Model Notice for fixing Preliminary Hearing

CONFIDENTIAL

Bharat Dynamics Limited
Hyderabad

Dated.....

Preliminary Hearing Notice

To,
Address of Charged Employee

Subject: disciplinary proceeding against Shri ABC,.....Section, Bharat
Dynamics Limited

Sir,

Received Order No. F. ... dated appointed the undersigned as the Inquiring Authority (hereinafter referred to as IA) to inquire into the charges framed against Shri ABC vide Memorandum No. F. dated ..., along with order of the same number and date appointing Shri XYZ as the Presenting Officer (hereinafter referred to as PO) to present the case in support of article of charge against Shri ABC, before the Inquiring Authority. (Hereinafter Shri ABC would be referred to as Charged Employee i.e. CE)

2. Rule 25(7) of the BDL CDA RULES, 2020 stipulates that the charge-sheeted employee shall appear in person before the Inquiring Authority on such day and at such time as per notice issued by the Inquiring Authority.
3. It has, accordingly, been decided by the undersigned to hold Preliminary Hearing (hereinafter referred to as PH) on... (Day/date/time/venue). Therefore, both PO and CE are hereby ordered/OR directed to attend the PH; failing which PH would be held ex-parte.
4. CE is hereby informed to bring his/her Defence Assistant (DA), if s/he desires. However, admissibility of this officer as DA would be decided as per BDL CDA RULES, 2020.
5. PO is directed to bring all relevant documents, in Original. PO is directed to bring also a copy of the written statement of defence submitted by CE with reference to the charge-sheet vide Rule 25(11) of the BDL CDA RULES, 2020. (If not received by IA along with orders).
6. Receipt of this letter may be acknowledged.

Yours faithfully,

Inquiring Authority
E-mail.
Cell No.....
Tel. No.....

Copy to:

1. Shri, Presenting Officer with a request to attend the above hearing with all the listed documents, in original, and copies of the statements of listed witnesses, if any.
2. (Controlling Officer of the Charged Employee) with a request to relieve the Charged Employee for attending the hearing of the cases. (if considered necessary)
3. (Controlling Officer of the Presenting Officer) with a request to relieve the Presenting Officer for attending the above hearing. (if considered necessary)
4. Disciplinary Authority for information. Controlling Officers of Presenting Official and Charged Employee may be advised to relieve them on the date of hearing.

Sd/
(Inquiring Authority)

NB: some Inquiring Authority do not prefer to address CE as 'Sir' in the letter form, therefore, this notice can be sent in the form of Daily Order Sheet as per model shown below:

**MODEL DAILY ORDER SHEET WHEN INQUIRING AUTHORITY
RECEIVES HIS APPOINTMENT ORDER AND HE FIXES FIRST
SITTING**

CONFIDENTIAL

Bharat Dynamics Limited
Hyderabad

Dated.....

Subject: Disciplinary proceedings against Shri ..., ... Section, Bharat Dynamics Limited.

DAILY ORDER SHEET

Received Order No. F. ... dated appointing the undersigned as the Inquiring Authority (Hereinafter referred to as IA) to Memorandum No. F..... Dated ..., along with order of the same number and date appointing Shri..... as the Presenting Officer (Hereinafter referred to as PO) to present the case in support of article of charge against Shri before the Inquiring Authority. (Hereinafter Shri would be referred to as Charged Employee i.e. CE)

1. Rule 25(7) of the BDL CDA RULES, 2020 stipulates that the charge-sheeted employee shall appear in person before the Inquiring Authority on such day and at such time as per notice issued by the IA.
2. It has, accordingly been decided by the undersigned to hold Preliminary Hearing (Hereinafter referred to as PH) on..... (Day/Date/time/Venue). Therefore, both PO and CE are hereby ordered/OR directed to attend the PH; failing which preliminary Hearing would be held ex-parte.
3. Charged Employee is hereby informed to bring his/her Defence Assistant (DA), if s/he desires. However, admissibility of the officer as Defence Assistant would be decided as per BDL CDA RULES, 2020/CDA Rules.
4. Presenting Officer is directed to bring all relevant documents, IN ORIGINAL. Presenting Officer is directed to bring also a copy of the written statement of defence submitted by Charged Employee with reference to the charge-sheet vide Rule 25(11) of the BDL CDA RULES, 2020. (If not received by IA along with orders).

(PQR)

INQUIRING AUTHORITY

E.mail:.....Cell No.....Tel No.

To,

1. Shri(Presenting Officer)
2. Shri(Charged Employee)

7.3 Taking the Assistance of any other employee by Charged Employee

RULE 25(6). The employee may take the assistance of any other employee but may not engage a legal Practitioner for the purpose ***unless the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner, or the Disciplinary Authority, having regard to the circumstances of the case, so permits.***

Defense Assistance

- Allow the CE to take assistance of a serving or retired Government servant
- Allow the CE to take assistance of a legal practitioner in the following conditions:
 - i. The PO is a legal practitioner, Prosecuting Officer of CBI or a Government Law Officer (such as Legal Adviser, Junior Legal Adviser)
- Record the reasons in writing for rejecting the request of CE for defense assistance

The Government servant who has been permitted to assist the accused official should be permitted to examine, cross-examine and re-examine witnesses and make submissions before the Inquiry Officer on behalf of the accused official, if the accused official makes a request in writing in this behalf.

8. Preliminary Hearing Proceedings

Rule 25 (7). On the date fixed by the inquiring authority, the employee shall appear before the Inquiring Authority at the time, place and date specified in the notice. The Inquiring Authority shall ask the employee whether employee pleads guilty or has any defence to make and if employee pleads guilty to any of the articles of charge, the Inquiring Authority shall record the plea, sign the record and obtain the signature of the employee concerned thereon. The Inquiring Authority shall return a finding of guilt in respect of those articles of charge to which the Charged Employee concerned pleads guilty.

Rule 25 (8). If the employee does not plead guilty, the Inquiring Authority shall adjourn the case to a later date not exceeding thirty days after recording an order that the Charged Employee may, for the purpose of preparing his/her defence: i) Inspect the documents listed with charge-sheet. ii) Submit a list of additional documents and witnesses that employee wants to examine; and iii) Be supplied with the copies of the statements of witnesses, if any, listed in the charge-sheet.

Note: Relevancy of the additional document and the witnesses referred to in sub-clause 8 (ii) above will have to be given by the employee concerned and the documents and the witnesses shall be summoned if the Inquiring Authority is satisfied about their relevance to the charges under inquiry.

- 8.1** The Charged Employee shall appear before the IA within 10 working days from the receipt of memo from the IA along with his Assisting co-officer (Defence Assistant).

The IA shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of the charge, the IA shall record the plea, sign the record and obtain the signatures of the GS thereon. The enquiry is to be held on those charges, which have not been admitted by the GS in his written statement of defence or before the IA.

Though the accused is normally required to appear before the IO within 10 working days, this time limit may be extended by another ten days at the discretion of the IO. When the Charged Employee who has not admitted any of the articles of the charges in his written statement of defence (or had not submitted any written statement of defence) appears before the IO at the time of the first hearing of the case, the IO shall ask him whether he is guilty or has any defence to make. If he pleads guilty to any of the articles of the charge, the IO shall record the plea, sign the record and obtain the signatures of the Charged Employee thereon. It may be noted that only a clear, categorical and unqualified admission of charges should enable to DA to dispense with Inquiry. The IO shall return a finding of guilt in respect of the articles of charge to which the Charged Employee pleads guilty before him. The enquiry is to be held only in respect of those charges, which have not been admitted by the accused official in his written statement of defence or before the IO.

If the accused official fails to appear on the date, time and place fixed for the hearing, or appears, but refuses or omits to plead or pleads 'not guilty', the IO shall ask the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a date not later than 30 days.

8.2 What to do in Preliminary Hearing

- On the date of Preliminary Hearing, ascertain from the CE
 - Whether he has received Memorandum of Charges
 - If so, whether he has understood the charges
 - Whether he pleads guilty or has any defense to make
- If the CE pleads guilty of all the articles of charge
 - Record the plea and sign the record and obtain signatures of the CE
 - Return the record to the Disciplinary Authority with findings of guilt
- If the CE pleads guilty to some of the articles of charge
 - Record the plea in respect of such articles of charge to which the CE has pleaded guilty, sign the record and obtain signatures of the CE
 - Return a finding of guilt in respect of those articles of charge to which the CE pleads guilty
- If the CE pleads not guilty to some or all the articles of charge
 - Direct the PO to produce the evidence by which he proposes to prove the articles of charge
 - Direct the CE to
 - Inspect the documents listed in Annexure III of the Memorandum of Charges within five days of the order
 - Submit a list of additional documents which may be in possession of the office but are not mentioned in Annexure III of memorandum of Charges and duly explaining their relevancy, within ten days of the order
 - Submit a list of witnesses to be examined on his behalf
- Adjourn the case to a later date not exceeding thirty days

MODEL DAILY ORDER SHEET FOR RECORDING TRANSACTIONS OF PRELIMINARY HEARING

Daily Order Sheet No.....

CONFIDENTIAL

Bharat Dynamics Limited
Hyderabad

Dated.....

Subject: - Disciplinary proceedings against Shri ..., ...Section, Bharat
Dynamics Limited

DAILY ORDER SHEET

Present: -

Shri..... Presenting Officer (PO)

Shri..., Charged Employee (CE)

Shri..., Defence Assistant (DA)

1. Preliminary hearing was held on..... (day/date/time/venue) in the above-cited case. In response to my question whether Charged Employee has received the charge sheet and understood the charges, he pleaded not guilty in respect of all the charges levelled against him.
2. The Charged Employee intimated that he wants to engage Shri..... (Name and Designation and office) as his Defence Assistant. The Defence Assistant confirmed that he has only one other case in his hand as defence assistant. Presenting Officer has no objection for engagement of Shri..... as his Defence Assistant.
3. Presenting Officer is directed that listed prosecution documents may be got inspected by Charged Employee on..... (day/date/time/venue) or in the Office of the Presenting Officer or in the office of the custodian of record. Charged Employee was directed that after inspection is over, he may give a certificate confirming that he accepts authenticity of the listed documents.
4. Charged Employee is directed to submit the list of defence /additional documents required for the purpose of his defence by..... (date/time) as per the table given below: -

For Documents

S.No	Identification of documents e.g., file No.etc.	Brief subject	Custodian's name and address	Relevance to the case and brief point required for defence
1	2	3	4	5

- a. The above request should reach the inquiring Authority before..... (Date and time), failing which it will be presumed that the Charged Employee does not require any document for defence. The request (if received) will be examined and DOS would be passed permitting the additional/defence documents and necessary action would be taken to procure the documents that are considered relevant by the Inquiring Authority and their inspection would be arranged. (Inquiring Authority must give reasons for his decision to reject a particular document).
5. Charged Employee is directed to submit list of defence witnesses, if any, in the following format for consideration and permission of the Inquiring Authority:

For Witnesses

S.No	Name and address of witness	Relevance to case i.e. Brief point/clarification required to be sought from him
1	2	3

6. The above list should reach the undersigned by..... (Date/time), failing which it will be presumed that the Charged Employee does not require any defence witnesses. On examination of the above list, the undersigned will initiate action for the participation of such defence witness who are considered relevant by the Inquiring Authority by issuing summons.
7. The next hearing will be held on..... (day/date/time/venue) during which the documents will be taken on record after inspection and the schedule will be fixed for examination of witnesses.
8. Copy of the daily order sheet is handed over to Presenting Officer and Charged Employee for strict compliance.

Sd/-
(Inquiring Authority)

Signatures of –

1. Presenting Officer
2. Charged Employee
3. Defence Assistant

8.3 Production of additional documents

- On receipt of the list of additional documents from the CE, check about their relevancy.
- Refuse the documents not considered relevant to the articles of charge duly recording the reasons for such refusal
- Forward the list of documents considered relevant to the authority under whose custody the additional documents are held, for their production by a specified date
- Watch for an intimation from the authority about inspection of the additional documents having been given to the CE
- Watch for an intimation from the authority with reasons for refusal to give inspection of the additional documents to the CE

9. Writing for Defense/Additional Documents and asking for list of defense witnesses

Rule 25(9). The Inquiring Authority shall ask the authority in whose custody or possession the documents are kept, for the production of the documents or issue a non-availability certificate before the Inquiring Authority within one month of the receipt of such requisition: Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the

public interest or security of the State, it shall inform the Inquiring Authority accordingly and the Inquiring Authority shall, on being so informed, communicate the information to the Charged Employee and withdraw the requisition made by it for the production or discovery of such documents.

Rule 25 (10). The authority in whose custody or possession the requisitioned documents are, shall arrange to produce the same before the Inquiring Authority on the date, place and time specified in the requisition notice. Provided that the authority having the custody or possession of the requisitioned documents may claim privilege if the production of such documents will be against the public interest or the interest of the Company. In such event, it shall inform the Inquiring Authority accordingly.

Model Letter-Calling for Documents
Bharat Dynamics Limited
Hyderabad

Letter No.....

Dated.....

To

.....
.....

Sub: Department Inquiry under Rule 25 of BDL CDA Rules, 2020, against
Shri.....

Sir,

I have been appointed as the Inquiring Authority under your Order No....., dated....., in the above mentioned case. Shri..... has desired the following documents in your custody to be procured for use by him for his defence. On considering his request, I hold that the under mentioned documents are relevant to the defence of the Charged Employee. You are, therefore, requested to make these documents available to Shri..... who is the Presenting Officer in the case. The documents should be made available to the Presenting Officer under intimation to me before as he is to offer the same for inspection to the Charged Employee on at 11.00 am in his office at _____.

PARTICULARS OF DOCUMENTS REQUISITIONED

(i)

(ii)

(iii) And so on

Yours faithfully

Sd/-

Inquiry Officer

Copy to

1. Shri. (Charged Employee). He is directed to inspect permitted documents on and at 11.00 am in the office of the Presenting Officer. Intimation about the inspection of Defence Document is being sent to the Defence Assistant and his Controlling Authority also. Request for the production of other documents has been rejected on the

ground that they do not have even remote possibility of any relevance to your defence.

2. The (Controlling Authority of the CE) with the request that Shri. may kindly be relieved for the purpose of inspection of the Defence documents as per programme given above.

3. Shri. (Defence Assistant)

4. Shri. (Presenting Officer). He will kindly collect the permitted documents from the custodian authority and offer the same for inspection of the CE and his Defence Assistant on the appointed date, time and place.

5. The (Controlling Authority of the Presenting Officer)

6. The (Controlling Authority of the Defence Assistant)

Sd/-
Inquiry Officer

10. Detailed Disciplinary procedure is to be gone through by the IO before commencement of prosecution evidence.

Rule 25(8). If the employee does not plead guilty, the Inquiring Authority shall adjourn the case to a later date not exceeding thirty days after recording an order that the Charged Employee may, for the purpose of preparing his/her defence:

i) Inspect the documents listed with charge-sheet.

ii) Submit a list of additional documents and witnesses that employee wants to examine;

and

iii) Be supplied with the copies of the relied upon statements (Listed Documents) of witnesses if any, listed in the charge sheet.

Note: Relevancy of the additional document and the witnesses referred to in sub-clause 8

(ii) Above will have to be given by the employee concerned and the documents and the witnesses shall be summoned if the Inquiring Authority is satisfied about their relevance to the charges under inquiry.

10.1 Production of Additional Documents

The Charged Employee, after examination of the documents listed in the charge sheet, may give notice for the production of such documents, which are in the possession of the Management but have not been listed in the charge-sheet. This notice is required to be given within ten days of the order of the Inquiry Authority permitting him to examine the documents or within a further period of ten days if so permitted by the IA. The Charged Employee may also submit a List of Witnesses whom he wishes to examine on his behalf. The Charged Employee is required to state the relevancy of each document/witness, which he desires to be discovered/produced/examined on his behalf to the facts of the case or to his defence.

On receipt of such notice from the Charged Employee, the Inquiring authority shall examine the list of documents and witnesses. He may record reasons for refusing to requisition of such of the documents, which are in his opinion, not relevant to the case. The Inquiring authority shall then call for

the relevant documents, asked for by the Charged Employee for his defence, from the authority in whose custody the documents are held.

The custodians of such documents normally produce such documents through the Presenting Officer excepting when privilege is claimed. Privilege may be claimed if the document cannot be produced for reasons of public interest or the security of State. The option of claiming privilege for non-production of documents can be claimed by the Head of the Department only. The following documents can be reasonably denied:

1. Report of a Departmental Officer who held the preliminary enquiry; or the report of the Special Police establishment (CBI) after the preliminary investigation (These reports are meant for the Disciplinary Authority to arrive at a decision whether a prima facie case is made out against the Charged Employee).
2. Disciplinary file against the Charged Employee (this is treated as confidential).
3. However, copy of the FIR may be made available, if asked for, if reference to the preliminary report is made in the articles of charge or statement of imputations. It will have to be made available to the Charged Employee.

On receipt of additional documents, the Inquiry authority shall fix the date, time and place where the Charged Employee can examine the additional documents called for by him. This completes the stage of Preliminary Hearing.

10.2 Additional Points

Before the Regular Hearings of the case commence, the Charged Employee has to be allowed to inspect the documents relied upon by the prosecution to enable him to prepare his defence. While adjourning the first hearing, the IO shall record an order that the Charged Employee may inspect the documents listed in the list of documents attached to the charge sheet. The documents will have to be inspected by the Charged Employee within a period of five days of the order passed to this effect by the IO, but this period may be extended by another 5 days at the discretion of the IO. If the Charged Employee applies for the supply of copies of the statements of witnesses mentioned in the list of witnesses attached to the charge-sheet, the IO shall furnish him with such copies as early as possible as and in any case not later than three days before the commencement of the examination of the witnesses.

Normally, the documents to be inspected will be in the custody of the Presenting Officer and he will be present at the time of their inspection. The officer assisting the Charged Employee may also be present. The Charged Employee is free to take extracts from the documents, but need not be supplied with their copies, as supply of copies is not the responsibility of the Management (excepting copies of the statements of prosecution witnesses as stated above). In those cases, in which photo-stat copies of document are considered essential for the defence of the Charged Employee, it would be desirable that Management itself may have such photo-stat copies made and supply

them to the accused. Further, the accused should be allowed inspection of records/documents only in the presence of the Presenting Officer or any other responsible officer. Sufficient precautions need to be taken to ensure that they are not tampered with.

Secondly, before the commencement of the prosecution evidence, the Charged Employee may be directed to submit a list of witnesses he proposes to examine on his behalf.

If the Charged Employee wants to examine witnesses/documents considered by the IO to be thoroughly irrelevant, he may refuse to allow examination of such witnesses/documents. In doing so, he will have to record special and sufficient reasons, so that the record would ex-facie show that the IO in refusing permission had exercised his discretion in a judicial and not in an arbitrary or perfunctory manner.

Thirdly, the Charged Employee may be asked to apply for the production of any 'additional documents' that he wishes to inspect for preparing his defence. The Charged Employee shall be asked to indicate the **relevancy** of the additional documents that he wants to inspect. He will be asked to apply for these additional documents within ten days, but this period may be extended by another ten days at the discretion of the Inquiry Officer.

With regard to 'additional documents' asked for by the Charged Employee, the IO should satisfy himself that they are reasonably relevant to the charges under enquiry. The IO may, for reasons to be recorded by him in writing, refuse to requisition such of the documents as in his opinion, is not relevant to the case. In connection with the relevancy of documents, the following instructions should be kept in mind.

The question of relevancy should be looked at from the point of view of the defence and if there is any possible line of defence to which the documents may, in some way, be relevant, though the relevancy is not clear at the time the request is made, the denial of request for access on the ground of public interest should be exercised only when there are reasonable and sufficient grounds to believe that the public interest will clearly suffer. Cases of this type are likely to be very few and normally, occasion for refusal of access on this ground should not arise. Serious difficulties arise when the courts do not accept the refusal of access to documents as correct. In any case, where it is decided to refuse access, reasons for refusal should be **cogent and substantial** and should invariably be recorded in writing.

Reports made after a preliminary enquiry or the report made by the police after investigations are usually confidential and intended only to satisfy the Competent Authority whether further Action in the nature of a regular Domestic enquiry or any other Action is called for. It is not necessary to give access to these reports, but at the same time, it

is necessary that any reference to such reports in the statement of allegations should be strictly avoided. As regards to access to the statements of witnesses, access should be given to the statements of those witnesses only who are proposed to be examined in proof of the charges or the facts stated in the statement of allegations. Previous statements made by a person examined as a witness are not admissible for the purpose of corroboration and access to such statements can safely be denied. However, the law recognizes that if the former statement was made at about the time when the fact took place and person is called upon to give evidence about such facts the previous statement can be used for purposes of corroboration. In such cases, it will be necessary to give access to the previous statements. A copy of the FIR may, however be made available to the accused official, if asked for.

The IO shall, on receipt of request from the Charged Employee for showing to him such 'additional documents', send a requisition for the production of these documents by the authority in whose custody they are, by a specified date: provided that it may refuse to requisition of such documents, as are in its opinion, not relevant, after recording its reasons to this effect in writing on receipt of the requisition, the authority having the custody of possession of the requisitioned documents, shall produce the same before the IO unless their production is against the public interest or security of the state. If the Charged Employee requires a private document for his defence, it should be entirely his responsibility to produce it.

10.3 Inspection of Documents

SUPPLY OF COPIES OF DOCUMENTS AND AFFORDING ACCESS TO OFFICIAL RECORDS TO THE CHARGED EMPLOYEE

1. The relevance of a document or a set of documents is often raised as a question by a Charged Employee involved in a Domestic enquiry.
2. The right of access to official records is not unlimited and it is open to the Management to deny such access if in its opinion such records are not relevant to the case or not desirable in the public interest to allow such access. The power to refuse access to official records should be very sparingly exercised. The question of relevancy should be looked at from the point of view of the defence to see if there is any possible line of defence to which the document may, in some way, be relevant. Though the relevance is not clear to the Disciplinary Authority at the time that the request is made, the request for access should not be rejected. The power to deny access on the ground of public interest should be exercised only when there are reasonable and sufficient grounds to believe that public interest will clearly suffer. Cases of the latter type are likely to be very few and normally occasion for refusal to access on the ground that it is not in public interest, should not arise if the document is intended to be used in proof of the charge and if it is proposed to produce such a document before the Inquiry Officer, if an enquiry to be held. In

any case, where it is decided to refuse access, reasons for refusal should be recorded cogently in writing.

3. If the Charged Employee requests for any official records other than those included in the list, the request shall ordinarily be acceded to.

4. While there is no doubt that the Charged Employee should be given access to various official records like documents to which reference has been made in the statement of allegations and documents and records which the Charged Employee concerned considers are relevant for the purpose of his defence though the relevancy is not clear to the Disciplinary Authority, doubts very often arise whether official records include the confidential documents. Reports made after a preliminary enquiry or the report made by the police after investigation are usually confidential and intended only to satisfy the competent authority whether further Action in the nature of a regular Domestic Inquiry or any other Action is called for. These reports are not usually made use of or considered in the inquiry. Ordinarily even a reference to what is contained in these reports is not made in the statement of allegations. It is not necessary to give access to the Charged Employee to these reports. It is necessary to strictly avoid any reference to such reports in the statement of allegations as if any reference is made, it would not be possible to deny access to these reports.

The only remaining point is whether access should be given to the statements of witnesses recorded in the course of preliminary enquiry conducted by the department or investigation made by the police and if so, whether the access should be given to the statements of all witnesses or to be statements of only those witnesses who are proposed to be examined in proof of the charges or of the facts stated in the statement of allegations. These statements can be used only for the purpose of cross-examination and the Charged Employee is called upon to discredit only those witnesses whose statements are proposed to be relied upon in proof of the charges or of the facts stated in the statement of allegations. As such, the Charged Employee concerned need not be given access to the statements of all witnesses examined in the preliminary enquiry or investigation made by the police and access should be given to the statements of only those witnesses who are proposed to be examined in proof of the charges or the facts stated in the statement of allegations. Some cases, the Charged Employee may require copies of the statements of some witnesses on which no reliance is proposed to be placed by the Disciplinary Authority on the ground that he proposes to examine such witnesses on his side and that he requires the previous statements to corroborate the testimony of such witnesses before the inquiring authority. Previous statements made by a person examined as a witness are not admissible for the purposes of corroboration and access to such statements can safely be denied. However, the law recognizes that if the former statement was made at or about the time, the fact took place and the person is called to give evidence about such fact in any proceedings, the previous statement can be used for purposes of

corroboration. In such cases, it will be necessary to give access to the previous statements.

5. Another important question is about the stage at which the Charged Employee should be permitted to have access to the statements of witnesses proposed to be relied upon in proof of the charges or of the facts stated in the statement of allegations. The copies of the statements of the witnesses can be used only for the purpose of cross-examination and therefore, the demand for copies must be made when witnesses are called for examination at the oral enquiry. If such a request is not made, the inference would be that the copies were not needed for that purpose. The copies cannot be used at any subsequent stage as those statements are not to be taken into consideration by the Disciplinary Authority also. Copies should be made available within a reasonable time before the witnesses are examined. It would be strictly legal to refuse access to the copies of the statements prior to the evidence stage in the domestic enquiry. If the Charged Employee makes a request for supply of copies of statements referred to above before he files a written statement, the request shall be acceded to.

6. It is not ordinarily necessary to supply copies of the various documents and it would be sufficient if the Charged Employee is given such access as is permitted under the rules referred to above. Charged Employee involved in disciplinary proceedings when permitted to have access to official records sometimes seek permission to take Photostat copies thereof. Such permission should not normally be given especially if the Charged Employee proposes to make the Photostat copies through a private agency, as third party would be allowed to have access to official records. If, however, the documents of which Photostat copies are sought for are so vitally relevant to the case (e.g., where the proof of the charge depends upon the proof of the handwriting or a document the authenticity of which is disputed), the Management should itself make Photostat copies and supply the same to the Charged Employee. In cases which are not of this or similar type (the example given above is only illustrative and not exhaustive) it would be sufficient if the Charged Employee is permitted to inspect the official records and take extracts there from.

10.4 Measures to prevent tampering with records/documents during inspection by Charged Employee

- i. The Charged Employee should be allowed inspection of records/ documents etc., only in the presence of a responsible officer.
- ii. The Inquiry Officer should take sufficient precautions to ensure that the records/ documents and other papers are not tampered with while the documents are under their custody or during the course of actual inquiry. For this purpose, he should not leave the enquiry room during the course of the enquiry and if at all he has to leave for some time, he should make appropriate arrangements for the safe custody of the documents/ records. Denial of right of access to documents for preparing defence vitiates the Inquiry.

A person facing a disciplinary enquiry has the right of access to two classes of documents to defend himself, namely (i) those relied upon by Management against him, and (ii) other documents required by him for preparing his defence. Importance of the documents relevant for defence is obvious and the Charged Employee should be allowed to inspect them.

11. Regular Hearing begins

➤ Regular Hearing – Presentation of the case of the Disciplinary Authority

❖ Production of prosecution documents and examination of prosecution witnesses

- On the date fixed for regular hearing, direct the PO to produce the documentary evidence
- Take on record the documentary evidence as 'Prosecution Exhibits'
- Direct the PO to examine Prosecution Witnesses, if any (Examination-in-Chief)
- Give an opportunity to the CE/his defense assistant to cross-examine the Prosecution Witnesses (Cross-Examination)
- Give an opportunity to the PO to re-examine the Prosecution Witnesses on any point on which they have been cross-examined, if requested, but not on any new point (Re-Examination)
- Question the Prosecution Witnesses, if considered necessary
- Make a record of deposition of the witnesses
- Ensure that Cross-Examination of a witness follows its Examination-in-Chief and the same is not postponed till Examination –in-Chief of all witnesses is over

- 11.1** The IA shall ask the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge and ask the Charged Employee to inspect the Listed Documents mentioned in the charge-sheet. He will also allow the Charged Employee to take copies of the documents wherever possible not later than 3 days before commencement of the examination of the witnesses.

The Charged Employee may be directed to submit a list of witnesses he proposes to examine on his behalf and a list of Defence Documents with relevance.

The IA shall send a requisition for the production of those documents allowed by the Authority in whose custody they are available.

- 11.2** Production of Defence Documents required by the Charged Employee through PO and supply of copies of them, if required by Charged Employee.

12. Examination of Prosecution Witnesses during Regular Hearing:

- 12.1** Prosecution Witnesses are to be examined on behalf of the Presenting Officer and cross-examined by the Charged Employee and the PO is entitled to re-examine the PW on any points on which they have been cross-examined but, not on any new matter without the leave of the IA. The IA may also put such questions to the PW as it thinks fit.

NOTICE OF REGULAR HEARING

No.....
(Name of Department Office)

To
.....
.....

Subject : Departmental inquiry into the charges framed against Shri

Sir,

I have been appointed as inquiring authority to conduct inquiry in the case above cited, vide Order No..... dated the issued by ,,....., a copy of which has been endorsed to you.

2. A preliminary hearing of the case was held onat..... by me.

3. Notice is hereby given to you that the regular hearings in the case shall commence on.....(date and time).....,at.....(place). In these hearings, full opportunity will be given to you to examine the evidence in support of the charges and to adduce evidence in your defence.

4. You should present yourself in time to attend the aforesaid oral inquiry on the dates specified above and on the date/dates as may hereinafter be fixed and intimated to you. In case you fail to appear on the appointed date and time, the proceedings will be taken ex-parte.

5. Receipt of this notice may please be acknowledged.

Yours faithfully,
(Inquiring authority)

Copy to Shri.....(name and address of presenting officer). He is also requested to attend the regular hearings at the appointed date and time.

(Inquiring authority)

Rule 25 (11). On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Charged Employee. The Presenting Officer shall be entitled to re-examine the witness on any points on which they have been cross examined, but not on a new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.

MODEL LETTER SUMMONING WITNESSES

CONFIDENTIAL

Bharat Dynamics Limited
Hyderabad

Dated.....

To
(Address of Witness)

Subject: - Disciplinary proceedings against Shri, Section,
Bharat Dynamics Limited.

Sir/Madam,

The undersigned has been appointed as the Inquiring Authority in the above-cited case. The Disciplinary Authority has cited you as Management witness/You have been permitted by the undersigned to depose as defence witness on behalf of Charged Employee. Your evidence has, therefore, been considered material. You are, therefore, requested to appear before the undersigned for recording your deposition on..... (Day/Date/time/venue).

1. You are not likely to be required to stay at the place for more than a day.
2. You will be paid TA/DA as per rules.
3. Receipt of the letter may be acknowledged.

Yours faithfully

Sd/-

INQUIRING AUTHORITY

- Copy to Presenting Officer/Charged Employee, with the advice that he may ensure attendance of the witnesses as per schedules laid down for recording of deposition.
- Copy to the Controlling Officer of the witness requesting him to relieve the witness for deposition [If necessary]

12.2 Examination-in-Chief, Cross- Examination and Re-Examination

The witnesses mentioned in the list of witnesses may be examined by or on behalf of the PO. Witnesses who are examined may be numbered PW-1, PW-2 and so on. The depositions of each witness should be recorded on a separate sheet as dictated by the Inquiry Officer. The IO may not permit questions, which will allow the very words to be put into the mouth of the witness by the Presenting Officer/defence assistant. The depositions will generally be recorded as running narration, but on certain points, it may be necessary to record the questions and answers verbatim.

After examination by the Presenting Officer, the witness may be cross-examined by or on behalf of the Charged Employee. The IO may not ordinarily interfere with the discretion of the cross-examiner in putting questions, unless the cross-examination is of inordinate length, oppressive or the questions are irrelevant.

After the cross-examination, the PO will be entitled to re-examine the witness on any point on which he has been cross-examined. No new points can be raised without the leave of the IO. In case re-examination by the PO is allowed by IO on any new matter not already covered by the earlier examination/cross-examinations, the accused will have the right to cross-examine the witness in respect of those new matters.

After re-examination, the IO can put such questions to the witness as he may think fit. Such a witness may also be cross-examined by or on behalf of the accused with the permission of the IO on matters covered by questions put by the IO.

After completion of examination of all PWs, the IA may, in its discretion allow the PO to produce evidence not included in the list given to the Charged Employee or may itself call for new evidence or recall and re-examine any witness and in such case the Charged Employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and adjourn the inquiry for 3 clear days before production of such evidence, exclusively on the day of adjournment and the day to which the inquiry is adjourned and he shall give the Charged Employee an opportunity of inspecting such documents before they are taken on the record. The IA may also allow the Charged Employee to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice. New evidence should not be permitted or called for or any witness should not be recalled to fill-up any gap in the evidence.

When the case for Disciplinary Authority is closed, the Charged Employee shall be required to state his defence, orally or in writing as he may prefer. If the defence is made orally, it shall be recorded. A copy of the statement of defence shall be given to the PO.

12.3 Documentation

The witnesses are required to sign every page of the depositions. The statements are also countersigned by the accused official and the IO, so that the validity of document is not questioned by any one at a later date. The IO will record and sign the following certificate at the end of the depositions.

“Read over to the witness in the presence of the Charged Employee and admitted as correct of deposition recorded”

If the witness denies correctness of any part of the statement, the IO may instead of correcting the evidence, record the objection of the witness excepting when the mistake is of a typographical nature.

If a witness deposes in a language other than English, but the depositions are recorded in English, a translation in the language in which witness deposes should be read to the witness by the IO.

Copies of the depositions may be made available at the close of the Inquiry each day to the PO as well as the accused.

The statements of persons recorded during a Preliminary Inquiry are not admissible as evidence.

12.4 Following important points should also be kept in mind while conducting Inquiry:

A. Daily Order Sheet

The business transacted on each day of the Inquiry should be recorded on a daily order sheet, which should be signed by the Inquiry Officer, as well as by the delinquent official and the Presenting Officer.

During the course of the enquiry, the delinquent official or the Presenting Officer may make requests for various purposes orally or in writing. Such written requests should be kept in a separate file. The daily order sheet should briefly refer to such requests or representations and the orders passed thereon by the Inquiry Officer.

The following points should find a mention in the daily order sheet:

1. The additional documents and witnesses asked for by the Charged Employee in his defence.
2. The additional documents and defence witnesses permitted by the Inquiry Officer.
3. Reason for disallowing the remaining documents and witnesses.
4. Whether the additional documents permitted as relevant, are made available for inspection of the Charged Employee and are inspected by him; and
5. If the authority having custody of any such document does not consent to its production, the fact of such refusal.

If the Inquiry Officer had to proceed with the Inquiry ex-parte at any stage, the reasons for doing so should also be recorded.

The daily order sheet is very important as it serves later on as a document to indicate the opportunities extended to the accused official during the Inquiry.

If the evidence is able to establish a part of transaction/event which by itself constitutes a misconduct/mis-behaviour, the Inquiry Officer can express his findings whether such misconduct is proved or not, as long as the imputations clearly state the events and the defence has adequate opportunity to reply to them.

B. Bringing the documents on record

1. The documents may be taken on record on the day of Preliminary Hearing itself or in course of Regular Hearings, as may be found convenient. They are to be assigned exhibit numbers in a continuous series such as S-1, S-2 and so on. Similarly, documents brought on behalf of the CE are allotted serial numbers carrying numbers as D-1, D-2 and so on. Prosecution documents may be marked in red ink and the

defense documents in any other ink for easy distinction. In case several documents are listed under one item, the documents may be marked as S-1 (i), S-2 (ii) so on.

2. The marking of documents should be on the top right corner at a visible place and bear the dated initials of the I A. Documents which are not admitted as genuine or authentic by the CE have to be introduced through witnesses who can prove the authenticity and genuineness of the documents. The documents marked should not be passed on to the PO for custody.

Record of Examination of Witness
INQUIRY UNDER RULE 25 OF BDL CDA RULES, 2020
RECORD OF EXAMINATION OF WITNESS
(Instructions as indicated after this form)

Memorandum No. _____ date _____ against Shri
_____ Designation _____ Witness No.
_____ of Prosecution/Defence examined on _____

Name of Witness _____

Designation _____

PRESENT _____ DATE _____ OF _____ PROCEEDINGS

1.	Inquiry Officer	Shri	_____
2.	Presenting Officer	Shri	_____
3.	CO	Shri	_____
4.	Defence Assistant	Shri	_____

(INSTRUCTIONS)

- 1)
 - (i) The CE, his DA or the Presenting Officer is not present, the same should be recorded along with the reasons, if any, before proceeding to record the evidence.
 - (ii) If the CE is agreeable to proceed with the examination of the witness in the absence of his DA, the same should also be recorded.
 - (iii) If the CE is absent and has authorised his DA to proceed with the examination of the witness in his absence, the same should be recorded and the authorisation taken on record.
- 2) The record of evidence should be given appropriate headings as below:
 - i) Examination in Chief by Presenting Officer/CE/DA.
 - ii) Cross examination by Presenting Officer CE/DA.
Note: If the CE/DA does not want to examine the PWS, the same should be specifically indicated.
 - iii) Re-examination by Presenting Officer/CE/DA.
Note: If the CE/DA does not want to re-examine the Defence Witness after cross examination by the Presenting Officer, the same should be specifically indicated.
 - iv) Questions by the IO
- 3) Blank sheets will be sewed in continuation of the first page.

- 4) The witness and IO should sign/affix LTI and date below every page of the deposition. If the Witness refused to sign, the IO should record this fact at the end of deposition.
- 5) At the end IO will read out the deposition of the witness in the presence of the CE. Verbal mistakes will be corrected in their presence and initialled by the Witness. If the witness denies any part of the record, unless the IO thinks that there has been a mistake in the recording, will record the objection of the witness.
- 6) The following 'certificates' will be suitably appended at the end.
 - i) "Read over to the witness in the presence of CE and admitted correct/objection of witness recorded".
 - ii) "The deposition translated and explained to the witness in Hindi or any known language".
- 7) The CE/DA and PO will sign with date at the end of the deposition.

Model Daily Order Sheet

Daily order
sheet No:
Date:

**Proceedings of the Rule-.... inquiry against Sri....., Designation,
Office issued videMemo no: dated at the**

Venue: O/o the

Present:

1. Smt	-IA
2. Sri	-PO
3. Sri	-Charged Employee
4. Sri	-Defence Assistant

The inquiry commenced at 11.00 hrs for examination of prosecution documents listed in Annexure III of the Memo of charges. Charged Employee examined all the documents with the assistance of his Defence Assistant. Copies of all documents were already supplied to Charged Employee during the second sitting on and he admitted the same.

2. The Charged Employee submitted the list of additional documents along with its relevance required by him to be discovered and produced. The Charged Employee is also directed to provide the list of additional witness, if any, within 10 days.

3. Today's sitting concluded at 12.00 hrs. Notice for the next sitting will be issued in due course.

DA

CE

PO

IA

C. Recording of Evidence

1. Witnesses produced on behalf of the DA are known as Management Witnesses and those produced on behalf of the Defendant are known as Defense Witnesses. They are accordingly identified as MW-1, MW -2, etc., and DW-1, DW-2, etc.

2. Admitted documents and facts can be taken note of straightway. If the PW admits the contents of his /her statement, it may be marked as an exhibit and the CE may be asked to proceed with cross examination. If the PW does not admit the statement in full, and then his statement has to be recorded from the very beginning.
3. General reputation or conduct of a witness should not be allowed to be the subject-matter of examination or cross-examination, but certified copies of conviction to the credit of a witness may be entertained which reflect on the veracity of the witness.
4. The entire proceedings conducted by the IA should be reduced to writing and include the names of all those present on each hearing. The IA should record a note on the very day stating the gist of the request made by the PO or Charged Employee and the orders passed thereon. Such notes should form part of the record of the inquiry and the Depositions of witnesses are to be taken down on a separate sheet of paper at the head of which will be entered the number of the case, the name of the witness and information as to his age, designation, department etc., to identify him.
5. On completion of depositions, the witness concerned, the CE, IA, PO, & DA should counter sign the record at every stage. Then the IA should read and sign the following certificate at the end of deposition of each witness.
“Read over to the witness in the presence of the Charged Employee and admitted as correct of deposition recorded/objection of the witness recorded.”
6. If any witness refuses to sign the deposition, the IA will record this fact and append his signature. If a witness deposes in a language other than English, but the deposition is recorded in English, a translation in the language in which the witness deposed should be read over to the witness by the IA, who will record a certificate that the deposition was translated and explained to the witness in the language in which it was deposed.
7. Copies of statements of witnesses recorded should be furnished to the CE and to the PO at the close of the day's proceedings under acquaintance.
8. The IA should maintain a daily order-sheet to record in brief the business transacted on each day of hearing. The DOS is to be dated and signed by the I A, PO, CE and Defence Assistant and copy of the DOS is to be given to the CE and PO under acquaintance and if anybody refuses to sign the DOS, the fact of such refusal may be mentioned in the DOS itself.

D. Examination of Witness

Stages in Examination of Witnesses

i) Examination-in-Chief:

It means examination of a witness called by the party. If the Presenting Officer introduces witnesses in support of his case and examines them, it is called 'Examination- in-Chief'. Similarly, in case of the defendant's side examination in chief is the first stage. It is viva voce examination, where questions are put to the witness, in a chronological order. It is an art, which is acquired by experience. In Chief examination, no leading question can be put except in certain special cases. Leading question is one, which suggests the answer. Only relevant questions should be asked.

Where earlier statement is accepted by the witness, it will be recorded in the following manner:

"I am shown my earlier Statement dated.... I accept the same as correct. It is signed by me today and the same is marked as Ex: S...and taken on record."

In a case when earlier Statement is not accepted by the witness or the witness does not appear before the Inquiry Officer, it cannot be marked and taken on record. If the Statement is partially accepted by the witness, then the recording will be as below:

"I am shown my earlier Statement dated.... I accept the paras 1 & 2 but do not accept paras 3 & 4 of the same. Same as correct. It is signed by me today and the same is marked as Ex: S...and taken on record."

In this case the IO shall not read paras 3 & 4 which have not been accepted by the witness while evaluating the evidence at the time of writing his report.

ii) **Cross-examination:**

The examination of a witness by the adverse (opposite) party is called 'Cross Examination'. It must relate to relevant facts. Leading questions may be asked. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing. Cross-examination is considered as the most powerful weapon. According to Philip Wendell, it is double-edged weapon, if you know how to wield; it helps to cut enemy's neck. Otherwise, it cuts one's own hands.

When a witness is cross-examined, he may be asked any question which tends: -

1. To testify his veracity (correctness);
2. To discover, who he is, and what is his position; and
3. To shake his character.

These questions cannot be asked in examination-in-chief.

It is a well-established proposition that no oral testimony can be considered satisfactory or valid unless it is tested by cross – examination.

iii) **Re-examination:**

After cross-examination is over, if the party who called the witness feels necessary, may once again examine the witness. Re-examination cannot be claimed as a matter of right, except with the permission of the IO. The purpose of re-examination is to explain any new matters rose in cross-examination, but not to prove any other fact. It refers to matters in cross-examination, and new matter with permission of the IO. Leading questions should not be asked in re-examination except in the following cases:

1. If not objected by the other party; or
2. With the permission of the IA; or
3. Already sufficiently proved mater (undisputed).

The other (adverse) party may further re-cross examine the witness.

Leading Questions

Meaning and Definition:

The expression 'Leading Question' literally means "a question, which by itself suggests the answer as expected by the person asked/put the same."

Section 141 of the Evidence Act defines leading question as ‘any question, which suggests answer, which the person putting the questions wishes or expects to receive, is called a leading question’.

Bentham defines leading question as, “a question is a leading one, when it indicates to the witness, the real or supposed fact, which the examiner expects and desires to have confirmed by the answer”.

Example: 1. Is not your name so and so?

The GOI, MHA vide their OM No. 7/1/70-Ests (A) dated 24th September, 1970 have clarified that if re-examination by the Presenting Officer is allowed on any new matter not already covered by the earlier examination/cross-examination, a further cross-examination on such new matters covered by the re-examination may also be allowed to meet the ends of natural justice. In other words, re-cross-examination is possible and if new points arise, a further re-examination is permissible. The IA should, however, regulate the proceeding against abuse of this facility.

Statement of Witness-Model Format

Statement of Shri..... S/O..... Date:
.....in..... Working as
..... Department, PW-1.....
Cross-Examination by Shri.....
.....

.....
Signature of Witness

.....
Signature of Inquiry Officer

.....
Signature of Presenting Office Assistant Signature of Charged Employee & Defence

13. Calling for new evidence or re-call or re-examine witness

Rule 25 (12). Before the close of the prosecution case, the Inquiring Authority may, in its discretion allow the Presenting Officer to produce evidence not included in the charge sheet or may itself call for new evidence or recall or re-examine any witness. In such case, the Charged Employee shall be given opportunity to inspect the documentary evidence before it is taken on record; or to cross-examine a witness, who has been so summoned.

➤ Regular Hearing – Production of new evidence

- In the interest of justice, the IO by reasons to be recorded in writing, may
 - ✓ Allow the PO to produce new evidence not included in the Memorandum of Charges
 - ✓ Call for new evidence
 - ✓ Call for new witnesses not included in the memorandum of Charges
 - ✓ Allow the CE to produce new evidence
- Give an opportunity to the CE to inspect the documents proposed to be introduced as further evidence

- Adjourn the inquiry for three clear days exclusive of day of adjournment and the day to which it is adjourned
- Allow adducing of new evidence only if there is an inherent lacuna in the evidence produced and not for filling up the gaps in the evidence.

14. Asking for Defence Statement

Rule 25 (13). When the case for the Disciplinary Authority is closed, the Charged Employee may be required to state his/her defence, orally or in writing as employee may prefer. If the defence is made orally, it shall be recorded and the Charged Employee shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any appointed.

➤ Regular Hearing – Statement of Defence of the CE

- After closure of the case of the Disciplinary Authority, he will ask the CE to state his defense either orally or in writing
- If the CE states his defense orally, record it and get it signed by the CE
- If the CE states his defense in writing, give a copy of the same to the PO

Processing of the case for Disciplinary Authority – Defence Statement **INQUIRY UNDER RULE 25 OF BDL CDA RULES, 2020**

Date of Processing- _____

Memorandum No. _____ Dt. _____

against Shri _____ Designation _____

PRESENT

- | | | |
|----|--------------------|------------|
| 1. | Inquiry Officer | Shri _____ |
| 2. | Presenting Officer | Shri _____ |
| 3. | Charged Employee | Shri _____ |
| 4. | Defence Assistant | Shri _____ |

The following documentary and oral evidences have been produced on behalf of the Disciplinary Authority:

DOCUMENTS

- | | | |
|------|---|---|
| P.1 | } | Indicate their reference number and date if any and a concise description of the documents. |
| P.2 | | |
| P.3 | | |
| P.4 | | |
| Etc. | | |

WITNESSES

- | | | |
|----------|---|-------------------------------------|
| (1) PW 1 | } | Give names and designations clearly |
| (2) PW 2 | | |
| (3) etc | | |

With the above, the case for the prosecution is completed.

NOW INQUIRY OFFICER TO CHARGED EMPLOYEE CAN ASK AS:
“Now you have an opportunity to make statement of your defence, either orally or in writing as you may prefer”

ANSWER BY THE CE

- (1) I do not want to make a statement at this stage. (Or)
- (2) I would like to submit a written statement. (The written statement should be received and recorded by the IO. This should also be recorded in the order sheet).
- (3) The CE gave the following oral statement.

15. Defence Witnesses Examination

Rule 25 (14). The evidence on behalf of the Charged Employee shall then be produced. The Charged Employee may examine himself/herself in his/her own behalf if employee so prefers. The witnesses produced by the Charged Employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the Inquiring Authority according to the provision applicable to the witnesses for the Disciplinary Authority.

- Regular Hearing – Presentation of the case of the CE
- Direct the CE to present his defense by producing evidence
 - Take the same on record as ‘Defense Exhibits’
 - Allow the CE to examine himself on his own behalf, if the CE so desires
 - Direct the CE to examine Defense Witnesses, if any
 - Direct the PO to cross-examine the Defense Witnesses
 - Make a record of deposition of the Defense Witnesses
 - Allow the CE to re-examine the Defense Witnesses, if so desired
 - Examine the Defense Witnesses, if considered necessary

15.1 Defence witnesses will be produced and examined in exactly the same manner as the prosecution witnesses i.e. Examination-in-chief by CE/DA, cross-examination by PO, Re-examination by CE/DA.

Re-Re-examination by PO, if necessary can be made. Defence documents may be numbered as D-1, D-2 etc., and Defence witnesses as DW-1, DW-2, etc., The Charged Employee may also examine himself on his own behalf, if he so desires. If the Charged Employee does not avail himself of this opportunity; then it is obligatory on the part of the IO, after the defence case is closed, to generally question the Charged Employee on the circumstances appearing against him in the evidence to enable him to explain such circumstances. The enquiry authority can ask any question to the witness either during his examination, cross-examination or re-examination.

Statement of witnesses to be authenticated by the signature of the witnesses, the accused employee and the Inquiring Officer.

The normal practice in all Departmental inquiries is that the statements of witnesses are countersigned by the witnesses concerned, the Charged Employee and the Inquiry Officer so that the validity of the documents is

not questioned by any one at a later date. It is necessary that this procedure is followed in all inquiries.

Statement of each witness will be recorded on separate sheets of papers and the name, designation and address noted at the top with the date on which it is being recorded. Copies of the deposition will be made over to the Presenting Officer and Charged Employee at the close of each day's oral hearing.

- 15.2** The evidence on behalf of the Charged Employee shall be produced. The Charged Employee may examine himself in his own behalf if he so prefers. The witnesses produced by the Charged Employee shall then be examined and liable to cross-examine, re-examine and examine by the IA as in the case of PWs.

Production of Defence Evidence
INQUIRY UNDER RULE 25 OF BDL CDA RULES, 2020
PRODUCTION OF DEFENCE EVIDENCE

Memorandum No. _____ Dt. _____

Against Shri _____ Designation _____

PRESENT

1.	Inquiry Officer	Shri _____
2.	Presenting Officer	Shri _____
3.	Charged Employee	Shri _____
4.	Defence Assistant	Shri _____

INQUIRY OFFICER TO THE CE/DA (AGS)

“Now you can produce your evidence witnesses/documents on your behalf. You can also examine yourself on your own behalf as your witness if you so prefer. Please state whether you wish to produce any witnesses/documents for this purpose.”

ANSWER BY THE CO/DA (AGS)

CE
(Signature)

DA
(Signature)

PO
(Signature)

IO
(Signature)

16. General Questioning of CE by IO

Rule 25 (15). The Inquiring Authority may, after the Charged Employee closes his/her case, and shall, if the employee has not examined himself/herself, generally question the Charged Employee on the circumstances appearing against the Charged Employee in the evidence for the purpose of enabling the Charged Employee to explain any circumstances appearing in the evidence against him/her.

➤ Regular Hearing – General Examination of CE by the IO

- After close of the case of the CE, if the CE does not offer himself to be examined as his own witness, generally question the CE on the circumstances appearing against him in the evidence to enable him to clear his position
Mandatorily do the General Examination of CO and record the same in the DOS.

17. Asking for Arguments/Briefs

Rule 25 (16). After the completion of the production of the evidence, the Inquiry Authority can however, on his own or on the desire of the parties, takes written briefs. If he does so, he should first take the brief from the Presenting Officer, supply a copy of the same to the Charged Employee and take the reply brief of the latter. The IA may hear the PO or permit him to file written brief, if he so desire.

➤ Regular Hearing – Summing up of Arguments or filing of written breifs

- After completion of production of evidence, hear the PO and the CE, to sum up their cases
- Direct the PO and the CE on his own or permit the PO and the CO to submit their written briefs, if they so desire
- Make available a copy of the written brief of the PO to the CE
- Direct the CE to submit his written brief on receipt of the PO's written brief

The IO shall send the PO brief to the GS for submitting his written brief.

The IO shall send the PO brief to the Charged Employee for submitting his written brief.

Arguments /Written Briefs
INQUIRY UNDER RULE 25 OF BDL CDA RULES, 2020
ARGUMENTS/WRITTEN BRIEFS

DATE OF PROCEEDING _____
Memorandum No. _____ date _____
Against Shri _____ Designation _____

1.	Inquiry Officer	Shri _____
2.	Presenting Officer	Shri _____
3.	Charged Employee	Shri _____
4.	Defence Assistant	Shri _____

Production of Evidence in these proceedings was completed on _____

The following documentary and oral evidence has been produced on behalf of the CE.

DOCUMENTS

D.1 }
D.2 } Indicate their reference number and date if any and a concise
D.3 } description of
Etc. } the documents.

WITNESSES

(1) DW 1 }
(2) DW 2 } Give names and designations clearly
etc. }

The PO and the CE/DA were informed that they may submit their arguments orally or by way of a written brief.

Written briefs dt. _____ and dt. _____ were submitted on _____ which have been taken on record.

They submitted their arguments orally on _____.
The inquiry was accordingly concluded.

CE _____

INQUIRY OFFICER _____

DA _____

PRESENTING OFFICER _____

MODEL DAILY ORDER SHEET FOR RECORDING PROCEEDINGS OF REGULAR HEARING AT THE END

CONFIDENTIAL

Bharat Dynamics Limited
Hyderabad

Dated.....

Subject: - Disciplinary proceedings against Shri, ...Section,
Bharat Dynamics Limited.

DAILY ORDER SHEET

Present: -

1. Shri..... Presenting Officer (PO)
2. Shri....., Charged Employee(CE)
3. Shri....., Defence Assistant(DA)

Regular hearing was held on..... (Day/date/time/venue). Both Presenting Officer and Charged Employee confirmed that all orders passed by Inquiring Authority have been complied with and that all the formalities have been completed.

Listed documents vide Annexure-III of the Charge-sheet were marked as Ex. M-1 to Ex. M.... (Whatever the number) and taken on record.

Presenting Officer confirmed that he has no new evidence to adduce. With this, case of the Disciplinary Authority was closed.

Charged Employee who was directed to submit statement of defence submitted the same to the undersigned with copy to Presenting Officer. This was taken on record.

Additional/defence documents permitted by the undersigned and inspected by the Charged Employee were marked as Ex. D-1 to Ex. D-..... (Wherever the number) and taken on record.

Depositions of defence witness-1.... (Wherever the number) were recorded and taken on record.

Since Charged Employee did not prefer to be witness in his own case, his general examination was recorded and taken on record.

Copies of depositions of both the sides were handed over to both presenting Officer and Charged Employee.

Presenting Officer was directed to submit his written brief to the undersigned, with copy to Charged Employee, under acknowledgement, by..... (Date is to be given). Charged Employee is directed to submit his written brief to the undersigned only by... (Date is to be given). It is clarified that if brief is not received by the given date, inquiry report will be written without waiting for the written brief from Charged Employee.

Copy of the DOS is handed over to the Presenting Officer and Charged Employee for compliance.

Sd/-
(INQUIRING AUTHORITY)

Signature of-

1. Presenting Officer
2. Charged Employee
3. Defence Witness

**MODEL DAILY ORDER SHEET FOR ADJOURNING PROCEEDINGS ON
RECEIPT OF ORDER OF THE HIGH COURT**

CONFIDENTIAL

Bharat Dynamics Limited
Hyderabad

Dated.....

Subject: - Disciplinary proceedings against Shri ..., ...Section, Bharat
Dynamics Limited.

DAILY ORDER SHEET

Received a copy of order dated passed by the Hon'ble High Court of at in Writ petition No the above cited case, wherein the Court has ordered that proceedings may be stopped till further order/kept in abeyance till further order/or adjourned. Proceedings have, therefore, been stopped/ in abeyance/adjourned as ordered by the Court.

2. Copy of this DOS is being sent to Presenting Officer for keeping the undersigned informed of the development so that proceedings could be started immediately after receipt of the final judgement of the Court on the prayers made in the petition.

3. Copy of this DOS is sent to Presenting Officer and Charged Employee for information.

Sd/-

INQUIRING AUTHORITY

To

1. Presenting Officer
2. Charged Employee

18. Preparation of IO Report

Rule25(19).i) After the conclusion of the Inquiry, report shall be prepared and it shall contain:

- a) A gist of the articles of charge and the statement of the imputations of misconduct or misbehavior;
- b) A gist of the defence of the Charged Employee in respect of each article of charge;
- c) And assessment of the evidence in respect of each article of charge;
- d) The findings on each article of charge and the reasons therefore.
Explanation—If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge. Provided that the findings on such article of charge shall not be recorded unless the Charged Employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending oneself against such article of charge.

MODEL DOS TO BE PASSED AT THE END OF THE PROCEEDINGS

CONFIDENTIAL

Bharat Dynamics Limited
Hyderabad

Dated.....

Subject: - Disciplinary proceedings against Shri, ...Section,
Bharat Dynamics Limited.

DAILY ORDER SHEET

DATE/MONTH/YEAR: Presenting Officer written brief received.

DATE/MONTH/YEAR: Charged Employee written brief received.

DATE/MONTH/YEAR: Inquiry Report submitted.

Sd/-
Inquiring Authority

➤ Ex-parte Inquiry

- ✓ Hold ex-parte inquiry in the following circumstances
 - The CE does not submit written statement of defense on or before the date specified for the purpose even after receipt of Memorandum of Charges
 - The CE does not appear in person before the IO
 - The CE fails to or refuses to comply with orders of the IO
 - The CE attends part of the hearings and remains absent for rest of the hearings
- Hold the Ex-parte inquiry strictly adhering to the procedure laid down under Rule 14(11) to (2)
- Ensure that notices for hearings and the copies of the proceedings are invariably sent to the CE.

19. Preparation and Forwarding IO Report to Disciplinary Authority

Rule 25 (19) (i). After the conclusion of the Inquiry, report shall be prepared and it shall contain

- a) A gist of the articles of charge and the statement of the imputations of misconduct or misbehavior;
- b) A gist of the defence of the Charged Employee in respect of each article of charge;
- c) And assessment of the evidence in respect of each article of charge;
- d) The findings on each article of charge and the reasons therefore.

Explanation—If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge.

Provided that the findings on such article of charge shall not be recorded unless the Charged Employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending oneself against such article of charge.

Rule 25 (19) (ii). The Inquiring Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the records of inquiry which shall include:

- a) The report of the inquiry prepared by it under sub-clause (i) above;
- b) The written statement of defence if any submitted by the employee referred to in sub rule (13);
- c) The oral and documentary evidence produced in the course of the inquiry;
- d) Written briefs referred to in sub-rule (16) if any;
- e) The orders if any made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry.

19.1 Inquiry Report to contain:

- At the close of the inquiry, prepare a report in writing containing the following:-
- An introductory para, Reference to the order of appointment of the IO and dates of hearing etc.
 - The articles of charge indicating and statement of the imputation of misconduct or misbehavior, indicating those which are admitted and which require discussion
 - Each article of charge inquired into
 - The case in support of each article of charge inquired into
 - The defense of the CE in respect of each article of charge inquired into
 - An assessment of the evidence adduced during the inquiry in respect of each article of charge inquired into
 - Reasoned findings on each article of charge inquired into
- Clearly state whether or not the charges can be held to have been proved against the CE i.e., proved or not proved
- The Conclusions in the Inquiry Report must flow logically out of the evidence on record
- The findings must be in conformity with the charges
- Avoid merely summarizing the version of the two sides and selecting one version
- Avoid irrelevant consideration, conjecture, surmise, suspicion etc in the Inquiry Report
- Avoid reference to the proceedings happened before and after the inquiry
- Avoid giving weight, whatsoever, to his personal knowledge of the matter against the CE
- Avoid giving recommendations either to impose a stringent penalty, or to take a lenient view, or for imposing a specific penalty
- Forward the Inquiry Report duly signed to the Disciplinary Authority along with the following folders:-
 - Folder – I : Memorandum of Charges with Annexure I to IV
 - Folder – II : Proof of receipt of Memorandum of Charges by the CO
 - Folder – III: Written statement of defense of the CE
 - Folder – IV: Orders of the Disciplinary Authority appointing the IO and the PO
 - Folder – V : Daily Order sheets

- Folder – VI : Prosecution Exhibits
- Folder –VII : Depositions of the Prosecution Witnesses and their examination and cross-examination etc.
- Folder – VIII : Defense Exhibits
- Folder – IX : Depositions of the Prosecution Witness and their examination and cross-examination etc.
- Folder – X : Correspondence made in connection with the Inquiry with the CO and the Disciplinary Authority; orders made by the Inquiring Authority during the inquiry; Written Briefs
- Folder – XI : Briefs of PO and IO

Few more additional points to be kept in mind are:

It will be the responsibility of IO/PO to ensure that:

- a. All case records and inquiry report (two ink signed copies) properly documented and arranged is handed over to the office of Disciplinary Authority.
- b. The report returns findings on each of the Articles of Charge which has been enquired into should specifically deal and addresses each of the procedural objections, if any, raised by the Charged Employees as per the extant rules and instructions.
- c. 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 and appeal Rules to which the delinquent Charged Employees are governed.
- d. Inquiry Officer shall be required to give an undertaking as follows:
 - 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 delinquent officer. A certificate to this effect will be obtained from the Inquiry Officer with respect to every inquiry and placed on record;
 - 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/her.
- e. No such documents/information or data shall be divulged to anyone during the Inquiry or after presentation of the Inquiry Report. All the records, reports etc. available with the Inquiry Officer shall be duly returned to the authority which appointed him/her as such, at the time of presentation of the Inquiry Report.
- f. The Inquiry Officer shall conduct the inquiry proceedings at a location taking into account the availability of records, station/place where the misconduct occurred as well as the convenience of the witnesses/ PO etc. Video Conferencing should be utilized to the maximum extent possible to minimize travel undertaken by the IO/PO/CE. The competent authorities will facilitate necessary arrangements for the Video Conferencing.

19.2 Preparing Inquiry Report by Inquiring Authority

There are no prescribed guidelines for preparation of **Inquiry Report** presumably for the reason that enquiry is a quasi-judicial process. The following are the essential attributes of a good enquiry report:

- 1) Credibility;
- 2) Legality; and

3) Professional approach

Specific characteristics of the report can be deduced from the above mentioned attributes. They are: -

- (a) Transparent impartiality;
- (b) Full disclosure of all relevant facts needed for decision making by the Disciplinary Authority;
- (c) Speaking report;
- (d) Clarity of thought and felicity of expression
- (e) Compliance with the law which regulates disciplinary proceedings.

19.3 Inquiry Officer should record its findings separately on each charge

The DOPT in para 2 of their **O.M. No. 39034/7/2012-Estt. (B), dated 15.5.2012**, directed the Inquiry Officers to record their findings in a comprehensive and cogent report while assessing each Article of charge separately rather than clubbing them together and writing their findings in a running narrative.

'Partly-proved' charges

In case Inquiry Officer reaches the conclusion that a charge is only partly proved, he must state specifically which part of the charge has been proved and which could not.

19.4 Inquiry to be concluded and report submitted within six months

Rule 25 (20). a) The Inquiring Authority should conclude the inquiry and submit his/her report within a period of six months from the date of receipt of order of his/her appointment as Inquiring Authority.

b) Where it is not possible to adhere to the time limit specified in clause (a), the Inquiring Authority may record the reasons and seek extension of time from the Disciplinary Authority in writing, who may allow an additional time not exceeding six months for completion of the Inquiry, at a time.

c) The extension for a period not exceeding six months at a time may be allowed for any good and sufficient reasons to be recorded in writing by the Disciplinary Authority or any other Authority authorised by the Disciplinary Authority on his/her behalf.

Model Report of Inquiry by IA

Report of Inquiry

In the matter of Inquiry against Shri vide charge sheet No..... dated issued by Shri (Name and designation).

- 1) I was appointed Inquiry Officer vide order No..... dated to conduct an inquiry into the following charges of misconducts against Shri
 - (i) Charge for misconduct under for committing an act subversive of discipline.
 - (ii) Charge of misconduct under for habitual neglect of work.

- 2) The charge-sheeted employee submitted his written explanation on.....denying the above charges.
- 3) An inquiry was conducted into the above charges on (dates) and (last date) and was concluded on (date).
- 4) (a)The following witnesses were presented on behalf of the management: -

Witness No.	Name & Designation	Page Nos. where Statement recorded
PW-1	Shri A, Supervisor	47
PW-2	Shri F, Chief Engineer	49
PW-3	Shri V, Fitter	50
PW-4	Shri J, Helper	52

The employee chose not to cross-examine any PW.

- b) The charge-sheeted employee examined himself. His statement appears at pages to

He also produced the following witness in his defense:

Witness No.	Name & Designation	Page Nos. where Statement recorded
DW-1	Shri S, Fitter	54

[**Note:** Where the employee does not examine himself or if he does not produce any witnesses, the fact should be recorded in the proceedings of the day as well as here in the report mentioning the relevant page number of the proceedings.]

- 5) No documents were filed by any of the parties and they relied only on oral evidence.

[**Note:** Where documents are submitted by the parties, the number of documents filed by each party should be mentioned here in the report as well as in the proceedings of the day mentioning the page numbers given to the documents in the proceedings file.]

- 6) Shortly stated, the facts alleged against the charge-sheeted employee Shri are that he was working as a (job description) in (name of the department) under Shri A his supervisor. On (date of incident) at about (describe the details of incident)

- 7) Charge under Rules.....

It is admitted that on (date of incident) Sh..... was

- 8) Charge under Rules....

From the discussion above, it is proved that during duty hours Sh was

- 9) The record of inquiry consisting of pages is hereby submitted with this report of inquiry, which itself consists of Pages, for orders of the Disciplinary Authority.

Date

Signature of the Inquiry Officer

Model DOS at the end of Departmental Inquiry

MODEL DOS TO BE PASSED AT THE END OF THE PROCEEDINGS

CONFIDENTIAL

No.

Government of India

Ministry of Defence

Bharat Dynamics Limited

Hyderabad

Dated:

Subject:- Disciplinary proceedings against Shri,... Section, Bharat Dynamics Limited.

DAILY ORDER SHEET

DATE/MONTH/YEAR:Presenting	Officer	written	brief	received.
DATE/MONTH/YEAR:Charged	Employee	written	brief	received.
DATE/MONTH/YEAR:Inquiry Report submitted.				

Sd/.

Inquiring Authority

20. CVC Instructions:

- For effective monitoring of the inquiry proceedings, the Inquiry Officer is to provide a monthly progress statement to the Disciplinary Authority, in respect of the departmental inquiries, being conducted by him/her.
- On the aforementioned issues, the main guidelines issued by CVC are:-
 - DOPT's OM No.372/3/2007-AVD-III(Vol.10) dated 14.10.2013
 - CVC's Circular No. 02/01/2016 dated 18.01.2016
 - CVC's Circular No. 18/12/20 dated 14.12.2020
 - CVC's Circular No. 19/09/21 dated 06.10.2021
 - CVC's Circular No. 21/12/21 dated 03.12.2021
 - CVC's Circular No. 22/12/21 dated 08.12.2021
- ☐ The total time taken from the date of issue of charge sheet up to the stage of imposition of penalty should not be more than 18 months.

**Model Time Limit for Departmental Inquiries as laid down in
Circular No. 8(1)(g)99(3) dated 03 March, 1999**

Stage of Departmental Inquiry	Time Limit Prescribed
<ul style="list-style-type: none"> Fixing date of Preliminary Hearing and inspection of listed documents, submission of Defence documents/witnesses and nomination of a Defence Assistant (DA) (if not already nominated) 	Within four weeks
<ul style="list-style-type: none"> Inspection of relied upon documents/submission of list of DWs/Defence documents/Examination of relevancy of Defence documents/DWs, procuring of additional documents and submission of certificates confirming inspection of additional documents by CE/DA Issue of summons to the witnesses, fixing the date of Regular Hearing and arrangement for participation of witnesses in the Regular Hearing Regular Hearing on Day to Day basis 	3 months
Submission of Written Brief by PO to CE/IO	15 days
Submission of Written Brief by CE to IO	15 days
Submission of Inquiry Report from the date of receipt of written Brief by PO/CE	30 days
NB: If the above schedule is not consistent/in conflict with the existing rules/regulations of any organisation, the outer time limit of six months for completing the Departmental Inquiries should be strictly adhered to.	

- After receipt of Commission's First Stage Advice, issue of Charge Sheet and appointment of IO/PO (if required) should not take more than two months.
- The Inquiry Officer is required to submit his report within six months from the date of his appointment.
 - ☐ Commission has prescribed that the cases of officers/officials due for imminent retirement should be submitted for its advice at least 30 days before their retirement.
- The relevant Circulars are: -
 - CVC's Circular No. 34/09/07 dated 27.09.2007
 - CVC's Circular No. 03/03/11 dated 11/03/2011
 - CVC's Circular No. 04/07/19 dated 23.07.2019
 - Office Order No. 04/05/20 dated 12.05.2020
 - CVC Circular No. 13/10/20 dated 01.10.2020

CVC Circular No 18/12/2020 dated 14.12.2020

Timely Finalization of Departmental Inquiry Proceedings – Improving Vigilance Administration

Sl. No.	Stage of Disciplinary Action	Time Limit
1.	Issue of Charge Sheet to the stage of appointment of IO and PO	All the required actions may be completed within a period of 02 months from the date of First Stage Advice of the Commission.
2.	Conducting Departmental Inquiry and submission of report by the Inquiry Officer (I.O.)	The inquiry report should be submitted within 6 months from the date of appointment of Inquiry Officers.
3.	Overall additional time for all/any of the above stage of disciplinary proceedings, due to some unavoidable/unforeseen circumstances	In addition to the above time limit, a period of 1 more month may be taken, if required.

21. Certificates by IO

FORM OF CERTIFICATE BY INQUIRY OFFICER FOR WITNESSES

This is to certify that Sri (name, designation, office etc. appeared before me as a witness onat (place).....in the Domestic Inquiry against Sri (name designation etc.) and was discharged on (Date) at (time)

Nothing has been paid to him because of travelling and other expenses.

(Inquiry Officer)

Place:

Date:

Copy forwarded for information to controlling authority.

FORM OF CERTIFICATE BY INQUIRY OFFICER FOR PRESENTING OFFICER/DEFENCE ASSISTANT

This is to certify that Sri (name, designation, office etc.) attended the proceedings in Domestic Inquiry against Sri (name, designation) to present the case in support of the charges/to assist the said Sri (name)....in presenting his case on.....(date) at..... (Place).

Nothing has been paid to him because of travelling and other expenses.

(Inquiry Officer)

Place:

Date:

Copy forwarded for information to controlling authority

- 22.** Vide Letter No. 60/2/68-C dated 04 March, 1968 Central Vigilance Commission regarding **Progress Report of Hearing in Departmental Enquires** desired Presenting Officer to submit report to Disciplinary Authority in the format as furnished below:

Report of Presenting Officer to Disciplinary Authority

Progress Report of Hearing in Departmental Enquires Held on

- | | | | |
|-----|---|---|-----------------------|
| 1. | Name of the SPE Branch | } | (In C.B.I cases only) |
| 2. | PE / RC No. | | |
| 3. | Date of transmission of SP's report recommending RDA | | |
| 4. | Name and designation of the accused | | |
| 5. | Name of the Commissioner for Departmental Enquiries / Inquiring Authority | | |
| 6. | Date of commencement of proceedings before the Inquiry Authority | | |
| 7. | Name and designation of the Presenting Officer | | |
| 8. | Date of last hearing | | |
| 9. | Date of present hearing | | |
| 10. | Details of Proceedings | | |
| | (i) | Place where enquiry was held | |
| | (ii) | No. of witnesses summoned | |
| | (iii) | No. of witnesses who did not appear for examination and the reasons for their absence | |
| | (iv) | No. of witnesses examined on this date of hearing | |
| | (v) | Brief details of the business transacted | |
| 11. | Remarks | | |

Presenting Officer

- **Circular No. 09/07/18 dated 27 July, 2018 by Central Vigilance Commission regarding CVO to closely monitor presentation of case by Presenting Officer before the IO.**

Telegraphic Address :
"SATARKTA: New Delhi

E-Mail Address
cenvigil@nic.in

Website
www.cvc.nic.in

EPABX
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi-110023
018/VGL/044

सं./No.....

दिनांक / Dated.. 27.07.2018

Circular No. 09/07/18

Subject: CVO to closely monitor presentation of case by Presenting Officer before the IO

It has been noticed by the Commission that many of the CVOs are not monitoring the presentation of cases by the Presenting Officers (PO) before the Inquiry Officers (IO). Undesirable practice of POs taking decisions contrary to the position stated in the charge-sheet without the specific consent of the Disciplinary Authority has also been noticed.

2. In this regard attention is invited to para 7.24.3 (xi) of Vigilance Manual 2017 whereby the Presenting Officers are required to keep the Disciplinary Authority posted with the progress of inquiry proceedings by sending a brief of work done at the end of each hearing. Attention is also invited to para 17 of Chapter 15 of the Handbook for Inquiry Officers and Disciplinary Authorities issued by ISTM (DoPT) wherein guidelines on the responsibilities of the PO during the Regular Hearing have been described in detail.

3. The Presenting Officer is required to lead the evidence of the prosecution logically and forcefully before the Inquiring Authority. The CVOs are required to monitor the progress of inquiry proceedings including the quality of performance of Presenting Officers before the IO on a regular basis and keep the disciplinary authorities posted about it. While examining some of the cases referred to the Commission for second

Contd/.....

stage advice, it has been noticed by the Commission that some of the Presenting Officers (POs) have taken a stand / position contrary to the stand / position stated in the charge-sheet without the explicit consent of the Disciplinary Authority. In some cases, the POs have not presented some of the listed/ relied upon documents. Further, in some cases, the POs have not even ensured that the listed witnesses are summoned and produced before the Inquiring Authority for examination and substantiating the position stated in the charge-sheet. There are also instances where the POs have not sought additional documents to be produced before the IO even though they were felt essential for sustaining the charges/imputations.

4. The Commission conveys that the CVOs do not become *functus officio* once the PO is appointed in a departmental proceeding. The CVOs need to closely monitor the presentation of the case by the PO before the IO. The Commission would therefore advise all CVOs to closely monitor the presentation of cases made by the Presenting Officers before the Inquiring Authority and ensure that the cases are suitably presented before the IO on behalf of the Disciplinary Authority. The performance of the CVOs in this regard will be closely watched by the Commission. Further, for any of the observations in the conduct of the proceedings the CVO is answerable.

5. This issues with the approval of the Commission.



(M. A. Khan)

Officer on Special Duty

To

1. All CVOs of Ministries/Departments/CPSEs/PSBs/FIs/PSICs/Autonomous Organisations
 2. NIC for uploading the circular on CVC's website
- **Vide CVC's Circular No. 21/12/21 dated 03.12.2021, and Circular No 22/12/21 dated 08.12.2021, Inquiry Officers are directed to submit a monthly report to the Disciplinary Authority on the status and progress of inquiry proceedings with a copy to the concerned CVO.**

4. The Commission has further directed that all the Inquiry Officers be asked to submit a monthly report to the Disciplinary Authority concerned, indicating the present status/progress of the inquiry proceedings being conducted by them. A copy of the monthly report should also be endorsed to the CVO of the organizations concerned, by the Inquiry Officer. In case, it is found that the inquiry proceedings are getting delayed beyond the prescribed time limit, the CVO concerned should immediately take up the matter with the Inquiry Officer and Disciplinary Authority concerned to ensure timely action.

CVC's Circular No 22/12/21 dated 08.12.2021

Attention is invited to Commission's Circular No. 21/12/21 dated 03.12.2021, vide which it was directed that Inquiry Officers, appointed by the organizations to conduct departmental inquiries, are required to submit a monthly report indicating present status/progress of the inquiries being conducted by them.

2. The Commission has desired that for the sake of uniformity and clarity, the information regarding the status of inquiry proceedings may be obtained from the Inquiry Officers, in the format as enclosed as **Annexure-I**, to this circular. The monthly report may be submitted by the Inquiry Officers, latest by 10th day of the succeeding month.

3. It may be noted that information should be obtained from the Inquiry Officers in respect of ongoing inquiries and also in respect of departmental inquiries, that may be instituted in future.

Report Format

Name of Organization _____

Annexure-I

Name of Inquiry Officer _____ Report for the month of _____

S. No.	Name and Designation of CO	Date of appointment of IO	Date of Preliminary Hearing	Whether Brief Hearing required. If Yes, date of Brief Hearing	No. of Regular Hearings held till the end of the month	Dates of Regular Hearing	Date of submission of PO's Brief	Date of submission of Defence Brief	Date of submission of IO's report	Time taken since appointment as IO (upto the stage inquiry has progressed so far)	Whether time limit given in Commission's Circular No. 21/12/21 dated 03.12.2021 is being adhered to. If not, reasons thereof
1	2	3	4	5	6	7	8	9	10	11	12

Signature of Inquiry Officer

To,
Disciplinary Authority

Copy to:- Chief Vigilance Officer

Note:- Report to be submitted by IO by 10th day of every month to DA with copy to CVO.