



**MOIL LIMITED**  
(A Government of India Enterprise)

# VIGILANCE VANI

MONTHLY NEWS LETTER OF VIGILANCE MOIL

Issue : October 2023

Volume : 10



## Special edition on Role of IO/PO in Disciplinary Proceedings

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### Visit of Shri Abhijeet Narendra, CVO & Joint Secretary, Ministry of Steel in MOIL Bhawan on 8th Sep'23.

Shri Abhijeet Narendra, CVO & JS, Ministry of Steel, visited MOIL Bhawan, Nagpur on 8th Sep'23. Interaction was done with CMD, Shri Ajit Kumar Saxena and other Directors of MOIL on this occasion on various aspects of vigilance administration in MOIL. Review with vigilance officers about vigilance activities in MOIL was done by him in which Shri Pradeep Kamle, CVO/MOIL had given a brief presentation on vigilance performance.

It was advised to ensure that Rules & Procedures are available for all activities. It should be monitored through inspections that the same are followed in the organization. If there is lack of clarity or gap in vigilance prone area which may leave scope for manipulation, standard operating procedure/rule should be formed to plug the gap.

### "Role of IOs/POs in Conducting Disciplinary Proceedings"

**Departmental Inquiry proceedings is mainly based on principles of natural justices and constitutional provisions relating to disciplinary proceedings.**

**General Principles of Natural justice are as follows:**

- i. No one can be condemned unheard.
- ii. No one can be judge in own case
- iii. Justice should not only be done but should manifestly appears to have been done.
- iv. Final order must be speaking order.

**Constitutional provisions relating to disciplinary proceedings:**

Part XIV of the constitution relates to services under the Union and the States', wherein, articles 309, 310 and 311 are relevant to disciplinary proceedings.

- ❖ Article 311 (1) No person who is member of civil services of the union..... Shall be dismissed or removed by an authority subordinate to that by which he was appointed.
- ❖ Article 311 (2) No such person as aforesaid shall be dismissed or removed or reduce in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

**Misconducts:**

Under MOIL Employees Conduct Rules 1978(for Executives) 37 nos. and in MOIL Standing Order (for Non – Executives & PR Workers) 19 nos. of minor and 25 nos. of major acts of misconduct are defined. Any breach of these rules shall be deemed to constitute a misconduct which is punishable.

**Charge- sheet:**

A charge is essentially an omission or a commission. It articulates that the charged employee has committed something which should not have been done or has failed to do something which he ought to have done. To discharge of the constitutional provisions and compliance of principles of natural justice charge sheet is issued. Following 04 Annexures are must be enclosed with the charge-sheet:-

1. Article of charge.
2. Statement of imputation of misconduct.
3. List of documentary evidence.
4. List of oral witnesses.

**Some important points related with charge sheet are given below:**

- i. There is no limit on the number of charges in the charge sheet.
- ii. The employer is free to proceed in as many departmental proceedings as it considers desirable.
- iii. On CVC recommendation charge sheet should be issued within One month from date of recommendation.
- iv. Charge sheet to be issued may be served in person or sent to the supervisory officer of the employee concerned for service or sent by registered post.
- v. Charge sheet issued through registered post is returned by postal authorities with the endorsement ' not found'
  - a. Dispatched to all known addresses available with the organization.
  - b. Pasted on the notice board of the organization.
  - c. Published in the local News Paper
- vi. In case of amendment to the charge sheet, the corrigendum should be issued by making out a new charge against the charged officer.

**Appointment of IO/PO:**

IO and PO are to be appointed if there is a need to inquire into the charges. The need will emerge only when the charged employee denies the charge or does not respond to the charge sheet.

**Inquiry Officer:**

An officer or a Board or committee of Inquiry appointed by the disciplinary authority to inquire into the charges framed against an employee of the Company.

**Presenting Officer:**

Disciplinary authority by an order appoints an employee to present the case on his behalf before the Inquiry Officer.

**Defense Assistant**

The accused employee may take the assistance of any other employee of the Company to present the case on his behalf but shall not engage a legal practitioner for the purpose or any office bearer of the Union who is not an employee of the Company

## **Role of Inquiry Officer**

The basic purpose of appointment of Inquiry Officer is to inquire into the truth of the imputations of misconduct or misbehavior against a Charged Officer. Main Activities performed by the Inquiry Officer are as follows:

1. Verifying the appointment order and the enclosed documents acknowledging the appointment.
2. Preparation of the **Daily Order Sheet** – This will be done throughout the Inquiry
3. Analyzing and understanding the Charges
4. Fixing the date for Preliminary Hearing
5. Sending communication to the parties about hearing.
6. Informing the controlling officers of Charged Officer and Presenting Officer
7. Ascertaining as to whether the Charged Officer has finalized a Defense, if so informing the Controlling Officer of the Defence Assistant.
8. Submission of Inquiry report to Disciplinary authority after completion of Departmental proceedings as per procedure.

**Daily Order Sheet:** This is an authentic record of the inquiry. Hence, it must be signed by Inquiry Officer, Presenting Officer and the charged employee and or the Defence Assistant. The Copies of daily order sheet must be given to both sides i.e. defence as well as management side.

## **Role and functions of the Presenting officer**

Presenting Officer is appointed for the purpose of presenting the case of the Disciplinary Authority so that the charges can be proved in the Inquiry. His job is to Present the documentary evidence, leading the oral evidence on behalf of the disciplinary authority, Cross examining the defence witness and Preparation & presentation of the written brief.

**Inquiry Proceedings:** Conduct of inquiry comprises of following main stages:

**i. Preliminary Hearing Stage:-** It includes following procedures and activities:

- First hearing
- IO shall record a finding of guilt in respect of those articles of charges to which the employees pleads guilty.
- IO shall record a those articles of charges to which the employees denied.

**ii. Regular Hearing Stage:-** It includes following procedures and activities:

- Production of witnesses and documents.
- Last hearing before the close of case.
- Records all the events of the inquiry.
- Signed by Inquiry Officer, Presenting Officer and the Charged Officer, and or the Defence Assistant.
- Copies given to both sides.
- Authentic record of the inquiry.

**iii. Post Hearing Stage:-** It includes following procedures and activities:

- Submission of written Brief.
- Submission of Inquiry Report to DA
- Communication to charged employees
- Final order must be a "SPEAKING ORDER"

## **Inquiry Reports**

Purpose of the Inquiry report is to analyze the evidence received in the course of the inquiry and the submissions made by the PO and the CO through their respective briefs and give a finding as to whether the charges are proved.

Inquiry Authority should take care of the following while preparing IO report:

- The authority should confine to stating as to whether the charges have been proved or otherwise.
- It must be ensured that all the findings and conclusions in the report are based on evidence produced during the inquiry.
- Only on the material made available to the Charged Officer and in respect of which opportunity was provided for controverting the same can be relied upon for drawing conclusions.
- IO should ensure not to import his personal knowledge in preparing the report.

### **Following guidelines may be kept in mind while preparing the Inquiry Report:**

1. Inquiry report must be based on records of the case alone.
2. Material collected behind the back of accused can't be used by Inquiry Officer.
3. For drawing his inferences, Inquiry Officer cannot use his personal knowledge of the case or of persons involved. His findings must be free from personal bias.
4. Assessment is to be made only of the points raised in the charge sheet.
5. The burden of proof is on the employer. {Presenting Officer}
6. Guilt is not there if charges are not proved.
7. Evidence that is afterthought has less credence. Any material point of defense taken up for the first time at a later stage of proceeding may be considered afterthought and may attract less credence.
8. Past record of the employee does not ipso facto prove present charge.
9. Hearsay Evidence is not barred.
10. Documentary evidence is more reliable than oral evidence.
11. The preponderance of probability is not just a possibility. It is the degree of certainty of belief by which it is convinced that the existence of a fact is more probable than its non-existence."
12. The Latin expression prima facie means "at first sight", "at first view", or "based on first impression". If the Enquiry officer determines that a prima facie case exists, the defendant must present evidence that overcomes the prima facie case in order to prevail.

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