

THE TAMIL NADU CIVIL SERVICES (DISCIPLINE AND APPEAL) RULES

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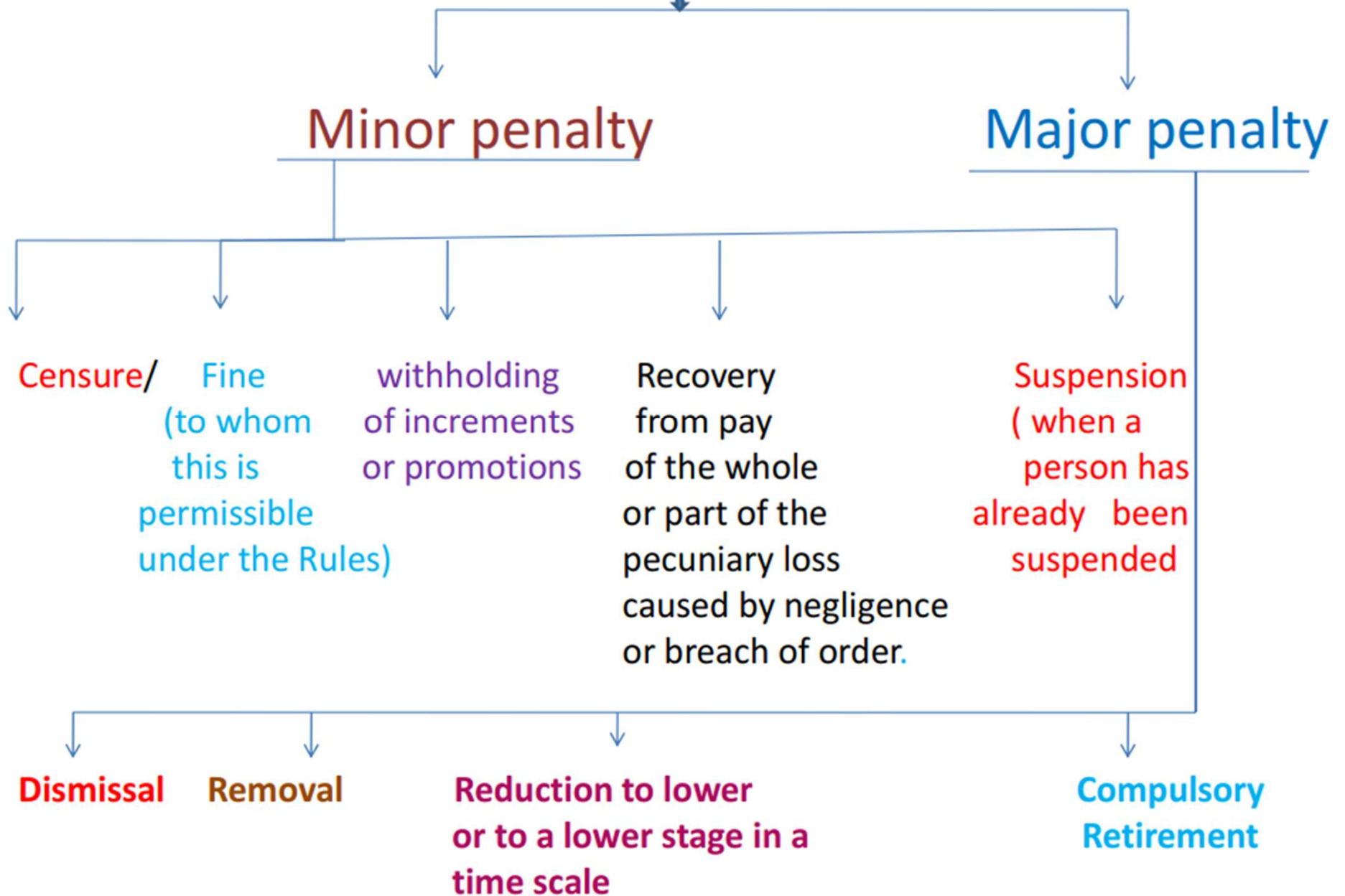
THE TAMIL NADU CIVIL SERVICES (DISCIPLINE AND APPEAL) RULES

- Proviso to Article 309 of the Constitution of India.
- Came into force on and from the 1st January 1955.
- Apply to every member of the Civil Service of the State and to every person holding a civil post under the State.

8. Penalties

- The following penalties may, **for good and sufficient reason** be imposed:
 - **Minor Penalties**
 - **Major Penalties**

Penalty



8. Penalties

- **Minor Penalties:**

- Censure (i)
- Fine (in the case of persons for whom such penalty is permissible under these rules) (ii)
- Withholding of increments or promotion (iii)
- Recovery from pay of the whole or part of any pecuniary loss (v)
- Suspension period treated as penalty (ix)

8. Penalties

- Withholding of increment **shall not be imposed** on a Government servant, if the said penalty cannot be given effect to fully while in service.
- If withholding of increment **cannot be given effect to fully** for any contingency that arose after the penalty of withholding of increment is imposed, the monetary value equivalent to the amount of such increments **(single or three times)** shall be recovered from the person.

8. Penalties

- **Major Penalties:**
 - Reduction to a lower rank in the seniority list or to a lower post or to a lower time-scale or to a lower stage in a time-scale (iv)
 - Compulsory retirement (vi)
 - Removal (vii)
 - Dismissal (viii)

8. Penalties

- Removal Vs Dismissal
- For the violation of rule 19 of the Tamil Nadu Government Servant's Conduct Rules, 1973. (Bigamous marriage) The penalties mentioned in items (vi),(vii) or (viii)

9. Authority

- The Governor or any other authority empowered by him by general or special order may -
 - (i) institute disciplinary proceedings against any Government servant
 - (ii) direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules **any of the penalties** specified in rule 8

9(A). Authority

- In any case where more than one **Government servant of the same Department** are jointly involved....
- **Government shall be the authority** in the case of Government Servants belonging to **different departments** who are jointly involved or whose cases are inter connected...

10. Penalty of Fine

- The penalty of fine as such shall be imposed only on a person who is a member of the **Tamil Nadu Basic Service**, which is one of the Services included in the Subordinate Services, and on a person holding any of the **posts specified in Appendix II** to these rules.

12. State Services

- The **State Government** may impose any of the penalties specified in items (i) and (iii) to (viii) in rule 8 on members of the **State Services**.
- In general the appointing authority or any authority **administratively higher** to the appointing authority may impose the penalties specified in items (i),(iii) to (viii) and (ix) of rule 8 on members of the State Service.

13. Suspension Authority

- The authority which may impose suspension referred to in rule 17(e) on members of the State Services as listed under this rule.

14(1).Authority for Minor & Major Punishments

For member of Subordinate Service

- **Suspension or minor penalties - immediate superior Officer of the State Services**
or
- where the appointing authority for such members is an **Officer of the Subordinate Services**, such officer or any higher authority.
- **major penalties - appointing authority or any higher authority**

15(a). Authority for previous lower service

Authority competent to impose the penalty upon a member of the service in the latter class, category, grade or service.

15(b). Authority for previous higher service

Authority competent to impose the penalty upon a member of such service, class, category or grade, as the case may be.

16(i). Authority for Foreign service

- The power to impose the penalty of compulsory retirement or removal or dismissal, shall not lie with any authority other than the lending authority ; the borrowing authority shall, in a case where it considers that the punishment of compulsory retirement, removal or dismissal should be imposed, complete the inquiry and revert the person **concerned to the lending authority** for such action as that authority may consider necessary.
- Provided if both lending and borrowing authorities are under **same administrative authority**, the above provision shall not apply.

17(a). Procedure for imposing Minor Penalty

- If it is proposed to impose any of the penalties specified in items (i), (ii), (iii), (v) and (ix) in rule 8 or in rule 9,
 - A “**Show Cause Notice**” should be served on the Government Servant briefly explaining the lapses on the part of Government Servant one by one and asking the delinquent official to submit his representation on why not to punish the him/her for the above lapses.
 - The Show Cause Notice should be served on the Govt Servant as per the procedure laid down in **rule 18(c)**.
 - he shall be given a reasonable opportunity of making any representation that he may desire to make.
 - He shall also be given opportunity for **personal or oral representation** if he desires so.

17(a). Procedure for imposing Minor Penalty

- Upon receiving the representation of the delinquent officer, the disciplinary authority shall **examine** each and every lapses with the representation and connected records and shall pass final orders either **let off** the Government Servant or **punish** him with the penalties specified in items (i), (ii), (iii), (v) and (ix) in rule 8 or in rule 9.
- If the delinquent officer does not submit his representation within reasonable time, final orders shall be passed noting the fact in the order.
- This final orders should also be served on the Government Servant as per the procedure laid down in rule 18(c).

Disciplinary Proceedings under rule 17(a) of TNCS (D&A) Rules

Issue of Show- Cause Notice in the prescribed format by the competent authority



Giving reasonable opportunity including perusal of records to the Delinquent Officer.



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graph TD; A[ ] --> B[Failed to submit explanation even after giving reasonable opportunity]; A --> C[Receipt of explanation from the Delinquent Officer]; B --> D[Passing of final orders by the competent authority in the form of speaking order]; C --> D; D --> E[Serving of final orders to the Delinquent Officer and keeping the served copy in the relevant file];
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Failed to submit explanation even after giving reasonable opportunity

Receipt of explanation from the Delinquent Officer

Passing of final orders by the competent authority in the form of speaking order

Serving of final orders to the Delinquent Officer and keeping the served copy in the relevant file

17(a). Procedure for imposing Minor Penalty

- In case withhold increments of pay ***without cumulative effect for a period exceeding 3 years or to withhold increment of pay with cumulative effect for any period***, the procedure laid down in **rule 17(b)** shall be followed before making any order imposing on the Government servant any such penalty.

17(a). Procedure for imposing Minor Penalty

Note:

- The said show cause notice should be in **Form I** annexed to this rules.
- Questionnaire need not be given to the delinquent officer.
- The show cause notice should be signed only by the **competent authority**.
- Though no provision is there for the delinquent officer for **examining the connected records**, following natural justice, he/she may be given that opportunity.

17(a). Procedure for imposing Minor Penalty

Note:

- No reminder shall be served upon the delinquent officer for submitting his representation.
- After reasonable time given, the disciplinary authority may proceed with final orders.
- If the delinquent officer requests for **further time** to submit his representation for acceptable reason, the disciplinary authority may do so. Otherwise the request of the delinquent officer may be rejected by properly intimating the same to the delinquent officer.

17(a). Procedure for imposing Minor Penalty

Note:

- The punishment of imposing withhold of increment with **cumulative effect** will **include the leave period** availed by the Government servant during the currency of punishment.
- The punishment of imposing withhold of increment **without cumulative** effect will **exclude the leave period** availed by the Government servant during the currency of punishment.

17(b). Procedure for imposing Major Penalty

Major Punishments shall be imposed for the following lapses:

- Disproportionate wealth
- Bribe
- Misappropriation of Government funds and assets
- Receiving expensive gifts through corrupt manner
- Tampering and destruction of Government records
- Evasion of duty and neglect of responsibility
- Misuse of official capacity for personal gain
- Violation of official secrecy
- Bigamy

Disciplinary Proceedings under rule 17(b) of TNCS (D&A) Rules

Issue of charge memo in the prescribed format along with questionnaire form by the competent authority



Giving reasonable opportunity including perusal of records to the Delinquent Officer.

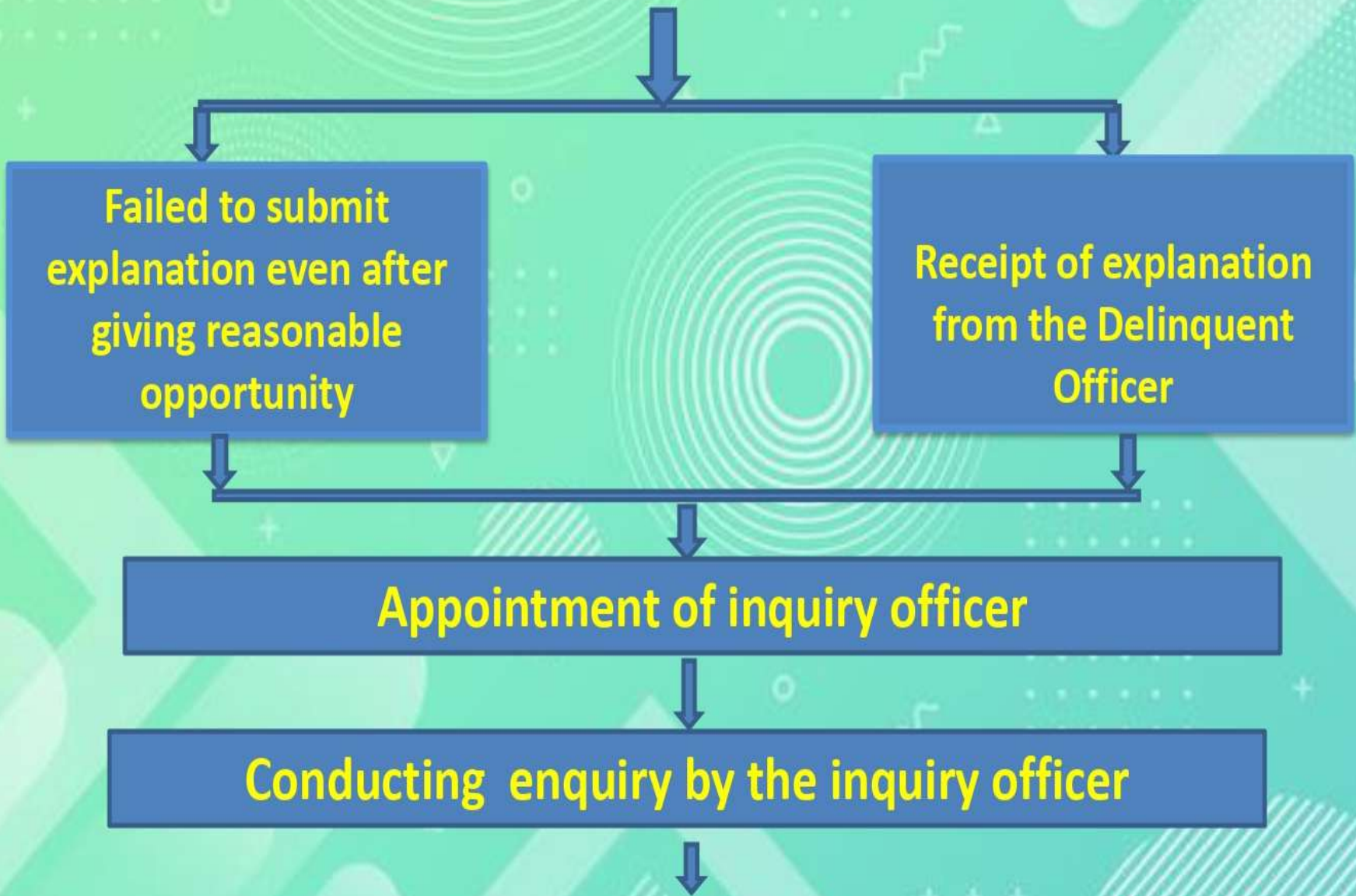


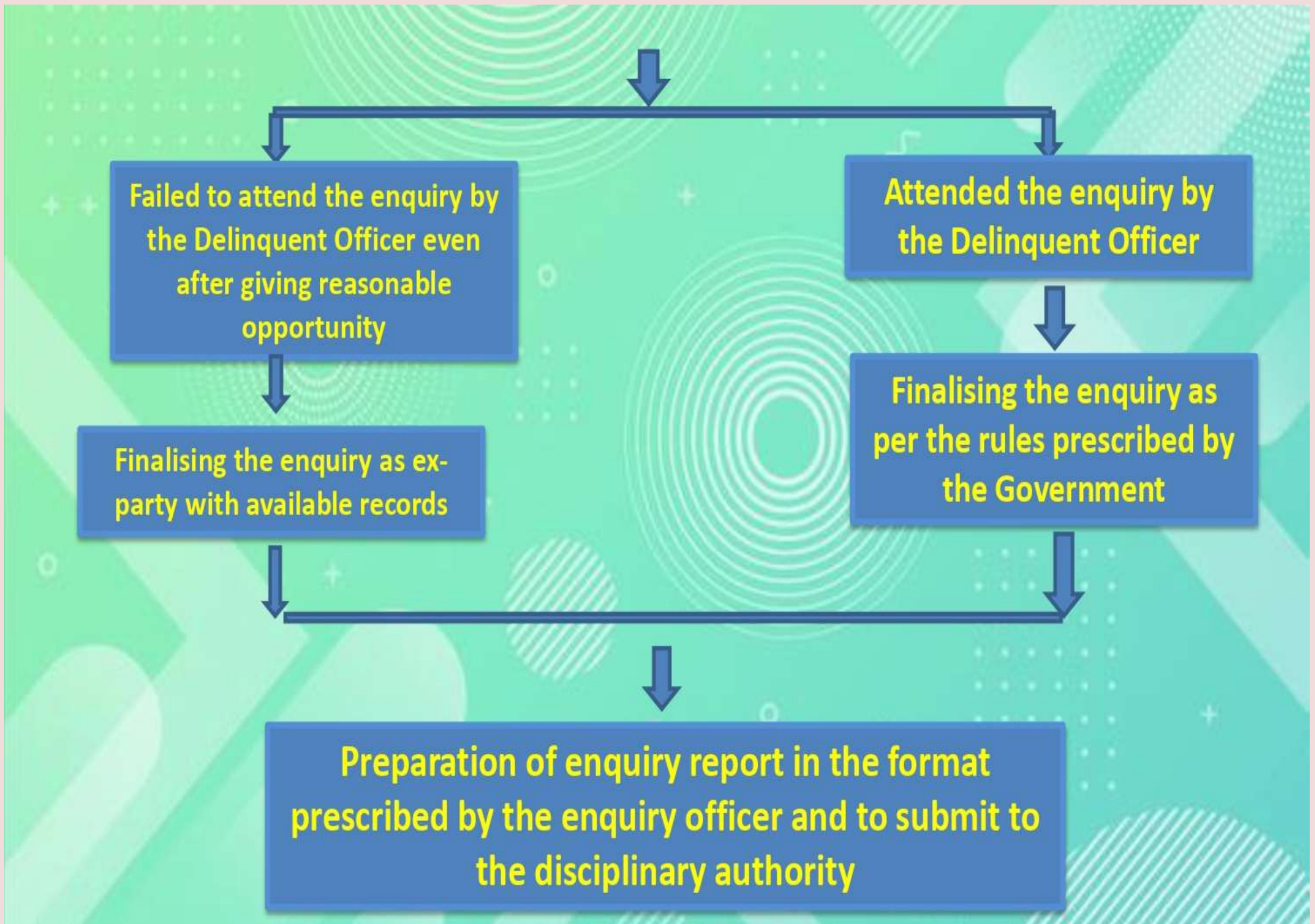
**Failed to submit
explanation even after
giving reasonable
opportunity**

**Receipt of explanation
from the Delinquent
Officer**

Appointment of inquiry officer

Conducting enquiry by the inquiry officer





Failed to attend the enquiry by the Delinquent Officer even after giving reasonable opportunity

Finalising the enquiry as ex-parte with available records

Attended the enquiry by the Delinquent Officer

Finalising the enquiry as per the rules prescribed by the Government

Preparation of enquiry report in the format prescribed by the enquiry officer and to submit to the disciplinary authority



If the Inquiry officer held that the Charges are proved, communicate the enquiry report to the Delinquent Officer to get his/ her further representation

If the disciplinary authority disagrees with the findings of the Inquiry Officer, communicate the enquiry report along with the reasons for disagreement

If the Inquiry Officer held that the charges are not proved and the disciplinary authority agrees with the findings of the Inquiry Officer, communication of enquiry report is not necessary





**Receipt of further representation from the
Delinquent Officer**



**Passing of final orders in the form of speaking order
by the competent authority**



**Serving of final orders to the Delinquent officer and
keeping the served copy in the relevant file.**

17(b). Procedure for imposing Major Penalty

- In every case where it is proposed to impose on a member of a service or on a person holding a Civil Post under the State any of the penalties specified in items (iv), (vi), (vii) and (viii) in rule 8,
- the grounds on which it is proposed to take action shall be reduced to the form of a **definite charge or charges**.
- The **charges shall be communicated** to the person charged, together with a statement of the allegation, on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case.

17(b). Procedure for imposing Major Penalty

- He shall be required, within a reasonable time to put in a written statement of his defence and to state whether he desires an oral inquiry or to be heard in person or both.
- An **oral inquiry shall be held** if such an inquiry is desired by the person charged or is directed by the authority concerned.
- Even if a person charged has waived an oral inquiry, such inquiry shall be held by the authority concerned in respect of charges which are **not admitted by the person** charged and which can be proved only through the evidence of witnesses.

17(b). Procedure for imposing Major Penalty

- At that inquiry oral evidence shall be heard as to such of the allegations as are not admitted, and the person charged shall be **entitled to cross-examine the witnesses** to give evidence in person and to have such witnesses called, as he may wish, provided that the officer conducting the inquiry may, for special and sufficient reason to be recorded in writing, refuse to call a witness.
- Whether or not the person charged desired or had an oral inquiry, he shall be heard in person **at any stage if he so desires before passing of final orders.**

Appointment of Enquiry Officer

- Superior to the Accused Officers
- He must have sufficient years of service left to enable him to complete the Disciplinary proceedings inquiry
- He should not be an accused officer in any pending inquiry
- He should not be a witnesses to the instances
- He should not be a complainant also
- 6. He should not be a close relative or a known friend of the accused Officer

Enquiry Officer should not recommend the Penalties

- The Enquiry Officers should not recommend the nature or quantum of punishments to be inflicted upon the Government servants against whom the charges are held proved. It would suffice if the enquiry officers record their findings on each charge separately, after carefully considering the evidence adduced in support of it as well as for the defense.

Do's for Enquiry Officer

1. Checkup your order as Enquiry Officer
2. Get acquainted with the nature of acquisitions and procedure to hold enquiry
3. Plan the holding of preliminary hearing
4. Find out documents requiring proof
5. D
6. Ask the delinquent officer to inspect the listed documents

Do's for Enquiry Officer

7. Decide relevance of additional documents
8. Decide relevance of evidence expeditiously
9. Decide date, time and venue of regular enquiry and send intimation to delinquent officers and witnesses
10. Secure attendance of all witnesses
11. Obtain certificate from delinquent officer for inspecting documents

Do's for Enquiry Officer

12. Conduct regular enquiry fairly and firmly
13. Protect witness from undue harassment
14. Record the deposition of witness and get their signature
15. Supply copies of depositions of witnesses to delinquent officer
16. Keep record of observations
17. Permit production of new evidence if only relevance
18. submit a full fledged report of enquiry

Don't for Enquiry Officer

1. Do not delegate function of holding of enquiry to any one else.
2. Do not hold enquiry according to your own methods. There is a prescribed procedure to follow.
3. Do not continue with the proceedings (it has to be stayed) if a representation to the delinquent employee, alleging bias against the enquiry officer is pending with the Revisionary authority.

Don't for Enquiry Officer

4. Do not post-pone preliminary hearing, simply because the delinquent employee could not arrange for defence assistance.
5. Do not call for the documents or the witnesses to decide the question of their relevancy.
6. Do not question the decision of a Head of Department to with-hold documents on grounds of public interest.

Don't for Enquiry Officer

7. Do not throw responsibility of calling defence witnesses of the delinquent employee.
8. Do not insist that witnesses may be produced in a particular sequence before you. The order in which the witnesses may be examined is to be left to the respective parties.
9. Do not administer oath to witnesses.

Don't for Enquiry Officer

10. Do not question the witnesses extensively right at the outset. The witnesses should be examined in accordance with the prescribed procedure.
11. Do not allow leading questions except in cross-examination.
12. Do not put leading questions to the witnesses yourself.
13. Do not allow adjournments on flimsy grounds.

Don't for Enquiry Officer

14. Do not proceed ex-parte, if the charge sheet was not, served on the delinquent employee.
15. Do not go for local inspection of the site of incident, without the presence of the delinquent employee.
16. Do not collect information there from persons who have not been cited as witnesses.
17. Do not take in to consideration any matter or evidence which was not adduced during the course of the enquiry.

Final Enquiry Report

விசாரணை அறிக்கை

விசாரணை அலுவலரின் அறிக்கை

விசாரணை அலுவலரின் அறிக்கை பின்வருபனவற்றை
கொண்டிருக்க வேண்டும்.

- 1) விசாரணை அலுவலர் நியமனம் பற்றிய சிறுகுறிப்புடன் துவங்கிட வேண்டும். எங்கு, என்று விசாரணை நடைபெற்றது என்ற விவரம் தரப்பட வேண்டும்.
- 2) சாட்டப்பட்ட குற்றங்கள்
- 3) அனுமதிக்கப்பட்ட/ஏற்றுக்கொள்ளப்பட்ட குற்றச்சாட்டுகள்/விலக்கப்பட்ட குற்றச்சாட்டுகள் அல்லது அவசியமில்லை எனக் கருதப்பட்ட குற்றச்சாட்டுகள்
- 4) உண்மையில் விசாரிக்கப்பட்ட குற்றச்சாட்டுகள்

Final Enquiry Report

- 5) எடுத்துக் கொள்ளப்பட்ட உண்மைகள் மற்றும் ஆவணங்கள் குறித்த சுருக்க அறிக்கை
- 6) விசாரிக்கப்பட்ட குற்றச்சாட்டுகளுக்கான வழக்கின் சுருக்கம்
- 7) பிழை அலுவலரின் தன்னிலை தற்காப்பு விளக்கம் குறித்த அறிக்கை
- 8) முடிவுக்கு எடுத்துக் கொள்ள விஷயங்கள்
- 9) ஒவ்வொரு விஷயத்தைப் பொறுத்தவரையில் உள்ள சாட்சியங்கள், முடிவுக்கு எடுத்துக் கொள்ளப்பட்ட முறை மற்றும் கண்டுபிடிப்புகள்
- 10) ஒவ்வொரு குற்றச்சாட்டின் மீதான முடிவான கண்டுபிடிப்புகள்

Final Enquiry Report

2. பின்வருவனவற்றைக் கொண்டுள்ள ஒரு மடிப்புச் சுருள்

1. குற்றச்சாட்டுகளை நிரூபிக்கத்தக்க பொருட்கள்/ஆவணங்கள்
2. பிழையாளியின் தற்காப்புக்காக அளிக்கப்பட்ட பொருட்கள்/ஆவணங்கள்
3. குற்றச்சாட்டு நிரூபணத்திற்காக விசாரிக்கப்பட்ட சாட்சியங்கள்
4. பிழையாளியின் சார்பில் வரப்பட்ட சாட்சியங்கள்

3. பின்வருபனவற்றை கொண்டுள்ள ஒரு மடிப்புச் சுருள்

விசாரணையின் நிகழ்வினை முழுமையாக வரிசைக்கிரமமாக வெளிப்படுத்தும் விரிவான அறிக்கை (சாட்சிகளின் அறிக்கை)

4. விசாரணையின் போது பிழை அலுவலரால் சமர்ப்பிக்கப்பட்ட ஆவணங்கள் மற்றும் எழுத்து வடிவிலான விளக்கம்

17(b). Procedure for imposing Major Penalty

- **A report of the inquiry** shall be prepared by the authority holding the inquiry
- Such report shall contain a sufficient **record of the evidence**, and a **statement of the findings** and the **grounds thereof**.
- 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**.

17(b). Procedure for imposing Major Penalty

- Provided that if the **succeeding inquiring authority** may **recall, examine, cross-examine and re-examine any such witnesses.**
- where there is a complaint of **sexual harassment** within the meaning of rule 20-B of the Tamil Nadu Government Servants' Conduct Rules, 1973, the **complaints Committee established** in each Government department or Office 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 the inquiry as far as practicable** in accordance with the procedure laid down in these Rules.

17(b). Procedure for imposing Major Penalty

- The Government Servant may take the **assistance of any retired Government servant** to present the case on his behalf.
- If the **inquiring authority is a legal practitioner** or the inquiring authority, having regard to the circumstances of the case, so permits, a legal practitioner may be engaged.
- The Government servant shall not take the assistance of any retired Government servant who has **two pending disciplinary cases** on hand, in which he has to give assistance.

17(b). Procedure for imposing Major Penalty

- After the inquiry or personal hearing has been completed, the disciplinary authority, before making an order imposing such penalty, **furnish to him a copy of the report of the inquiry** or personal hearing or both.
- And call upon him to submit **his further representation**, if any, within a reasonable time, **not exceeding fifteen days**.

17(b). Procedure for imposing Major Penalty

- Any **representation received** in this behalf shall be **taken into consideration** before making any order imposing the penalty, provided that such representation shall be based on the evidence adduced during the inquiry only.
- Provided that in every case where it is necessary to consult the Tamil Nadu Public Service Commission, the disciplinary authority **shall consult the Tamil Nadu Public Service Commission** for its advice and such advice shall be taken into consideration before making an order imposing any such penalty.

17(b) for 10(a)(i) or promoted under rule 39(a) (i)

- The procedure prescribed in clause 17(b) shall be followed also in the case of persons appointed under rule 10 (a) (i) and (ii) or promoted under rule 39(a) (i) of the General Rules for the Tamil Nadu State and Subordinate Services and those paid from contingencies provided the termination of appointment is made as a measure of punishment.

17(b). Exceptions

- The **requirements of sub-rule (b) shall not apply** where it is proposed to impose on a member of a service any such penalty on the basis of facts which have led to his **conviction in a criminal court** .
- But he shall be given a **reasonable opportunity of making any representation** that he may desire to make and such representation, if any, shall be taken into consideration before the order imposing the penalty is passed.
- The requirements of sub-rule (b) shall not apply on the basis of facts which have led to his conviction by a **court martial** or where the officer concerned has **absconded** or where it is for other reasons **impracticable to communicate** with him.

17(b). Procedure for imposing Major Penalty

- Upon receiving the representation of the delinquent officer, the disciplinary authority shall **examine** each and every lapses with the representation and connected records and shall pass final orders either **let off** the Government Servant or **punish** him with the penalties specified in items (i) to (ix) in rule 8 or in rule 9.
- If the delinquent officer **does not submit his representation within reasonable time**, final orders shall be passed **noting the fact in the order**.
- The **final order so passed shall contain in detail** the lapses, representation of the delinquent officer, inquiry officer's report, further representation of the delinquent officer, the final decision of the disciplinary authority on the lapses.

17(b). Procedure for imposing Major Penalty

- The final order shall be a **speaking order**.
- The final order shall only be **signed by the competent disciplinary authority**.
- This final orders should also be **served on the Government Servant** as per the procedure laid down in rule 18(c).
- The Government servant should have **completed 10 years of service** for imposing compulsory retirement.
- All orders of punishment shall also **state the grounds on which they are based** and shall be communicated in writing to the person against whom they are passed.

Conversion of 17(b) to 17(a)

(Government Letter No.7487/PER-N/94-5, P&AR Department, Dated : 04/05/1994.)

- All Heads of Departments at the end of every six months shall examine all 17(b) charges framed for their consistency. If any **17(b) Charges found irrelevant**, the Head of Department may convert it into 17 (a) if he is reviewing authority for that case, otherwise forward a proposal to the reviewing authority.
- Decision of the reviewing authority is final.

Disciplinary proceedings against court convicted G.S

Rule 17(C) (i)(1)

- 17b sub rule procedure need not be followed
- Dispensation of TNPSC consultation
- Show cause notice to be issued within 15 days of obtaining conviction order
- 15 days time of obtaining representation
- For issuing and serving of final orders - 30 days.

17 (d). Waiving of 17(b) procedure

- in exceptional cases, for special and sufficient reasons to be recorded in writing, be waived where there is difficulty in observing exactly the requirements of the sub-rules and those requirements can be waived without injustice to the person charged.
- the decision thereon of the authority empowered to dismiss or remove such person or reduce him in rank, as the case may be, shall be final.

17 (e) Suspension

In the public interest where

- An enquiry in to grave charges against him is contemplated or is pending
- A complaint against him of any criminal offence is under investigation or trial.
- Order of suspension will take effect from the date of relief
- **Deemed Suspension** - if detained in custody whether on a criminal charge or otherwise for more than 48 hours.

17 (e) Suspension

- **Competent Authority** – Immediate superior officer of the State Service
- **Subsistence Allowance** – 50% (May be raised to 75% after 6 months or may be reduced to 25% if the delinquent officer not cooperating to the disciplinary proceedings)
- **Revoking authority** – Officer who has ordered suspension or higher authority
- **Time limit** - to be finalised normally within six months and one year for Vigilance cases.
- However for Criminal cases these time limit does not applicable

Fact finding report - Rule 17 (g)

- Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior against a Government servant, it may itself inquire into or appoint an authority to inquire into the truth there of.

18 (a). Records to be maintained by Disciplinary Authority

- **18.(a) The authority imposing any penalty under these rules shall maintain below records.**
- (i) the allegations upon which action was taken against the person punished;
- (ii) the charges framed, if any;
- (iii) the person's representation, if any, and the evidence taken, if any ; and
- (iv) the finding and the grounds thereof, if any.

18 (c). Serving the

Every order, notice and other process made or issued under these rules,

- shall be served **in person** on the Government servant concerned or
- sent to him by **registered post acknowledgment** due or
- if such person is not found by leaving it at his last known place of residence or by giving it to an **adult member of his family**
- or if none of the means aforesaid is available by **affixing it in some conspicuous part** of his last known place of residence.

19. APPEALS

- Every Government servant shall be entitled to appeal against -
 - (a) imposing upon him any of the penalties specified in rule 8 or 9;
 - (b) discharging him in accordance with the terms of his contract, if he has been engaged on a contract, or when his services are terminated; and
 - (c) reducing or withholding the maximum pension, including an additional pension.

20. APPEAL TO GOVERNMENT

In case the Government have passed original orders,

- shall be entitled to submit, within a period of **two months** from the date on which the order was communicated to him, a **petition to the Government for review** of the orders passed by them on any of the grounds specified below:-
 - (a) that the order was not passed by the competent authority;
 - (b) that a reasonable opportunity of defending himself was not given;

20. APPEAL TO GOVERNMENT

- (c) that the punishment is **excessive or unjust**;
- (d) discovery of **new matter or evidence** which the appellant alleges and proves to the satisfaction of the Government was not within his knowledge or could not be adduced by him before the order imposing the penalty was passed;
- (e) evident **error or omission** such as failure to apply the Law of Limitation or an error of procedure apparent on the face of record;

20. CONDONE DELAY

- Provided that the Government may, **in its discretion**, condone any delay in submitting the petition for review within the said period of two months.
- The petition for review which does not satisfy any of the above grounds shall be **summarily rejected**.

20. APPEAL TO HoD

Where an authority other than the State Government, has passed orders imposing a penalty on a **member of the State Service**,

- such member shall be entitled to appeal to the Head of Department, if the orders were passed by an authority **subordinate to the Head of Department** or
- **to the Government**, if the orders were passed by the Head of Department.

23. RESPONSIBILITIES OF APPELATE AUTHORITY

The appellate authority shall consider-

- (a) whether **the facts** on which the order was based have been established;
- (b) whether the facts established afford **sufficient ground** for taking action; and
- (c) whether the penalty is **excessive, adequate or inadequate** and pass orders-
 - (i) confirming, enhancing, reducing, or setting aside the penalty; or
 - (ii) remitting the case to the authority which imposed the penalty or **to any other authority** with such direction.

23. APPELATE AUTHORITY

- If the appellate authority **proposes to impose enhanced penalties** and if an inquiry under 17 (b) has **not already been held** in the case, may **itself hold such inquiry** or direct that such inquiry be held in accordance with the provisions of rule 17(b).

25,26. APPEAL PROVISION

- Every person preferring an appeal shall do **so separately and in his own name.**
- Every appeal preferred under these rules shall contain all material statements
- and arguments relied on by the appellant,
- shall contain **no disrespectful or Improper language,**
- shall be complete in itself.
- Every such appeal shall be addressed to the authority to whom the appeal is preferred and shall be **submitted through the usual official channel.**

27.WITHHELD OF APPEAL

- An appeal may be withheld by an authority not lower than the authority from whose order it is preferred if
- it **does not comply** with the provisions of rule 26, or
- it is not preferred within two months after the date on which the appellant was informed of the order appealed against, and **no reasonable cause** is shown for the delay, or

27.WITHHELD OF APPEAL

- It is a **repetition of a previous appeal** and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances are adduced which afford ground for a reconsideration of the case, or
- it is addressed to an authority to which **no appeal lies under these rules** ;
- Provided that in every case in which an appeal is withheld, **the appellant shall be informed of the fact and the reasons for it.**

36. REVISION

The State Government; or the head of the department directly under the State Government or the appellate authority, **within six months** of the date of the order proposed to be revised, may at any time, either on their or its own motion or otherwise call for the records of any inquiry and after consultation with the **Tamil Nadu Public Service Commission**, where such consultation is necessary and **revise any order** made under these rules.

36. REVISION

Revision shall -

- (a) confirm, modify or set aside the order; or
- (b) confirm, reduce, enhance or set aside the penalty imposed by the order,
- or impose any penalty where no penalty has been imposed; or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or
- (d) pass such other orders as they or it may deem fit;

Time limit for Disciplinary procedure

Framing of Charges under 17(a) or 17(b)	15 days
Submission representation by Delinquent officer	15 days / 21 days
Appointment of Inquiry Officer	7 days
Completion and submission of Inquiry report	60 days
Taking final decision by Competent Authority	10 days
Calling further representation of delinquent officer	15 days
In cases where consultation with TNPSC	30 days
Issue of Final orders in case of Govt	30 days
Issue of Final orders by other authorities	7 days

Defects noticed in dealing disciplinary proceedings

- Show cause note / Charge memo in ordinary form
- Vague and in general terms, Without pinpointing the lapses
- irrelevant sections of Act are found to be quoted
- Issued by incompetent authority
- Signed in the name of “For Collector”

Defects noticed in dealing disciplinary proceedings

- No Questionnaire form
- Perusal of records by delinquent officer denied
- Delayed appointment of Enquiry Officer
- Enquiry officer submitting his report in other forms
- If not proved, enquiry report need not be communicated

Defects noticed in dealing disciplinary proceedings

- Keeping prolonged suspension
- Unnecessary enhanced subsistence allowance
- Non speaking final orders
- Final orders in name of “For Collector”

Final Order Content

- a. Reference in which the charges have been framed.
- b. Date of receipt of explanation of the Delinquent Officer.
- c. Reference in which the inquiry officer has been appointed.
- d. Date of receipt of enquiry report from the Inquiry Officer.
- e. Reference in which copy of enquiry report has been communicated to the Delinquent Officer.
- f. Date of receipt of further representation from the Delinquent officer.
- g. Details of charges levelled.
- h. Explanation of the Delinquent Officer.
- i. Findings of the Inquiry Officer on the Charges.
- j. Final orders passed by the competent authority.
- k. Appeal provision against the final order.

Avoiding Suspension on the date of retirement

- well in advance (i.e.) three months prior to the date of retirement.
- In respect of Directorate of Vigilance and Anti-Corruption and Tribunal for Disciplinary Proceedings cases
- where a Government servant is already under suspension – Retaining order on the date of retirement
- If a pension cut or withholding of pension under the Tamil Nadu Pension Rules, 1978 is sufficient – allow to retire without prejudice
- If charges could not be framed before the date of retirement of the Government servant

Disciplinary authority disagreeing Enquiry report

Disciplinary authority **should communicate** the reasons for any disagreement on the findings of the inquiry officer to the person charge along with a copy of the enquiry report while calling for further representation from him where it is proposed to impose a major penalty. However, in case only a minor penalty is awarded, such report with reasons for any disagreement may be communicated to the person charged at the time of communicating final orders.

Dismissal Removal cannot be ordered by Subordinate to Appointing authority

- The initiation can be by an officer sub-ordinate to the appointing authority.
- Only the dismissal / removal shall not be by an authority sub-ordinate to the appointing authority

Dismissal Removal cannot be ordered by Subordinate to Appointing authority

- when a criminal action is proposed to be initiated, the disciplinary authority has to identify simultaneously whether in the said irregularities both administrative and criminal aspects are involved, so that action can be taken for initiating simultaneous departmental action, if possible
- Final orders may be passed if necessary records are available with the disciplinary authority.
- However if the necessary records are in the court, then final orders in such departmental proceedings shall be passed after receipt of the necessary records from the court irrespective of the outcome of the criminal case.

Disposal of 17 (a) and 17 (b) independent of each other

- In such common proceedings under rule 9-A of the said Rules involving proceedings under Rule 17(b) and rule 17(a) of the said Rules there is no need to await the outcome of the 17(b) Proceedings if the proceedings under rule 17(a) has reached finality and the same can be finalised independently.

17 (a) or 17 (b) ?

- Is a major penalty warranted based on the gravity of allegations - 17 (b)
- In all other cases – 17 (a)

Disposal of departmental proceedings and Criminal action

- When both departmental as well as criminal action is initiated for the offences of the kind in regard to departmental action, charges may be framed against him for the lapses committed by him and final orders may be passed after obtaining the required registers/records/documents from the court irrespective of the fact whether he is acquitted or not. Thus the departmental action will be confined to the irregularities or lapses committed by the accused officer with reference to the administrative aspect.

Xerox copies for departmental proceedings

- There is no objection to use the Xerox or photo copies in disciplinary cases, if they are duly authenticated.
- If not available, the possibility of making arrangement for the accused to inspect the original registers/ records/ documents in the Courts should be examined

Prescribing standard forms for adoption by the disciplinary authorities

- Letter No. 2731/N/2005-2, Personnel and Administrative Reforms (N) Department, Dated 15.3.2005

Procedures in respect of Vigilance & Anti Corruption cases

- Section 6.26 of Handbook of Disciplinary proceedings.

Reduction to Lower Service / Grade or to a lower stage in a time scale of post for a specified period while imposing penalties

- If a Government servant is reverted as a measure of penalty to a lower service, grade or post or to a lower stage in his time scale, the authority ordering such reduction should specify the period for which the reduction shall be operative .

Terminal Benefits for Deceased Employee against whom Disciplinary Cases Pending

- For Departmental disciplinary cases - abatement orders should be issued to settle terminal benefits to legal heirs.
- For Criminal Cases – Terminal benefits to be settled without waiting for Court slip proceedings.

Subsistence Allowance

பிழைப்பூதியம்

	முதல் 6 மாதம்	6 மாததிற்குப்பின்	
			குறைத்தால்
1) சம்பளம்	50%	75%	25%
2) அகவிலைப்படி	50%	75%	25%
HRA, CCA, OA	Full	Full	Full
% of Gross Pay	65%	85%	35%

பிழைப்பூதியத்தில் பிடித்தம் செய்தல் குறித்து

கட்டாயம் பிடித்தம் செய்வது	பிழையாளி சம்மதித்து பிடித்தம் செய்வது	பிடித்தம் செய்யப்படக்கூடாது
வருமானவரி	பொதுசேமநலநிதி கடன் தவணை	பொதுசேமநலநிதி
அரசு நீண்டகால கடன்கள் தவணை வீட்டு குடியிருப்பு வாடகை	கூட்டுறவு கடன் தவணை	நீதிமன்ற பிடித்தங்கள்

Disciplinary action against retired Government servant

- Rule 9 (2) (a) of Tamilnadu Pension Rules 1978
- Authority and power delegation
 - ❖ State Service – Government
 - ❖ Other than State services - Head of Department
- Full Pension is subject to satisfactory approval of service (Rule 6)
- Pension continuance subject to future conduct
- Right of Government to withhold or withdraw pension (Rule 9)

Disciplinary action against retired Government servant

- Procedure to be followed in disciplinary cases against retired persons for charges framed while in service (same as 17 B) (Rule 9(2)(a))
- Procedure to be followed in disciplinary cases after retirement (Rule 9(2)(b))
 - With the sanction of Government
 - Within 4 years of occurrence of lapse
 - Only 17 b should be initiated.

Disciplinary action against retired Government servant

- Determination of date of institution of departmental proceedings (Rule 9(6))
- Recovery from Pension for pecuniary loss – not exceeding one third if pension admissible on the time of retirement (Rule 9 (5))
- Provisional Pension (Rule 60 & 69)
- Release of Gratuity (Rule 9)
 - No withheld for Administrative lapses
 - Maximum computed financial loss for pecuniary loss

END