

20. No order imposing any of the penalties specified in clauses (vi) to (x) of rule 9 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and rule 21 or in the manner provided by the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983, where such inquiry is held under the said Acts.

(2) 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 inquiry into, or appoint under this rule, as the case may be, authority to inquire into the truth thereof.

EXPLANATION:- Where the disciplinary authority itself holds the inquiry, any reference to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Government servant under this rule and rule 21, the disciplinary authority or the cadre controlling authority who is not designated as disciplinary authority and who is subordinate to the appointing authority can draw up or cause to be drawn up.

(i) The substance of the imputations of misconduct or misbehavior into definite and distinct articles of charge.

(ii) A statement of the imputations of misconduct or misbehavior in support of each article of charge, which shall contain.

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

(b) Copies of documents by which and copies of statements of witnesses by whom, the articles of charge are proposed to be sustained.

NOTE;- Where the documents are voluminous relevant extracts of the documents may be furnished to the Government.

(2) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehavior and copies of the statements of witnesses by which each article of charge is proposed to be sustained and shall require the Government servant to appear before the disciplinary authority on such day and at such time NOT EXCEEDING TEN WORKING DAYS and submit a written statement of his defense and to state whether he desires to be heard in person.

(5) (a) On the date fixed for appearance the Government servant shall submit the written statement of his defense. He shall be questioned whether he pleads guilty to the charges or not and if he pleads guilty to all or any of the articles of charges, the disciplinary authority shall record the plea and obtain the signature of the Government Servant thereon.

(b) Where the Government Servant appears before the disciplinary authority

and pleads not guilty to the charges or refuses or omits to plead, the disciplinary authority shall record the plea and obtain signature of the Government servant thereon and may decide to hold the inquiry itself or if it consider necessary to do so appoint a serving or retired Government servant as inquiring authority for holding the inquiry into the charges and also appoint a Government servant as Presenting Officer to present the case in support of the articles of charge and adjourn the case to a date not exceeding five days for the said purpose.

(c) On the date so fixed the disciplinary authority shall by an order appoint the inquiring authority and shall also appoint a Government servant as Presenting Officer to present the case in support of the articles of charge.

Provided that the disciplinary authority may if it considers necessary having regard to the facts and circumstances of the case, appoint a legal practitioner or a legally trained Government Servant as Presenting Officer.

(d) The disciplinary authority shall serve copies of the orders appointing the inquiring authority and the Presenting Officer on the Government servant and inform him that he may take the assistance of any other Government Servant to present the case on his behalf, but he may not engage a Legal Practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner or a legally trained Government Servant.

Provided that no Government servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer to whom an appeal may be preferred shall be permitted by the inquiring authority to appear on behalf of the person charged before the inquiry authority.

Provided further that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing so permits.

NOTE:- (1) The Government Servant shall not take the assistance of any other Government servant who has pending two disciplinary cases on hand in which he has to give assistance. NOTE:- (2) The Government servant shall not take the assistance of

any other Government servant who is dealing in his official capacity with the case of inquiry relating to the Government servant charged.

The Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in his behalf.

(e) The disciplinary authority shall inform the Government servant to submit within five days a list of documents, which he requires to be discovered or produced by Government for the purpose of his defence indicating the relevance of the

documents so required.

(f) The disciplinary authority may for reasons to be recorded in writing refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

(g) The disciplinary authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept with a requisition for the production of the documents by such date as may be specified in such requisition.

(h) On receipt of the requisition referred to in sub-rule (5) (g) every authority having the custody or possession of the requisitioned documents shall produce the same before the disciplinary authority

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 such documents would be against the public interest or security of the state, shall submit the fact to the Head of Department or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the disciplinary authority and the disciplinary authority shall on being so informed communicate the information to the Government servant and withdrawn the requisition made by it for the production or discovery of such documents.

(6) Where the Government servant to whom a copy of the article of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the disciplinary authority, the disciplinary authority may decide to hold the inquiry ex-parte or if it considers necessary so to do, appoint an inquiry authority for the purpose.

(7) (a) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority.

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

(ii) a copy of the written statement of defence, if any submitted by the Government servant;

(iii) copies of the statements of witnesses, referred to in sub-rule (3);

(iv) copies of documents referred to in sub-rule (3);

(v) evidence proving the delivery of copies of the documents referred to in sub-rule j(3) to the Government servant; and

(vi) a copy of the order appointing the "Presenting Officer".

(b) The disciplinary authority shall also forward to the inquiring authority documents received under sub-rule 5(h) as and when they are received.

(8) After receiving the documents mentioned under sub-rule 7(a) the inquiring authority shall issue a notice in writing to the Presenting Officer and also to the

Government servant to appear before him on such day and at such time and place specified by him which shall not exceeds ten days.

(9) (a) The presenting Officer and Government servant shall appear before the inquiring authority on the date fixed under sub-rule (8).

(b) If the Government servant informs the inquiring authority that he wishes to inspect the documents mentioned in sub-rule (3) for the purpose of preparing his defence, the inquiring authority shall order that he may inspect the documents within five days and the presenting Officer shall arrange for the inspection accordingly.

(c) The inquiring authority shall call upon the Government servant whether he admits the genuineness of any of the documents copies of which have been furnished to him and if he admits the genuineness of any document it may be taken as evidence without any proof by the concerned witness.

(d) The inquiring authority shall adjourn the case for inquiry to a date not exceeding ten days for production of evidence and require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charges.

(10) (a) On the dates fixed for recording the evidence, the oral and documentary evidence by which the articles of charges are proposed to be proved shall be produced by or on behalf of the disciplinary authority.

(b) The evidence shall be recorded as far as possible on day-to-day basis till the evidence on behalf of the disciplinary authority is completed.

(c) The witnesses shall be examined by the Presenting Officer and they may be cross-examined by or on behalf of the Government servant.

(d) The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross examined, but not on any new matter, without the permission of the inquiring authority.

(e) The inquiring authority may also put such questions to the witnesses as it thinks fit.

(11) (a) If it appears necessary before the closure of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the presenting officer to produce evidence not included in the list given to the Government servant or may itself call for new evidence or recall and re-examine any witness.

(b) In such case the Government servant shall be entitled to have a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned.

(c) The inquiring authority shall give the Government servant an opportunity of inspecting such documents before they are taken on the record.

NOTE:- New evidence shall not be permitted or called for and witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only

when there is an inherent lacuna or defect in the evidence which has been produced originally.

(12) (a) When the case for the disciplinary authority is closed, the Government servant shall be required to state his defence orally or in writing as he may prefer and to submit a list of witnesses to be examined on his behalf for which purpose the case may be adjourned to a date not exceeding five days.

(b) If the defence is made orally, it shall be recorded and the Government servant shall be required to sign the record. In either case, a copy of the statement of defence and the list of defence witness may be provided.

(c) The case shall be adjourned to a date not exceeding ten days for production of defence evidence.

(13) The evidence on behalf of the Government servant shall then be produced. The Government servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government servant shall then be examined and shall be liable to cross-examination re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(14) The inquiring authority may after the Government servant closes his case, and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for purpose of enabling the Government servant to explain any circumstances appearing in the evidence against him.

(15) The inquiring authority may, after the completion of the production of evidence, hear the presenting officer, if any appointed, and the Government servant, or permit them to file written briefs of their respective cases, if they so desire.

(16) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (v) of rule 9 and in rule 10 but not competent to impose any of the penalties specified in clauses (vi) to (x) of rule 9, has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it is of the opinion that specified in clauses (vi) to (x) of rule 9 should be imposed on the Government servant, that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.

(b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witnesses and examine, cross-examine and re-examine the witnesses and may impose on the Government servant such penalty as it may deem fit in accordance with these rules.

(17) Whenever an 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 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 reexamine

any such witnesses in before provided.

(18)(i) After the conclusion of the inquiry a report shall be prepared and It shall contain

(a) the articles of charge and the statement of the imputation of misconduct or misbehavior.

(b) the defense of the Government servant in respect of each article of charge;

(c) An assessment of the evidence in respect of each article of charge;

(d) The findings on each article of charge and the reasons therefor.

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 Government servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(vii) 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 prepared by it under clause (i);

(b) the written statement of defence, if any, submitted by the Government servant;

(c) the oral and documentary evidence produced in the course of the inquiry;

(d) written briefs, If any, filed by the Presenting officer or the Government servant or both during the course of the inquiry and

(e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

Explanation:-.It is not necessary to have an inquiry in the manner provided for in this rule or to hear in person in the case of reduction of rank in seniority list (A and B lists) of Constables fit for promotion as Head Constables I in the Andhra Pradesh Police Subordinate Service or Andhra Pradesh Special Armed Police Service.

(vide G.O. Ms. No. 383, G.A.(Ser.C) Dept., dt: 19.12.2003)

AMENDMENTS

In rule 20, - for sub-rules (3), (4), (5), (6), (7), (10) and (12) the following shall be substituted, namely:-

“(3) Where it is proposed to hold an inquiry against a Government servant under this rule and rule 21, the disciplinary authority or the cadre controlling authority who is not designated as disciplinary authority and who is subordinate to the appointing authority can draw up or cause to be drawn up—

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

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

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

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

(4) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and copies of the said documents and statements of the said witnesses and shall require the Government servant to appear before the disciplinary authority on such day and at such time not exceeding ten working days and submit a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On the date fixed for appearance, the Government servant shall submit the written statement of his defence. The disciplinary authority shall ask the Government servant whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the disciplinary authority shall record

the plea, sign the record and obtain the signature of the Government servant thereon. The disciplinary authority shall record findings of guilty in respect of those articles of charge to which the Government servant pleads guilty. Where the Government servant admits all the articles of charge, the disciplinary authority shall record its findings on each article of charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 21.

(b) Where the Government servant appears before the disciplinary authority and pleads not guilty to the charges or refuses or omits to plead, the disciplinary authority shall record the plea and obtain the signature of the Government servant thereon and may decide to hold the inquiry itself or if it considers it necessary to do so, appoint an inquiring authority for holding the inquiry into the charges and also appoint a Government servant or a retired Government servant or a legal practitioner

as Presenting Officer to present the case in support of the articles of charge and adjourn the case to a date not exceeding five days.

(c) On the day so fixed, the disciplinary authority shall serve copies of the orders appointing the inquiring authority and the Presenting Officer on the Government servant and inform him that he may take the assistance of any other Government servant to present the case on his behalf, but he may not engage a retired Government servant or a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is one such, or, the disciplinary authority, having regard to the circumstances of the case, so permits:

Provided that no Government servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer to whom an appeal may be preferred shall be permitted by the inquiring authority to appear on behalf of the person charged before the inquiring authority:

Provided further that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing, so permits.

Note (1):- The Government servant shall not take the assistance of any other Government servant who has pending two disciplinary cases on hand in which he has to give assistance.

Note (2):- The Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf.

(d) The disciplinary authority shall inform the Government servant to submit within five days a list of documents, which he requires to be discovered or produced by Government for the purpose of his defence indicating the relevance of the documents so required. (e) The disciplinary authority may for reasons to be recorded in writing refuse to

requisition such of the documents as are, in its opinion, not relevant to the case.

(f) The disciplinary authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition.

(g) On receipt of the requisition referred to in clause (f) of this sub-rule, every authority having the custody or possession of the requisitioned documents shall produce the same before the disciplinary authority:

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, shall submit the fact to the Head of the Department or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the disciplinary authority and where the decision is to withhold production of all or any of such documents, the disciplinary authority shall on being so informed communicate the information to the Government servant and withdraw the requisition made by it for the production or discovery of such documents and where the decision is against withholding the production of all or any of such documents, every authority having the custody or the possession of such requisitioned documents shall produce the same before the disciplinary authority.

(6) Where the Government servant to whom a copy of the articles of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the disciplinary authority or otherwise fails or refuses to comply with the provisions of this rule, the disciplinary authority may decide to hold the inquiry *ex parte* or if it considers it necessary so to do, appoint an inquiring authority for the purpose.

(7) (a) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority--

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any, submitted by the Government servant;

(iii) copies of the statements of witnesses, referred to in sub- rule (3);

(iv) copies of documents referred to in sub-rule (3);

(v) evidence proving the delivery of copies of the documents referred to in sub-rule (3) to the Government servant; and

(vi) a copy of the order appointing the Presenting Officer.

(b) The disciplinary authority shall also forward to the inquiring authority documents received under clause (g) of sub-rule (5) as and when they are received.

(10) (a) On the date fixed for recording the evidence, 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.

(b) The evidence shall be recorded as far as possible on day-to-day basis till the evidence on behalf of the disciplinary authority is completed.

(c) The witnesses shall be examined by or on behalf of the Presenting Officer and they may be cross-examined by or on behalf of the Government servant.

(d) The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter without the permission of the inquiring authority.

(e) The inquiring authority may also put such questions to the witnesses as it thinks fit.

(12) (a) When the case for the disciplinary authority is closed, the Government servant shall be required to state his defence orally or in writing as he may prefer and to submit a list of witnesses to be examined on his behalf for which purpose the case may be adjourned to a date not exceeding five days.

(b) If the defence is made orally, it shall be recorded and the Government servant shall be required to sign the record. In either case, a copy of the statement of defence and the list of defence witnesses may be provided to the Presenting Officer, if any, appointed.

(c) The case shall be adjourned to a date not exceeding ten days for production of defence evidence.

2. In the Explanation under clause (ii) of sub-rule (18), the word 'Armed' shall be omitted.

(G.O Ms. No. 337, G.A. (Ser-C) Dept., dt: 22.7.2006)

Earlier Position

Procedure for Imposing major penalties:-

20. (1) No order imposing any of the penalties specified in clauses (vi) to (x) of rule 9 shall be made except after an Inquiry held, as far as may be, in the manner provided in this rule and rule 21 or in the manner provided by the Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850) or the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983, where such inquiry is held under the said Acts.

(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 a Government servant, it may itself inquire into, or appoint

under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, is the case may be, authority to inquire into the truth thereof.

Explanation:- Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Government servant under this rule and rule 21, the disciplinary authority, or the cadre controlling authority who is not designated as disciplinary authority and who is subordinate to the appointing authority can draw up or cause to be drawn up.

(G.O.Ms.No. 33, GA (Ser.C) Department, dated 24-01-1998)

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

(ii) a statement of the imputations of misconduct or misbehaviour in support

of each article of charge, which shall contain.

(a) A statement of all relevant facts including any admission or confession made by the Government servant.

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

(4) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government servant to submit within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 21.

(b) If no written statement of defence is submitted by the Government servant, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under sub-rule (2) an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Government servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

(6) The disciplinary authority shall, where it is not inquiring authority, forward to the inquiring authority-

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any submitted by the Government servant;

(iii) a copy of the statements of witnesses, if any, referred to in sub-rule (3);

(iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Government servant; and

(v) a copy of the order appointing the "Presenting Officer".

(7) The Government servant shall appear in person before the inquiring authority on such day and at such time within fifteen working days from the date of

receipt by him of the articles of charge and the statement of the imputation of misconduct or misbehaviour, as the inquiring authority may, by a notice in writing, specify in this behalf or within such further time, not exceeding fifteen days, as the inquiring authority may allow.

(8) (a). The Government servant may take the assistance of any other Government servant to present the case on his behalf, 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;

Provided that no member of service dealing in his official capacity with the case of inquiry relating to the person charged shall be permitted by the inquiry officer or by any officer to whom an appeal may be preferred to appear on behalf of the person charged before the enquiry officer.

Provided further that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.

Note:- (1) The Government servant shall not take the assistance of any other Government servant who has pending two disciplinary cases on hand in which he has to give assistance.

Note:- (2) The Government servant shall not take the assistance of any other Government servant who is dealing in his official capacity with the case of inquiry relating to the Government Servant charged.

(b) The Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf. (Further instructions issued vide Memo.No. 657/Ser.C/94-4, G.A. (Ser. C) Dept., dated 9-3-95).

(9) If the Government servant who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he 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 Government servant thereon. (10) The inquiring authority shall return a finding of guilty in respect of those articles of charge to which the Government servant pleads guilty.

(11) The inquiring authority shall, if the Government servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after

recording an order that the Government servant may, for the purpose of preparing his defence:

(i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3);

(ii) submit a list of witnesses to be examined on his behalf.

Note:-If the Government servant applies orally or in writing for the supply of copies of the statement of witnesses mentioned in the list referred to in sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow for the discovery or production of any documents which are in the possession of Government but not mentioned in the list referred to in sub-rule (3).

Note:- The Government servant shall indicate the relevance of the documents required by him to be discovered or produced by the Government.

(12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition .. Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

(13) On receipt of the requisition referred to in sub-rule (12), every authority having the custody or possession of the requisitioned documents, shall produce the same before the inquiring authority, and the requisitioning of the documents can be done either at the instance of the Member of Service or by the inquiring authority suo-moto.

"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, shall submit the fact to the Head of Department, or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the inquiring authority, and the inquiring authority shall on being so informed, communicate the information to the Government servant and withdraw the requisition made by it for the production or discovery of such documents".

(G.O. Ms. No. 13, G.A.(Ser.C) Dept., dt: 10.1.2002)

Earlier position

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 of 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 Government servant and withdraw the requisition made by it for the production or discovery of such documents.

Provided further that if such documents are not produced as evidence and if they are sent only for the perusal of inquiring authority, the inquiring authority shall have the power to take it to a higher authority stating that on a perusal of a particular document it finds nothing in it to warrant claiming privilege.

(14) 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 Government servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(15) If it shall appear necessary before the closure of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government servant or may itself call for new evidence or recall and re-examine any witness and in such case the Government servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Government servant an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the Government servant to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interest of justice.

Note:- New evidence shall not be permitted or called for any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacunae or defect in the evidence which has been produced originally.

(16) When the case for the disciplinary authority is closed, the Government servant 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 and the Government servant 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.

(17) The evidence on behalf of the Government servant shall then be produced. The Government servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government servant shall then be examined and shall be liable to cross examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(18) The inquiring authority may, after the Government servant closes his case, and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for purpose of enabling the Government servant to explain any circumstances appearing in the evidence against him.

(19) The inquiring authority may, after the completion of the production of evidence, hear the presenting officer, if any appointed, and the Government servant, or permit them to file written briefs of their respective cases, if they so desire.

(20) If the Government servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the- purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry exparte.

(21) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (v) of rule 9 and in rule 10 but not competent to impose any of the penalties specified in clauses (vi) to (x), of rule 9, has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it is of the opinion that the penalties specified in clauses (vi) to (x), of rule 9 should be imposed on the Government servant, that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.

(b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witnesses and examine, cross-examine and re-examine the witnesses and may impose on the Government servant such penalty as it may deem fit in accordance with these rules.

(22) Whenever an 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 reexamine

any such witnesses as herein before provided.

(23) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain-

(a) the articles of charge and the statement of the imputation of misconduct or misbehaviour.

(b) the defence of the Government servant in respect of each article of charge;

(c) an assessment of the evidence in respect of each article of charge;

(d) the findings on each article of charge and the reasons therefor.

(e) Omitted.

(G.O.Ms.No.270, G.A. (Ser.C) Dept., dated 18-06-1999).

(e) to recommend the penalty proposed to be imposed on the delinquent officer, keeping in view the rule 9 of these rules.

(G.O.Ms.No.229, G.A. (Ser.C) Dept., dated 22-05-2002).

(e) Omitted.

(G.O.Ms.No.454, G.A. (Ser.C) Dept., dated 7-11-2002).

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 Government servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(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 prepared by it under clause (i);

(b) the written statement of defence, if any, submitted by the Government servant;

(c) the oral and documentary evidence produced in the course of the inquiry;

(d) written briefs, if any, filed by the Presenting Officer or the Government servant or both during the course of the inquiry; and

(e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

Explanation:-

It is not necessary to have an inquiry in the manner provided for in this rule or to hear in person in the case of reduction of rank in seniority list (A and B lists) of Constables fit for promotion as Head Constables in the Andhra Pradesh Police Subordinate Service or Andhra Pradesh Special Armed Police Service.

