

**CIRCULAR NO. 6 /2015**  
**Rc. No. Ser 3(4)/ 7621 /2015**

Revenue Administration  
Disaster Management and  
Mitigation Department,  
Chepauk, Chennai-5

**Dated: 30.06.2015**

**Dr. T.S. Sridhar, I.A.S.**  
**Additional Chief Secretary /**  
**Commissioner of Revenue Administration**

**CIRCULAR**

- Sub: Public Services – Handling of disciplinary proceedings – Tamil Nadu Civil Service (D&A) Rules – Rule 17(a) and 17(b) cases - Handling of disciplinary proceedings – Detailed Instructions issued - regarding
- Ref: Circular No.7 / 2006 dated 21.02.2006  
(RC No.:8901/2004)

It is a well settled principle, that whenever a Government Servant commits grave irregularities, misconduct, misbehavior, violation of Acts and Rules, negligence in work, disobedience, unauthorized absence, embezzlement, bribery, fraudulent claims etc. disciplinary action against such Government Servants are initiated under Rule 17(a) or 17(b) of Tamil Nadu Civil Service (Discipline & Appeal) Rules in order to put an end to such omissions and commissions, by the disciplinary authorities, instructions have already been issued by the Government in regard to initiation of proceedings under rule 17(a) and 17(b) vide their circular No.14353/Per.N/93-1, P&AR dated 11.03.1993, (Model form for framing of 17(a) charges) Government Lr. No.124, P&AR, dated 27.02.1996 (Model form for framing of 17(b) charges) and Govt.Lr.No.22899/N/96-11 P&AR, dated 03.03.1998 (Enclosing of Questionnaire form along with charge memo). The Government have issued amendments to rule 9A, 9(c)(1(ii), 11,12,13,20(3),20(4) and Appendix IV vide G.O.(Ms) No. 19, P&AR Department, dated 11.02.2008 and G.O. (Ms) No. 26, P&AR Department, dated 15.02.2008 while issuing show cause notice under

rule 17(a) or while issuing charges under 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. These guidelines should be scrupulously followed without any deviation. Despite the issue of these instructions by the Government, this Commissionerate is noticing a number of procedural lapses committed by the disciplinary authorities at District level, Division level and Taluk level. The following instructions are therefore once again reiterated in capsule with an aim to refresh the disciplinary authorities.

**2) Initiation of disciplinary action under rule 17(a) / 17(b) of T.N.C.S. (D&A) Rules:**

Success of the disciplinary proceedings depends on soundness and standard of charge memo. Therefore there should be proper application of mind in drafting the charges. Charge sheet should be carefully drafted, not in a hypocritical manner. Materials relied upon should be carefully examined. Some of the essential requirements needed in framing charge memo are:

- Every charge should be very clear and specific.
- Ingredients of misconduct should not be omitted.
- Separate charge should be framed for each misconduct or allegation.
- Same charge should not be split into more number of charges.
- The particulars relating to time, date, place, etc., where irregularity took place should be provided.
- Clear, specific, unambiguous and simple language should be used.
- Mentioning of rules orders, instructions against which misconduct committed should be quoted.
- Charge should be confined only to the offences or irregularities committed by the Government Servant.
- No preconceived conclusion should be arrived at.
- Show cause notice / Charge memo should be in the prescribed format prescribed under the rules.
- In the charge memo under rule 17(b) questionnaire form should be enclosed along with the Annexures I, II, III and IV without fail.
- Charge memo should be signed by the competent authority only.



**3) Processing and finalization of disciplinary proceedings:**

**Handling of Charges framed under rule 17(a):**

- (1) Simple Charge memo detailing each lapse separately should be prepared. It should be served on the accused officer in the manner prescribed under Rule 18(c) (Service of charge memo)
- (2) Accused Officer should be directed to submit his explanation within a reasonable time (normally within 15 days) or within the time so extended on specific request made by the Accused Officer. If the Accused Officer does not bother to submit the explanation even after the grant of extension of time and reminder, the disciplinary authority need not wait endlessly for the receipt of explanation. He can go ahead and pass suitable orders on the basis of the available records.
- (3) On receipt of the explanation given by the Accused Officer, the explanation and supporting documents should be carefully examined. Each and every point raised by the Accused Officer should be given due consideration and the disciplinary authority should ensure that none of the points is ignored without any reason.
- (4) The disciplinary authority should record his findings in his own handwriting after satisfying himself whether the charge is fully proved or partly proved. He should not conclude the guilt of the Accused Officer on assumptions and presumptions.
- (5) The disciplinary authority after satisfying himself, that charges/lapses are fully proved or partly proved may decide the quantum of punishment to be awarded for the proved charges. He should be more careful on this point. Only one of the minor punishments as prescribed under Rule 8 of Tamil Nadu Civil Service (D&A) Rules should be imposed.
- (6) (1) Censure, (2) fine (only in certain cases not in all cases) (3) stoppage of increment without cumulative effect up to 3 (three) years and (4) suspension as a substantive punishment are classified as minor punishments and they alone be awarded in respect of disciplinary

proceedings initiated under Rule 17(a) of Tamil Nadu Civil Services (D&A) Rules.

- (7) Stoppage of increment for any period **with cumulative effect** should not be awarded in case of charges initiated under Rule 17(a).
- (8) In cases where the disciplinary authority concluded that the charge (or) charges are held proved, he should impose any one of the penalties prescribed under rule 8 of Tamil Nadu Civil Service (Discipline & Appeal) Rules. The Accused Officer should not be let off with a warning for the proved charge (or) charges as "warning" is not a punishment.
- (9) Final order should be a speaking order with the details of charges framed / lapses mentioned in the charge memo, explanation of the accused officer, decision of the disciplinary authority on each lapse and finally the punishment signed by the competent authority only.
- (10) The punishment orders should be served on the Accused Officer as per the mode of service prescribed under rule 18(c) and the entries in this regard should be made on the Record Sheet / Service Register without fail.
- (11) In the case of 17(a) charges, the implementable final orders should be passed before the date of superannuation of the Accused Officer (G.O.Ms.No.55 P & AR dated 06.06.2002 and Government letter No. 66074/Ser4-1, Revenue Department, dated 28.12.2004) After the date of retirement of the Accused Officer, no orders can be passed by any of the authority on the charges framed under rule 17(a).
- (12) It has been brought to the notice that the monetary value equivalent to withholding of increment are being recovered from the persons when no increments are to be earned by such persons before the date of superannuation. This is not the correct procedure. As per amendment issued to Rule 8(iii) of TNCS (D&A) Rules,  
"Provided also that the penalty of withholding of increments shall not be imposed on a person when no increments are to be earned by such person before the date of superannuation:



Provided also that the recovery of the monetary value equivalent to withholding of increments shall be resorted to only in cases where the punishment of withholding of increment cannot be implemented fully consequent on the promotion of the person to a higher post prior to the imposition of the punishment”.

**4) Handling of Charges framed under rule 17(b):**

- (1) In every case, where any of the major punishments specified in items (iv), (vi), (vii) and (viii) in rule 8 is warranted in a lapse committed by a member of a service, action should be initiated against the erring official under rule 17(b) of the TNCS (D&A) Rules. The charge memo should be framed very carefully and charges should be specific with a statement of allegations and should be in standardised form together with the **Annexure I to IV** as specified in Appendix VIII of rule 17(b) of TNCC (D&A) Rules. Questionnaire Form should be enclosed with the charge memo without any omission.
- (2) Charge memo should be served on the accused officer in the manner prescribed under Rule 18(c). All the requirements of Rule 17(b), including the mandatory enclosure of questionnaire form should be strictly complied with.
- (3) Accused Officer should be directed to submit his explanation within a reasonable time (normally within 21 days) or within the time so extended on specific request made by the Accused Officer. If the Accused Officer does not bother to submit the explanation even after the grant of extension of time and reminder, the disciplinary authority need not wait endlessly for the receipt of explanation. He can go ahead with the appointment of a suitable Inquiry Officer.
- (4) The Inquiry Officer should conduct the inquiry as laid down under Rule 17(b) as per the instructions issued by the Government from time to time. The Inquiry Officer should reduce his questions and answers during the inquiry, in writing and the signature of the Accused Officer be

obtained at the bottom of the every page of the statement so recorded as in the case of such inquiries. The witnesses should be examined only in the presence of the Accused Officer so as to enable him to cross examine them if he so desires. The accused officer has got every right to cross examine any official witness.

- (5) As soon as the Inquiry Officer submits his inquiry report, the disciplinary authority should examine it carefully and arrive at his decision whether he concurs with the findings of the inquiry officer or not.
- (6) If the disciplinary authority disagrees with the finding of the inquiry officer, he should record the reasons for his disagreement with the findings of the Inquiry Officer and communicate the Inquiry Officer's report along with his disagreement to the accused officers and direct him to submit his further explanation on the findings of the disciplinary authority. The situation generally arises when the Inquiry Officer comes to a conclusion that the charges are not held proved, while the disciplinary authority is of the view that the charges are held proved.
- (7) Rule 17(b)(1) provides that the person charged shall be heard in person at any stage, if he so desires before passing final orders.
- (8) On receipt of further explanation from the accused officer on the basis of Inquiry Report and disagreement recorded by the disciplinary authority as stated to sub para (6) above or an expiry of the time limit granted for submission of further explanation, the disciplinary authority shall conduct a personal hearing and pass suitable orders commensurate with the gravity of the charges proved imposing any one of the penalties prescribed in Rule 8 of Tamil Nadu Civil Service (Discipline & Appeal) Rules if such a punishment is warranted.
- (9) The order of punishment should be a "Speaking Order" with the details of the history of the charges, charges framed, date of service of the charge memo, explanation of the individual, appointing of Inquiry Officer, report of Inquiry Officer / findings of the Inquiry Officer for each charge, decision of the authority on the findings, further explanation of



the Accused Officer etc., with specific findings to each charge whether it is provided or not proved and punishment awarded.

- (10) Whenever the penalty of recovery of pecuniary loss from the pay of the accused officer has to be imposed under the Tamil Nadu Civil Service (Discipline & Appeal) Rules in addition to any other penalty under the said rules, both the penalties should be imposed in one and the same order.
- (11) While imposing any one of the penalties mentioned under rule 8 of the Tamil Nadu Civil Service (Discipline & Appeal) Rules the disciplinary authority should ensure that the orders contained in G.O.Ms.No.55 P&AR (N) Dept. dated 06.06.2002 are taken into account specially in the case of the Accused Officer who are on the verge of retirement and unimplementable orders should not be awarded.
- (12) Further as per G.O.(Ms) No. 113, P&AR (N) Department, dated 02.08.2006,
- (i) Provided that the penalty of withholding of increment shall not be imposed on a Government servant, if the said penalty cannot be given effect to fully while in service:
  - (ii) Provided further that in cases where the penalty of 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 that cannot be given effect to shall be recovered from the person.
  - (iii) Provided also that in cases of withholding of increment with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld shall be recovered.
- 13) In Government letter (Ms) No. 7487/P&AR(Per N)/94-5, dated 04.05.1994, the following instructions regarding conversion of charges

under rule 17(b) to proceedings under rule 17(a) of TNCS(D&A) Rules have been issued.

- (i) the authority, just above the disciplinary authority should take up a half-yearly review of cases in which charges have been framed under rule 17(b) of the TNCS(D&A) Rules as mentioned in para 3 above except where the report of enquiry has not been received.
- (ii) Only one review shall be taken up for such case; i.e. case once reviewed under these instructions will not be reviewed again;
- (iii) There shall be no review in cases where, after framing of charges under Rule 17(b), enquiry has been completed and the report of enquiry has been received. In such cases, the matter shall be decided on merits within the framework of Rules;
- (iv) In cases where charges have been framed under Rule 17(b) but the enquiry report has not been received and the reviewing authority directs change over from Rule 17(b), a notice shall be given to the delinquent by the disciplinary authority informing him about the change of Rule under which the matter will be pursued further and also asking him to make any representation under Rule 17(a) of the TNCS(D&A) Rules that he may desire to make within a reasonable period (not exceeding 2 weeks)

#### **5) Handling of 17(b) cases of retiring Government Servant:**

##### **(A) Charges of serious nature involving Corruption / Criminal cases / Huge loss to Government etc.**

If the disciplinary case initiated against the erring official under rule 17(b) of TNCS (D&A) Rules, could not be finalized before the date of superannuation of official, considering the gravity of the offence, pendency of Criminal Cases, pendency of DV & AC cases either before the Criminal Courts or before the TDP the monetary involvement in the case and



considering the loss that is to be sustained by the Government, the disciplinary authority has to invoke the provisions under rule 56(1)(c) of FR and place the individual under suspension and should not allow the individual to be retired on the date of superannuation but to be retained in service. There are standard formats for issue of orders in such cases and only that format should be used; order of suspension should be issued at first and order not allowing to retire under FR 56(1)(c) should be issued after that suspension order.

**B) Finalization of disciplinary proceedings in respect of officials who are not allowed to retire from service under rule FR 56(1)(c),**

- (i) If the disciplinary authority feels that any of the major penalty specified under Rule 8 of TNCS (D&A) Rules is warranted, the disciplinary authority himself very well finalise the disciplinary proceedings by imposing any of the major penalties like compulsory retirement, removal or dismissal.
- (ii) If the charges are not proved and the disciplinary authority desires to drop the charges he can pass such orders.
- (iii) If he feels that major penalty is not required, he should record his findings specifically and remit the entire disciplinary proceedings together with records to the Government in respect of Deputy Collectors and in respect of Tahsildar to Village Assistant the disciplinary authority shall remit the disciplinary proceedings to the ACS/CRA to proceed under rule 9(2) of Tamil Nadu Pension Rules as per the amendment to Rule 9 of Tamil Nadu Pension Rules 1978 in G.O. No. 349, Finance (Pension) Department, dated 12.08.2013.

(C) If the charges under rule 17(b) of Tamil Nadu Civil Service (Discipline & Appeal) Rules initiated against the Accused Officer could not be finalized before the date of retirement of the Accused Officer and if the charges are not so serious involving corruption, criminal cases, huge loss to Government etc., the disciplinary authority can decide the mode of

retirement of the Accused Officer and issue conditional retirement order as per the instruction issued in Government letter (Ms) No. 35/N/2012-1, P&AR(N) Department, dated 03.04.2013. Further the disciplinary authority can record his findings on each charge and should remit the entire disciplinary case as stated in Para (B)(iii) above.

### **(C) Compulsory Retirement Order**

It has been clarified in G.O. (Ms) No. 41, P&AR Department, dated 28.04.2015, that the date of effect of the punishment of Compulsory Retirement, issued after the date of superannuation, in accordance with Fundamental Rules 56(1)(c) and Ruling – 8 under Fundamental Rules 54-B, is the date of issue of Compulsory Retirement order.

### **6) Disciplinary proceedings after retirement:**

Likewise, after allowing the individual to retire peacefully on the date of his / her retirement, if any irregularities committed by him / her come to notice after retirement, such irregularities can be proceeded with disciplinary action only with the prior permission of Government in respect of Deputy Collectors. In respect of Tahsildar to Village Assistant prior permission is sought from the ACS/CRA. That too, with the limitation period of 4 years, that is, the lapse should have occurred within four years before the date of institution of disciplinary action against the retired official.

### **7) (A) Charges framed under rule 17(c) on the basis of conviction in Criminal Courts:**

The scope of disciplinary proceedings in a department and scope of criminal proceedings in a Court of Criminal law are "quite distinct, exclusive and independent of each other. Once conviction is recorded by the competent Criminal Court on a Criminal charge against a Government servant, it remains effective till such conviction is set-aside either on appeal or on revision and there is no legal impediment for pursuing departmental



action against him. Like in a criminal proceeding against a Government servant, if the sentence awarded to the Government servant alone is stayed, the conviction awarded to the Government servant by the Competent Criminal Court is deemed to be effective and departmental action should be initiated. **In both the above circumstances, departmental disciplinary action can well be initiated under Rule 17(c) of TNCS (D&A) Rules on the basis of such conviction by a Competent Criminal court and final orders of dismissal or removal from service be passed** (Government Lr.Ms.126, P & AR dated 19.04.1995) irrespective of the fact whether the judgment of the lower Criminal Court has been stayed by the Appellate Court or not.

**(B) Taking disciplinary action cases ended in acquittal by Courts:**

As per G.O.(Ms) No. 251, P&AR (Per-N) Department, dated 21.04.1988, (i) in the case of an Accused Official acquitted by Courts of Law whether on merits or on technical grounds or otherwise, it is open to the competent disciplinary authority is institute or continue disciplinary proceedings against the said Accused Official for the same charges from which he was acquitted by court, if the competent disciplinary authority is of the view that there are good grounds and sufficient evidence to proceed with the departmental disciplinary proceedings; and

(ii) that, in cases of acquittal of an Accused Official by a court, the competent disciplinary authority is of the opinion that the departmental proceedings need not be instituted continued against him, the competent authority shall, within one month of the date of the judgement (exclusive of the period required for obtaining the copy) shall send a report of such cases to the Government containing justification for the stand taken by him. Every case so reported shall be accompanied by a copy of the relevant judgement of the court.

**(C) In G.O. (Ms) No. 124, P&AR(N) Department, dated 22.02.1983,** the following instructions have been issued in the cases of initiation of departmental / criminal action in involvement of public servant in case of misappropriation.

(i) When a criminal case is filed solely on a criminal offence committed by the Government servant which is in no way connected with the discharge of his official duties; there is no need to pursue departmental action except placing the Government servant under suspension as contemplated under TNCS(D&A) Rules the ultimate departmental action can be initiated against the delinquent officer after the result of the criminal case pending against him is disposed of by the Court of Law.

(ii) When both departmental as well as criminal action is initiated for the offences of the kind referred to in para 1 above 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.

#### **8) Handling of Vigilance cases:**

(i) The procedure and rules to be adopted in the disciplinary cases and those arise out of detailed enquiry taken up by the DVAC have been outlined already in the Circular No.35/2005 issued vide this Office Ref. Ser.3(4)/11647/2005 dated 23.08.2005. Further as per Government letter Ms. No. 84/N2/2002, P&AR(N2) Department, dated 25.07.2002, the Inquiry Officer report should be communicated to the DVAC for their remarks; if no remarks is received from the DVAC within two months the respective disciplinary authority may pass final orders. The guidelines issued therein, are to be followed without any deviation so as to ensure quality, avoidance



of delay and zero-error in the handling of disciplinary cases arising out of Vigilance enquiry.

(ii) As per G.O. (D) No. 98, P&AR (N) Department, dated 04.06.2010, In respect of the cases against C&D Officers, if the disciplinary authority decides to drop charges, the Heads of Department will correspond with Director of Vigilance and Anti-Corruption on this and the concurrence of the Vigilance Commission for dropping action is not necessary in such cases.

**9) A) Disciplinary Authorities for the officials of Revenue Department**

Designation	Disciplinary Authority	Appellate Authority	Revision Authority	Review Authority
Village Assistant	Tahsildar	RDO	DRO	Government
Village Administrative Officer	RDO	DRO	CRA	Government
Masalchi Gardener Record Clerk Office Assistant Driver Junior Assistant	PA(G)	DRO	CRA	Government
Assistant	DRO	CRA	Government	Government
Deputy Tahsildar and Tahsildar	Collector	CRA	Government	Government
Deputy Collector	CRA (17(a))	Government	Government	Government
	Government 17(b)	Government	Government	Government
District Revenue Officer	<b>Government, Public (Special (A) Department)</b>			

**B) Disciplinary authority in cases of more than one Government servant involved.**

As per ruling 9 A of TNCS(D&A) Rules in any case where more than one Government servant of the same Department are involved, the authority competent to institute disciplinary proceedings and impose any of the penalties specified in rule 8 shall be the authority in that Department in respect of the Government servant who holds the highest post and the disciplinary proceedings against all of them shall be taken together

Provided that in the case of Government Servants belonging to different departments who are jointly involved or whose case are interconnected, the Government shall be the authority competent to initiate disciplinary proceedings and impose any of the penalties specified in rule 8 and in such cases the administrative department of Secretariat in respect of the Government servant who holds the highest post will initiate such disciplinary proceedings and issue final orders after complying with the entire procedure laid down in these rules.

In Government letter (Ms) No. 270, Revenue, dated 03.04.2006, instructions have been issued that rule 9A of TNCS(D&A) Rules will not apply to the officials retired from service.

#### Illustration

<b>Designation</b>	<b>Disciplinary authority</b>
<b>Officials involved: (Revenue Department)</b> Tahsildar Deputy Tahsildar (Retired) Revenue Inspector	In respect of Deputy Tahsildar, CRA has to initiate disciplinary action and pass final orders under Tamil Nadu Pension Rules 1978. In respect of Tahsildar and Revenue Inspector, District Collector is the Disciplinary authority as per rule 9A of TNCS(D&A) Rules since Tahsildar is the higher official.
<b>Officials involved: (Different Department)</b> Deputy Collector Tahsildar (Retired) Surveyor Deputy Tahsildar Revenue Inspector	In respect of Tahsildar, CRA has to initiate disciplinary action and pass final orders under Tamil Nadu Pension Rules 1978. In respect of all other official Government Revenue Department is the Disciplinary authority as per rule 9A of TNCS(D&A) Rules .



<b>Officials involved: (Different Department)</b> Tahsildar Surveyor (Retired) Deputy Tahsildar Revenue Inspector	In respect of Surveyor, AD (Survey) has to initiate disciplinary action and pass final orders under Tamil Nadu Pension Rules 1978. In respect of all other official District Collector is the Disciplinary authority as per rule 9A of TNCS(D&A) Rules since Tahsildar is the higher official.
<b>Officials involved: (Different Department)</b> Assistant Agriculture Officer Deputy Tahsildar (Retired) Revenue Inspector (Retired) Village Administrative Officer	In respect of Deputy Tahsildar and Revenue Inspector, CRA has to initiate disciplinary action and pass final orders under Tamil Nadu Pension Rules 1978. In respect of AAO and VAO Government Agriculture Department is the Disciplinary authority as per rule 9A of TNCS(D&A) Rules since AAO is the higher official.

Despite issue of so many instructions and guidelines now and then, it has been brought to the notice that some disciplinary authorities are framing charges and issuing final orders without competency. Therefore this Commissionerate is forced to cancel such orders passed without competency on appeal cases. This caused much hardship to the individuals and also to the administration. Therefore the authorities concerned are instructed to follow the above instructions scrupulously without fail.

All the disciplinary authorities have to be thorough with the latest instructions amendments to rules etc., and see that the procedural lapses are reduced to zero.

10) The District Collectors are therefore requested to follow the instructions carefully and instruct the other disciplinary authorities in the District viz. District Revenue Officer, Personal Assistant (G) and the Revenue Divisional Officers to follow the above guidelines without any deviation so as to ensure quality and zero-error in the handling of disciplinary cases without giving any room for any unsavory comments from any quarters. The District Collectors are also requested to organize periodical and informal refresher course at District level to educate the officers and the staff right from the Junior Assistant to Deputy Collector and update them on the service rules and disciplinary rules. **This circular should not be quoted under any circumstances in any references.**

**The receipt of the circular may be acknowledged immediately.**

**Sd/-T.S. Sridhar,  
Additional Chief Secretary/  
Commissioner of Revenue Administration.**

**To**

**All District Collectors  
All RDOs (Through concerned collectors)**

**Copy to  
Superintendents,  
Ser I to 6, OP I and RA II  
Revenue Administration Department  
Chepauk, Chennai-5  
P.S. to ACS / CRA  
Assistant Commissioner I,II, III & IV**