



**SOUTHERN POWER DISTRIBUTION COMPANY OF A.P. LIMITED
CORPORATE OFFICE:: TIRUPATI**

Circular Memo.No.CMD/CGM(HRD)/JS(HR)/GM(HR)/DGM(DC)/PO(DC)/JPO/F.319-General/D.No.434/2022, dt.17-03-2022.

Sub:- APSPDCL - Departmental Enquiries against employees for disciplinary action
- Procedure to be followed APSEB Employees Conduct, Discipline & Appeal Regulations as adopted by APSPDCL - Revised instructions in supersession of earlier instructions - Issued.

Ref:- 1) APSEB Circular Memo.No.2788/VC.1/72-1, dated:09.11.1792
2) Circular Memo.No.CMD/CGM/HRD/JS(HR)/GM/ DGM-IV/PO(DC)/
F.No. / D.No.616/13, Dated:18.03.2013.
3) Circular Memo.No.CMD/CGM/HRD/JS(HRD)/GM/ DGM-IV/PO(L)/
S.A./D.No.171/14, dated:07.04.2014.

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The procedure prescribed under the APSEB Employees Conduct, Discipline & Appeal Regulations as adopted by APSPDCL for imposition of major penalties on “Employees” of the APSPDCL, is set out here, for the guidance of the disciplinary authorities, inquiring authorities who are the primary functionaries dealing with disciplinary cases. These instructions are issued in supersession of the instructions issued in the reference cited and all earlier orders on the subject.

2. Disciplinary proceedings lay down the procedure that is required to be followed by the competent authorities for the purpose of establishing the truth or otherwise of an allegation of misconduct leveled against an employee, and in the event of the employee being held guilty of the charge, to impose on him a prescribed penalty, in strict conformity with the provisions of the APSEB Employees Conduct, Discipline & Appeal Regulations as adopted by APSPDCL applicable to him. If the departmental authority holds the inquiry in violation of the prescribed procedure, the findings and the decision are liable to be set aside by the departmental authorities and courts. More cases are lost for technical lapses, few for want of proof. It is so, because “some” evidence is sufficient to sustain the charge and judicial review does not interfere with the findings of fact arrived at in disciplinary proceedings. Hence, it is necessary that the functionaries charged with the task of conducting disciplinary proceedings should equip themselves with a thorough knowledge of the procedural requirements; and hence these instructions are issued.

3. **Regulation 10(2)(a) of Discipline & Appeal Regulations:-**No order imposing on a member of a service a penalty specified in items(iv), (vi), (vii) and (viii) in regulation 5 of Discipline & Appeal Regulations, shall be passed except after conducting departmental enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. However, as per the orders issued in Memo.No.CGM/HRD/DS-II/AS-III/PO(DC)/DNo.1086/11, dt.6-7-2011 for awarding punishment of “Withholding of increments with cumulative effect”, conducting of departmental inquiries is necessary to avoid legal complications.

4. **Basis for Disciplinary Proceedings:-**Disciplinary proceedings are instituted commonly on the basis of material secured in what is known as a preliminary enquiry conducted by the department on receipt of a complaint and at times on the basis of a well-documented allegation straight away without conducting a preliminary enquiry. Disciplinary proceedings are taken up also as an outcome of an enquiry or investigation conducted by the Anti-Corruption Bureau or any other investigating agency.

5. **Drawing up of Charge-sheet:-** For imposing a major penalty, the Disciplinary Authority shall draw up Articles of charge, statement of imputations of misconduct or misbehaviour in support of the charge, a list of documents by which and a list of witnesses by whom the charge is proposed to be sustained.

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6. **Delivery of the charge sheet together with copies of documents and statements of witnesses:-**The disciplinary authority shall deliver the charge sheet or cause it to be delivered to the member of service together with copies of the said documents and copies of statements recorded, if any, of the said witnesses.

7. **Serving of charge sheet:-**The drawing up and delivery of the charge sheet is a significant land-mark as it marks the commencement of the proceedings. The best way of serving the charge sheet is personal service by delivering it under acknowledgement. In the alternative, the charge sheet may be sent to the employee by registered post acknowledgment due to his last known address, failing which it may be exhibited on the notice board and put in the at least two newspapers. Endorsements on postal letters “not found”, “not traceable”, “not known”, “left” do not amount to service, but an endorsement “refused” does.

8. **Articles of charge:-**

- (i) Charge is prima facie proven essence of the allegation setting out nature of accusation.
- (ii) The language of the charge must be clear precise, unambiguous and free from vagueness.
- (iii) The particulars of misconduct such as date, time, place, persons or things involved should be reflected in the charge.
- (iv) A full and clear statement of the allegations in support of each charge i.e., facts in evidence in support of charge should be set forth.
- (v) Charge should not contain expression of opinion as to the guilt of the employee as it would mean that the disciplinary authority has a prejudiced mind and prejudged the issue.
- (vi) Charge should not contain expression of opinion as to the guilt of the employee as it would mean that the disciplinary authority has a prejudiced mind and prejudged the issue.
- (vii) The word ‘**that**’ should be used at the commencement of the Articles of charge to mean that they are not conclusions but only charges or allegations.
- (viii) Charge should mention the nature of misconduct/misbehaviour.
- (ix) Charge should mention the conduct Regulation violated.
- (x) A separate article of charge should be framed in respect of each transaction/event or a series of related transactions/events.
- (xi) The terms delinquent and accused suggest prejudging the issue and are inappropriate, and terms like public servant or employee should be used instead.
- (xii) The statement of imputations should not refer to the preliminary enquiry report unless it is sought to be relied upon in support of the charge. A reference of the advice vigilance department should be avoided either in the charge or in the statement of imputations.
- (xiii) Charge should be accompanied by statement of imputations of misconduct or misbehavior and list of witnesses and documents.
- (xiv) The charge should not indicate the penalty proposed to be imposed.
- (xv) The charge may be amended during the course of enquiry, if necessary, but sufficient opportunity has to be given to the charged officer to meet the amended charge.
- (xvi) A charge may be withdrawn if there is any flaw or for any other reason and a fresh charge may be framed and issued.
- (xvii) List of witnesses should be complete. Only such of them, who are proposed to be examined in support of the charge should be mentioned.
- (xviii) List of documents should be complete. Only such documents should be mentioned which are relied upon.
- (xix) Charge should be served with a Memorandum and requiring the employee to submit his statement of defence within a specified period.

9. **Specimen Article of charge:-** Enclosed as **Annexure-I**

10. Memorandum

The charge sheet is to be served on the employee with a memorandum indicating that he is being proceeded against him that major penalty proceedings are instituted against him, in the format enclosed as **Annexure-II**.

11. Action on receipt of statement of defence:-

On receipt of the statement of defence from the charged officer and examination thereof, if the Disciplinary Authority is not satisfied with the written defence of the charged officer, he may appoint Inquiry Officer to inquire into the charges. The Disciplinary Authority should do so only at this stage and not earlier, i.e., before consideration of the written defence of the Charged Officer. A format relating to appointment of Inquiry Officer is enclosed as **Annexure-III**.

12. Functions and Powers of Inquiring Authority:-

The following are the functions, which an Inquiry Officer will have to discharge, and powers, which he can exercise in the conduct of an inquiry:

- 1) There should be a proper order of appointment issued by the Disciplinary authority in respect of the inquiry in his favour and the Inquiry Officer should check up the order to satisfy himself that it is properly worded and signed by the competent authority.
- 2) Inquiry Officer can proceed with the inquiry, except when there is a specific order of stay issued by Court.
- 3) Inquiry Officer is a delegate of the Disciplinary Authority.
- 4) Inquiry Officer cannot delegate power of conducting inquiry.
- 5) Inquiry Officer is not subject to the directions of the Disciplinary authority or his own superior officers in the conducting of the inquiry.
- 6) Inquiry Officer should stay the proceedings where bias is alleged against him and await orders of competent authority. Bias should have existed before the enquiry had started. There is no question of bias in official functions.
- 7) He should check up whether the enclosures to the charge memo and other records are received.
- 8) He should arrange for production of documents required by the charged employee for his defence. He can reject the request to summon documents considered not relevant to the inquiry, and in such a case he should record reasons for rejecting the request. Where the competent authority claims privilege, he is bound by such decision and he cannot demand their production.
- 9) Inquiry Officer can reject the request to call any witnesses cited by the charged officer, if their examination is considered irrelevant or vexatious or causes harassment or embarrassment.
- 10) Inquiry Officer may summon defence witnesses and write to the employer and not merely leave it to the charged employee to produce them.
- 11) Charged employee can examine himself as a witness in his own behalf in which case he can be subjected to cross-examination on behalf of the disciplinary authority.
- 12) The charged employee may be asked whether he would admit the genuineness and authenticity of the listed documents, and admitted documents may be marked as exhibits straightaway. This would obviate the necessity of examining witnesses to prove them.
- 13) Depositions of witnesses may be recorded in a narrative form. At the head of each statement recorded by the I.O., the **name, father's name** (or husband's name), **occupation, age and address** of the witness should be entered. In the case of **official witness, his name, rank and designation should be written**. Wherever considered necessary, question and answer may be recorded verbatim. The statement should be read over to the deponent, and corrections if any made in the presence of both sides. The signature of witness, should be obtained on each page and the Inquiry Officer should also sign on each page. At the end, the Inquiry Officer should record the following certificate:

“Read over to the witness in the presence of the charged officer and admitted by him as correct/Objection of the witness recorded.”

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- 14) During the examination of a witness, the Inquiry Officer should see that the witness understands the question before answering. If he gives evidence in a language other than English, it shall be correctly translated into English and recorded, unless recorded in the language spoken. If the witness deposes in a language other than English and the deposition is recorded in English the deposition should be translated in the language in which it is made and read over to the witness and a certificate recorded as follows:

“Translated and read over to the witness in -- (mention the language)
and admitted by him to be correct.”

- 15) ‘Inquiry Officer may put such questions, as he deems fit, to witnesses for obtaining clarification on any point, but he shall not cross-examine witnesses.
- 16) Combined statements of two or more witnesses should not be recorded. Separate statement should be recorded of each witness.
- 17) No other witness or outsider shall be allowed during the examination of each witness.
- 18) Inquiry Officer should examine the charged employee on the circumstances appearing against him in the evidence on record to enable him to explain them.
- 19) Inquiry Officer cannot cross-examine the charged employee or put incriminating questions.
- 20) Where there is no provision for appointment of a Presenting Officer or where a Presenting Officer is not appointed, Inquiry Officer can discharge the functions of Presenting Officer.
- 21) Representations received from both sides should be kept in separate files.
- 22) A daily order sheet should be maintained where the day-to-day transaction of business including date and time, venue of inquiry and brief particulars of progress of inquiry should be recorded.
- 23) A gist of representations and requests of charged employee and orders passed thereon should be recorded in the Daily Order Sheet.
- 24) Where, during the course of the inquiry, the Inquiry Officer is succeeded by another Inquiry Officer, the successor shall proceed with the inquiry from the stage at which it was left by the predecessor, unless he considers it necessary to recall and re-examine any of the witnesses already examined.
- 25) Inquiry Officer should not take any extraneous material or material not brought on record in the inquiry, into consideration.
- 26) Inquiry Officer should not make any reference to the advice of any legal or other officer, or act on such advice.
- 27) Leading questions i.e., questions suggesting answers to the witness should not be allowed in examination or re-examination.
- 28) Copies of depositions recorded at the enquiry may be given to the charged officer, if he requests for the same.
- 29) Findings on the charges should be based entirely on the evidence adduced during the enquiry.
- 30) Inquiry Officer should discuss and assess the evidence, oral and documentary, on record and give reasons for the findings arrived at by him. Mere incorporation of extracts of statements or a summary of evidence does not meet the requirements.
- 31) Inquiry Officer should give his findings on each charge.
- 32) Inquiry Officer cannot recommend penalty.

13. Inquiry Officer should maintain a record in the following folders:

- (i) A folder containing:
- (a) list of exhibits produced in proof of the articles of charge;
 - (b) list of exhibits produced by the charged Government servant in his defence;
 - (c) list of witnesses examined in proof of the charges;
 - (d) list of defence witnesses.
- (ii) A folder containing depositions of witnesses arranged in the order in which they were examined;
- (iii) A folder containing exhibits;
- (iv) A folder containing daily order sheet;

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(v) A folder containing written statement of defence, if any, written briefs filed by both sides, applications, if any, made in the course of the inquiry with orders thereon and orders passed on any request or representation orally made.

14. Inquiry Report—what it should contain

The report of the Inquiry Officer should contain:

- (i) An introductory paragraph in which reference is made about the appointment of the Inquiry Officer and the dates on which and the places where the inquiry was held;
- (ii) The articles of charge and the statement of imputations of misconduct or misbehaviour;
- (iii) Charges which were admitted or dropped or not pressed, if any;
- (iv) Charges that were actually inquired into;
- (v) Case of the Disciplinary Authority;
- (vi) The defence of the Charged Officer in respect of each article of charge
- (vii) An assessment of the evidence in respect of each article of charge
- (viii) Findings on each article of charge and the reasons therefore.
- (ix) A full final summing up should be given at the end, covering all the charges.

15. The above instructions are issued to overcome the administrative difficulties in respect of departmental inquiry cases purely in the interest and welfare of APSPDCL.

16. The receipt of the circular memo shall be acknowledged.

Encl:- 1) Annexure-I
2) Annexure-II
3) Annexure-III

H.HARANATHA RAO
CHAIRMAN AND MANAGING DIRECTOR

To
All Chief General Managers/Corporate Office.
The Superintending Engineer/Operation/APSPDCL/Nellore, Tirupati, Kadapa, Kurnool and Anantapur.
The Superintending Engineer/Assessments/APSPDCL/Tirupati.
The Superintending Engineer/DPE/APSPDCL/Tirupati.
The Superintending Engineer/Enquiries/APSPDCL/Tirupati.
The Divisional Engineer/Enquiries/APSPDCL/Tirupati.
All Divisional Engineers/APSPDCL.
All Deputy General Managers/Corporate Office/Tirupati.

Copy to: -

The GM(IT&SAP)/APSPDCL/Tirupathi- To place the above order in the APSPDCL official website.

PS to CMD/APSPDCL/Tirupathi.
Stock file.

//FORWARDED :: BY ORDER//


PERSONNEL OFFICER

**(Annexure-I to Circular Memo.No.CMD/CGM(HRD)/JS(HR)/GM(HR)/ DGM(DC)/
PO(DC)/JPO/F.319-General/D.No.434/2022, dt.17-03-2022)
(Specimen Article of charge)**

Annexure-I

Statement of articles of charge framed against Sri..... (Name, designation and place of working)

Article-I: That the said Sri (name and designation) while functioning as during the period

Article-II: That during the aforesaid period and while functioning in the aforesaid office, the said Sri (name and designation).

Article-III: That during the aforesaid and while functioning in the aforesaid Office, the said Sri... (name and designation).

**Example
Annexure-I**

Statement of articles of charges framed against Sri..... (Name, designation and place of working)

Article I:- That the said Sri(name) while functioning as (designation) participated in relay hunger strike on 08-11-2021 from 10.00 am to 05.00pm in front of Circle Office, APSPDCL, Tirupati by erecting a tent without obtaining prior permission from the local police and by violating COVID-19 guidelines. It constitutes misconduct as per sub-regulation (xxxiv) of Regulation – 4 of APSEB Employees (Revised) Conduct Regulations as adopted by the APSPDCL.

ANNEXURE - II

Statement of basis of charge in support of the articles of charge framed against Sri
.. (name and designation).

Article-I...

Article-II...

Article-III ...

**Example
Annexure-II**

Statement of basis of charge in support of the articles of charge framed against Sri
(name and designation).

Article- I: That the said Sri (name) while functioning as (designation and place of working), representing himself as Union participated in relay hunger strike on 08.11.2021 from 10.00 am to 05.00 pm in front of Circle Office, APSPDCL, Tirupati by erecting a tent without obtaining prior permission from the local police and by violating COVID-19 guidelines. He had submitted the leave application to the Asst. Engineer/Operation/ 08.11.2021 for sanction of leave for participation in the Dharna in front of SPCL Corporate Office, but the Asst. Engineer refused to sanction of leave. However, Sri(name & designation) absented from duty and participated in the relay hunger strike in front of the APSPDCL Circle Office, Tirupati on 08.11.2021. Further, it is reported that, Sri(name & designation) used derogatory words against the APSPDCL management, leveling baseless allegations. He is charged with misconduct as per sub-regulations (xiii), (xxiv), (xxxiv) and (xliv) of Regulation – 4 of APSEB Employees (Revised) Conduct Regulations as adopted by the APSPDCL.

Annexure-III

List of documents by whom the Articles of Charge framed against “Sri(name and designation) are proposed to be sustained.

- 1.
- 2.

Annexure-IV

List of witnesses by whom the Articles of Charge framed against “Sri(name and designation) are proposed to be sustained.

- 1.
- 2.

DISCIPLINARY AUTHORITY

Sd/-xxxx
CHAIRMAN AND MANAGING DIRECTOR

//TRUE COPY//

A. J. L. Lachar
PERSONNEL OFFICER

Memo.No.

— — —

7. The receipt of this Memo. shall be acknowledged.

Encl:-As above.

To
Sri (name and designation
(Through Controlling Officer.....)).

Copy to the

The Controlling Officer: He is directed to serve the memo to the above incumbent, personally (to the extent possible) duly obtain his dated acknowledgement on duplicate and submit the same to this office.

Sd/-xxxx

CHAIRMAN AND MANAGING DIRECTOR

//TRUE COPY//

A. J. [Signature]
PERSONNEL OFFICER

**(Annexure-III to Circular Memo.No.CMD/CGM(HRD)/JS(HR)/GM(HR)/ DGM(DC)/
PO(DC)/JPO/F.319-General/ D.No.434/2022, dt.17-03-2022)
(Format relating to appointment of Inquiry Officer)**

Memo.No.

Sub: HRD – APSPDCL – Allegation of gross negligence and dereliction of duties against Sri
for – Departmental action –
Appointment of Enquiry Officer – Orders – Issued.

Whereas, an inquiry under Regulation 10 of APSEB Employees Discipline & Appeal Regulations is being held against Sri.....(Name & Designation of the charged officer).

2. AND WHEREAS, it is considered that an Inquiring Authority should be appointed to inquire into the charges framed against the said Sri..... (name and designation).

3. NOW, THEREFORE, in exercise of the powers conferred by sub-regulation 2(a) of Regulation 10 of APSEB Employees Discipline and Appeal Regulations as adopted by APSPDCL, the disciplinary authority hereby appoints Sri.....(name and designation) as the Inquiring Authority to inquire into the charges framed against the said Sri..... (name and designation)

4. The Enquiry Officer is vested with powers to summon any witness required in connection with the enquiry.

5. A copy of the with its enclosures is enclosed herewith.

6. The Enquiry Officer after conducting the enquiry should draft the minutes framing the charges, the facts in evidence in support of the charges, the defense offered against the charges the facts in evidence in support of the defense and his findings and forward the same in triplicate to the disciplinary authority within one month.

7. The receipt of this order shall be acknowledged.

Encl: As above.

DISCIPLINARY AUTHORITY

To

Sri..... (Name (or) designation of the Inquiry Officer)

Copy to:

Sri..... (Name and designation of the Charged Officer)

(Through Controlling Officer.....).

The Controlling Officer: He is directed to serve the memo to the above incumbent, duly obtain his dated acknowledgement and submit the same to this office.

Sd/-xxxx

CHAIRMAN AND MANAGING DIRECTOR

//TRUE COPY//


PERSONNEL OFFICER