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GOVERNMENT OF PAVITTAHADU (P. N. DEPARTMENT)

PERSONNEL AND ADMINISTRATIVE REPORTS (PER. N) DEPARTMENT
CIRCULAR No. 14353/Per. N/93-1, DATED 11-03-1993.



Subject: Disciplinary Proceedings - Initiation of Proceedings under Rule 17(a) or 17(b) of Tamil Nadu Civil Services (Classification, Control and Appeal) Rules, 1953 - Framing of charges - Guidelines - Issued.

Of late, it has been noticed that some of the disciplinary authorities frame charges under Rule 17(b) of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules, 1953, in a routine manner even for minor offences which might not ultimately result in imposition of any major penalty. In order to avoid the framing of charges unnecessarily under rule 17(b) even for minor lapses and to avoid unnecessary prolonging of disciplinary cases, it is considered necessary to issue some guidelines in framing charges under the relevant rules so as to eliminate the delay in processing the disciplinary cases.

2. The procedure to be followed in disciplinary cases should conform to the provisions laid down in the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules. The Tamil Nadu Civil Services (Classification, Control and Appeal) Rules have been framed in conformity with the provisions of Article 311 of the Constitution of India. It is absolutely necessary that the procedure as laid down in these rules and the various instructions issued thereunder are followed rigidly. Any failure to observe the proper procedure, either willfully or through negligence, is liable to vitiate the entire proceedings rendering them null and void. Necessary instructions were also incorporated in Chapter II of the "Handbook on Disciplinary Proceedings" regarding the guidelines to be followed while framing charges.

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3. Decision to charge an Officer should be taken only when full facts have been gathered and evaluated and there is non-controvertible inference and material that a misconduct has been committed. Once a decision has been taken to the effect that formal disciplinary proceedings should be instituted against the Government servant under the rules, the disciplinary authority will have to consciously decide whether proceedings should be taken under Rule 17(a) or 17(b) i.e. for imposing a minor or a major penalty. It should be borne in mind that the nature of disciplinary action and the quantum of punishment are to be commensurate with the gravity of the charges alleged to have been committed.

4. The disciplinary authorities should frame charges under rule 17(b) only when they are of the firm view that the charges, if framed and proved, would result in the imposition of any of the major penalties, namely, dismissal from service, removal from service, compulsory retirement or reduction to a lower rank in the seniority list or to a lower post or time scale. The specific procedure under Rule 17(b) has to be followed (from the stage of enquiry, after receipt of the explanation) also when the second proviso to rule 17(a) is attracted. The cases of indiscreet moral turpitude, corruption, bigamous marriage, unauthorised absence, etc., would attract action under Rule 17(b) the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules. For delinquencies other than the above not involving moral turpitude, a simple show cause notice under rule 17(a) would be quite adequate instead of specific charges as in the case under rule 17(b), where a major punishment is really warranted.

5. However, in order to demarcate the framework charges under rule 17(b) and proceedings under rule 17(a) of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules, the following guidelines are suggested: