

Creative Museum Designers

NCSM Campus, Building-II (6th floor)
GN 33, Sector-V, Bidhan Nagar
Kolkata – 700 091

Introduction

Creative Museum Designers (CMD) is a Section 8 Company under Company's Act 2013, wholly owned by National Council of Science Museums, an autonomous society under Ministry of Culture, Government of India. The main objectives of CMD is to conceptualize, design and development of Exhibits, Exhibition Galleries, Museums, Science Centres, Planetaria and such other Knowledge Centres on turnkey basis.

Successful implementation of the objectives of CMD calls for very careful manpower planning, recruitment of talented individuals and proper nurturing so as to bring out the best in them. It is also essential that Company should have a well-established reward and punishment system to ensure that the employees are made to work towards the fulfilment of the organizational goals. While the reward system will encourage the employees to work towards the achievement of organization's goals, punishment system will aim at preventing them from working against the organization.

The Leave Rules, Conduct Rules and Disciplinary & Appeal Rules, as approved by the Board of Directors of CMD in its 15th meeting held on 25.07.17, shall be effective from 1st August, 2017 but cases already decided shall not be reopened.



(Subrata Sen)
Managing Director, CMD

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Chapter-1

LEAVE RULES

A. Short Title & Commencement

- (i) These rules may be called the Creative Museum Designers (Leave) Rules, 2017;
- (ii) They shall come into force at once;
- (iii) These rules shall apply to every person appointed to a post in connection with the affairs of the Company.

B. General Principles

1. Leave cannot be claimed as a matter of right.
2. The leave sanctioning authority may refuse or revoke leave of any kind, but cannot alter the kind of leave due and applied for.
3. No leave of any kind can be granted for a continuous period exceeding 30 days except with the sanction of the Chairman, CMD. Without a valid reason, an employee of the Company, who remains absent for continuous period exceeding 30 days, should be deemed to have resigned from service of the Company.
4. An official on leave should not take up any service or employment elsewhere without obtaining prior sanction of competent authority.
5. Grant of Leave on Medical grounds:-

Grant of Leave on Medical ground shall be considered on the basis of a certificate from a Registered Medical Practitioner (RMP), after taking into account the circumstances of the case.
6. Leave Sanctioning Authority may secure second medical opinion, if considered necessary.
7. An employee of the Company, who is on leave on medical certificate, will be permitted to return to duty only on production of a medical certificate of fitness from RMP.
8. Absence from duty after the expiry of leave renders an employee of Company liable to disciplinary action.
9. Absence without leave not in continuation to any authorized leave will constitute an interruption of service unless it is regularised.

C. Leave for regular employees

1. Earned Leave:-

- (i) Credit:- The Earned Leave account of regular employees shall be credited with Earned Leave, in advance, in two instalments of 15 days each on the first day of January and July of every calendar year. If an employee joins service of the Company in the middle of a six monthly period his leave account on joining shall be credited proportionately @ 2½ days for every completed month. The credit to be afforded will be reduced by 1/10th of extra-ordinary leave availed and/or period of dies-non during the previous half year, subject to a maximum of 15 days and to the extent of such credit only.
- (ii) Accumulation:- An employee of the Company can carry forward the balance of leave subject to a maximum of 90 days.

2. Half Pay Leave:-

Credit:- The Half Pay Leave account of regular employees shall be credited in advance in two instalments of 5 days each on the first day of January and July of every calendar year. If an employee joins the Company in the middle of the period between January and July or vice versa, the credit shall be affected @5/6 days for every completed month with fractions rounded off to the nearest whole figure. Half Pay Leave shall be admissible only on production of certificate from an RMP clearly indicating the nature of illness. No employee who has availed Half Pay Leave shall be allowed to resume duty unless he/she is declared fit.

No employee other than those in regular services of the Company shall be eligible for paid Medical leave.

3. Extra-ordinary Leave:-

Extra-ordinary leave may be granted to an employee of the Company –

- (i) When no other leave is admissible;
- (ii) When other leave is admissible, but the employee of the Company applies in writing for extra-ordinary leave.

Extra-ordinary leave cannot be availed concurrently during the notice period.

4. Maternity Leave:-

Maternity leave of 180 days is admissible to married/unmarried female employees of the Company with less than two surviving children during pregnancy.

5. Paternity Leave:-

Male employees of the Company with less than two surviving children are entitled to Paternity Leave of 10 days during wife's confinement.

D. Leave Salary

1. During Earned Leave, Maternity Leave & Paternity Leave – Equal to pay drawn immediately before proceeding on leave.
2. During Half Pay Leave – Equal to half the amount of leave salary on Earned Leave.

E. Leave for employees on Contract

Earned Leave and Half Pay Leave will be admissible to employees on contract as per the regular employees.

F. Casual Leave

Casual Leave is not a recognized form of leave and is not subject to any rules. An official on Casual Leave is not treated as absent from duty and pay is not intermitted. Employees (both regular & contractual) of the Company shall be eligible for 8 days' Casual Leave in a year. An employee joining or leaving the company in the middle of the year shall be allowed Casual Leave on pro rata basis.

G. Special Casual Leave

Special Casual Leave may be sanctioned to an employee (both regular & contractual) of the Company in the following circumstances only:-

- a) If he/she is not able to attend office due to serious civil commotion or total transport strike.
- b) In case of general elections to the State Assembly, Loksabha or Municipalities.

H. Working Hours

The working hours on all working days shall be from 09.30 A.M. to 6.00 P.M. with half an hour lunch interval. The office shall remain closed on all Second & Third Saturdays & Sundays. Attendance should be recorded by each employee of the Company in the Biometric Machines installed at specified locations inside the Company premises.

I. Late attendance

Half a day's Casual Leave shall be debited to the Casual Leave Account for each late attendance. However, late attendance up-to an hour for not more than two occasions in a month can be considered by the Competent Authority, if convinced that it is due to unexpected reasons.

J. Dies-non

When a day can be marked “*dies-non*” and its effect:-

A day can be marked as “*dies-non*” by the leave sanctioning authority under following three circumstances:-

- (i) When the official remains absent from duty without prior information;

- (ii) When on duty in office, the official leaves the office without proper permission; and
- (iii) The official remains in office but refuses to perform official duty assigned to him;

It is clarified that an official can be marked as “dies-non” even if he/she performs duty or a part of the day in case he/she leaves office without proper permission or when he/she refuses to perform duty while remaining in office. They will neither count as service nor be construed as break in service.

This will be without prejudice to any other action to be taken against employees resorting to such practices.

K. Unauthorized absence from duty

Action for unauthorized absence from duty or overstaying of leave:-

If an employee absents himself/herself abruptly or applies for leave which is refused in exigencies of service and still he/she happens to absent himself/herself from duty, disciplinary action shall be initiated against him/her. If, however, he/she reports for duty before or after initiation of disciplinary proceedings, he/she may be taken back for duty because he/she has not been placed under suspension. The disciplinary action may be concluded and the period of absence treated as unauthorized resulting in loss in pay & allowances in addition to imposition of penalty.

L. Holidays

The list of holidays to be observed in a calendar year shall be the same as fixed by the Company, based on the notification issued by NCSM.

M. Leave during suspension

Leave may not be granted to an employee under suspension.

N. Effect of removal or resignation on leave at credit

Any claim to leave at the credit of an employee, who is removed or who resigns from the service of the Company, ceases from the date of such removal or resignation.

O. Leave/Cash payment

Where an employee retires on attaining the normal age prescribed for retirement under the terms and conditions governing his/her service shall be entitled to cash equivalent of leave salary for the accumulated balance of earned leave at the credit on the date of his retirement subject to a maximum of 90 days.

P. Special disability leave for accidental injury

The Managing Director of company is competent to grant special disability leave to an employee (whether permanent or contractual), who is disabled by injury inflicted or caused in consequence of the due performance of his/her official duties or in consequence of his/her official position.

Q. Compensation on termination of service

Where an employee is terminated after rendering not less than three years of service in the Company, he/she shall be paid cash equivalent to three months of Leave Salary towards compensation.

R. Interpretation

Where any doubt arises as to the interpretation of these rules, it shall be referred to the Chairman, CMD and DG, NCSM for decision.

S. Power to Relax

Where the BoD is satisfied that the operation of any of these rules causes undue hardship in any particular case, BoD may for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent as may consider necessary for dealing with the case in a just and equitable manner, provided that no such order shall be made except with the concurrence of Chairman, CMD and DG, NCSM.

T. Repeal & Saving

- (i) On commencement of these rules, every rule, regulation or order, including office memorandum (hereinafter referred to in this rule as the old rule) in force immediately before such commencement shall, in so far as it provides for any of the matters contained in these rules, cease to operate.
- (ii) Notwithstanding anything done or any action taken or any leave earned by, or granted to, or accrued to the credit of an employee of Company, under the old rule, shall be deemed to have been done, taken, earned, granted or accrued under the corresponding provisions of these rules.

Chapter-2

CODE OF CONDUCT AND ETHICS RULES

1. **Short Title & Commencement:-**

- (i) These rules may be called the Creative Museum Designers (Conduct) Rules, 2017;
- (ii) They shall come into force at once;
- (iii) These rules shall apply to every person appointed to a post in connection with the affairs of the Company.

2. **Definitions:-**

In these rules, unless the context otherwise requires-

- a) “Company” means the Creative Museum Designers (CMD);
- b) “Company Employee” means any person appointed by CMD to any post in connection with the affairs of the Company;

3. **General:-**

(1) **Every Company employee shall at all times:**

- (i) Maintain absolute integrity;
- (ii) Maintain devotion to duty; and
- (iii) Do nothing which is unbecoming of a Company employee.

(2) **Acts and Conducts which amount to misconduct:-**

The following acts and omissions amount to misconduct:-

- i. Wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior.
- ii. Infidelity, unfaithfulness, dishonesty, untrustworthiness, theft and fraud, or dishonesty in connection with the employer’s business or property.
- iii. Strike, picketing, gherao – Striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.
- iv. Gross moral misconduct – Acts subversive of discipline – Riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline.
- v. Riotous and disorderly behaviour during and after the factory hours or in business premises.
- vi. Habitual late attendance.
- vii. Negligence or neglect of work or duty amounting to misconduct – Habitual negligence or neglect of work.
- viii. Habitual absence without permission and over-staying leave.
- ix. Conviction by a Criminal Court.

EXPLANATION I -

A Company employee who habitually fails to perform the task assigned to him/her within the time set for the purpose and with the quality of performance expected of him/her shall be deemed to be lacking in devotion to duty within the meaning of Clause (ii) of Sub-rule (1).

4. (i) Every Company employee holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Company employees for the time being under his/her control and authority;
- (ii) No Company employee shall, in the performance of his/her official duties, or in the exercise of powers conferred on him/her, act otherwise than in his/her best judgement except when he/she is acting under the direction of his/her official superior;
- (iii) The direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter;
- (iv) A Company employee who has received oral direction from his/her official superior shall seek confirmation of the same in writing as early as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.

5. **Promptness and Courtesy:-**

No Company employee shall –

- (a) in the performance of his/her official duties, act in a discourteous manner;
- (b) in his/her official dealings with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him/her.

6. **Observance of Company's policies:-**

Every Company employee shall, at all times –

- a) act in accordance with the Company's policies regarding age of marriage, preservation of environment, protection of wildlife and cultural heritage;
- b) Observe the Company's policies regarding prevention of crime against women.

7. **Prohibition of sexual harassment of working women:-**

- a) No Company employee shall indulge in any act of sexual harassment of any woman at her work place.

- b) Every Company employee who is in-charge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

EXPLANATION –

For the purpose of this rule, “sexual harassment” includes such unwelcome sexually determined behaviour, whether directly or otherwise, as –

- (a) physical contact and advances;
- (b) demand or request for sexual favours;
- (c) sexually coloured remarks;
- (d) showing any pornography; or
- (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

8. Taking part in politics and associations:-

- a) No Company employee shall be a member of, or be otherwise associated with, any political party or any organization which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.
- b) No Company employee shall join, or continue to be a member of an association, the objects or activities of which are prejudicial to the interests of the Company/ sovereignty and integrity of India or public order or morality.

9. Demonstration and Strikes:-

No Company employee shall –

- (i) engage himself/herself or participate in any demonstration which is prejudicial to the interests of the Company,
- or
- (ii) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his/her service or the service of any other Company employee.

10. Connection with press or other media:-

No Company employee shall, except with the previous sanction of the Company, own wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication or electronic media.

11. Criticism of Company:-

No Company employee shall, in any radio broadcast, telecast through any electronic media or in any document published in his/her own name or anonymously, pseudonymously or in the name of any other person or in any communication to the

press or in any public utterance, make any statement of fact or opinion on the affairs of the Company.

12. **Donations:-**

No Company employee shall, except with the previous sanction of the Company, ask for or accept contributions to, or otherwise associate himself/herself with the raising of, any funds or other collections in cash or in kind in pursuance of any object whatsoever.

13. **Gifts:-**

No Company employee shall accept, or permit any member of his/her family or any other person acting on his/her behalf to accept any gift from any party dealing with the affairs of the Company.

14. **Dowry:-**

No Company employee shall –

- (i) give or take or abet the giving or taking of dowry; or
- (ii) demand directly or indirectly, from the parent or guardian of a bride or bridegroom, as the case may be, any dowry.

15. **Private trade or employment:-**

No Company employee shall, except with the previous sanction of the Company-

- (a) engage directly or indirectly in any trade or business; or
- (b) negotiate for, or undertake, any other employment, or
- (c) canvass in support of any business of insurance agency, commission agency, etc., owned or managed by any member of his/her family.

16. **Insolvency and habitual indebtedness:-**

A Company employee shall so manage his/her private affairs as to avoid habitual indebtedness or insolvency. A Company employee, against whom any legal proceeding is instituted for the recovery of any debt due from him/her or for adjudging him/her as an insolvent, shall forthwith report the full facts of the legal proceedings to the Company.

17. **Movable, immovable and valuable property:-**

Every Company employee shall on his/her first appointment to any post submit a return of his/her assets and liabilities, in such form as may be prescribed by the authority, giving the full particulars regarding-

- (a) the immovable property inherited by him/her, or owned or acquired by him/her or held by him/her on lease or mortgage, either in his/her own name or in the name of any member of his/her family or in the name of any other person;
- (b) debts and other liabilities incurred by him/her directly or indirectly;

- (c) movable & valuable property more than `50000/- each.

The above return will be updated every year by 31st of December giving full details of addition or deletion if any during the year.

18. Restrictions in relation to acquisition and disposal of immovable property:-

No Company employee shall, except with the previous sanction of the Managing Director:

- (a) acquire, by purchase, mortgage, lease, gift or otherwise, either in his/her own name or in the name of any member of his/her family, any immovable property situated outside India;
- (b) dispose of, by sale, mortgage, gift or otherwise or grant any lease in respect of any immovable property situated outside India which was acquired or is held by him/her either in his/her own name or in the name of any member of his/her family;
- (c) enter into any transaction with any foreigner, foreign company, foreign organization or concern;
- (d) for the acquisition, by purchase, mortgage, lease, gift or otherwise, either in his/her own name or in the name of any member of his/her family, or any immovable property;
- (e) for the disposal of, by sale, mortgage, gift or otherwise, or the grant of any lease in respect of any immovable property which was acquired or is held by him/her either in his/her own name or in the name of any member of his/her family.

19. Vindication of acts and character of Company employee:-

No Company employee shall, except with the previous sanction of the Company, have recourse to any Court or to the press for the vindication of any official act which has been the subject-matter of adverse criticism or an attack of a defamatory character.

20. Canvassing of non-official or other outside influence:-

No Company employee shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his/her interests in respect of matters pertaining to his/her service under Company.

21. Restriction regarding marriage:-

No Company employee shall enter into, or contract, a marriage with a person having a spouse living, and

No Company employee having a spouse living, shall enter into, or contract, a marriage with any person.

22. Consumption of intoxicating drinks, drugs and smoking:-

A Company employee shall –

- (a) strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he/she may happen to be for the time being;
- (b) not be under the influence of any intoxicating drink or drug during the course of his/her duty and shall also take due care that the performance of his/her duties at any time is not affected in any way by the influence of such drink or drug;
- (c) refrain from consuming any intoxicating drink or drug in a public place;
- (c) not appear in a public place in a state of intoxication;
- (d) not use any intoxicating drink or drug to excess;
- (e) refrain from smoking within the Company premises and its precincts.

23. **Prohibition regarding employment of children below 14 years of age:-**

No Company employee shall employ to work any child below the age of 14 years.

24. **Interpretation:-**

If any question arises relating to the interpretation of these rules, it shall be referred to DG, NCSM and Chairman of the Company whose decision thereon shall be final.

25. **Repeal and Saving:-**

Any rules corresponding to these rules in force immediately before the commencement of these rules and applicable to the Company employees to whom these rules apply, are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules:

Provided further that such repeal shall not affect the previous operation of the rules so repealed and a contravention of any of the said rules shall be punishable as if it were a contravention of these rules.

Chapter-3

DISCIPLINARY PROCEDURE & PELANTIES

I. Short title & Commencement:-

- (i) These rules may be called the Creative Museum Designers (Disciplinary & Appeal) Rules, 2017;
- (ii) They shall come into force at once;
- (iii) These rules shall apply to every person appointed to a post in connection with the affairs of the Company.

II. Definitions:-

- a) “*Appointing authority*”, in relation to the Company employee, means Managing Director, CMD.
- b) “*Disciplinary Authority*” means MD, CMD who is competent under these rules to impose on a Company employee any of the penalties specified hereon.
- c) “*Employee*” means an employee duly appointed by the Managing Director to a regular post.
- d) “*Appellate Authority*” is the authority specified in this rule for consideration of an appeal made by an employee against an order of penalty.
- e) “*Revisionary Authority*” is the authority specified in these rules as the authority competent to consider revision petition against and appellate order.

Sl. No.	Status of Officers	Disciplinary Authority	Appellate Authority	Revisionary Authority	Reviewing Authority
1.	All officers subordinate to Managing Director	Managing Director	Chairman, CMD	Board of Directors	Board of Directors

III. General Principles:-

- (1) No employee of the Company shall be removed from his/her service by an authority subordinate to that by which he/she was appointed.
- (2) No regular employee as aforesaid shall be imposed upon any penalty except after an inquiry in which he/she has been informed of the charges against him/her and given a reasonable opportunity of being heard in respect of those charges.

Provided that where it is proposed after such inquiry, to impose upon him/her any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty.

Provided further that this clause shall not apply –

- (a) where an employee is removed or reduced in rank on the ground of conduct which has led to his/her conviction on a criminal charge,
or
 - (b) where the Managing Director of CMD is satisfied that for some reason, to be recorded by him/her in writing, it is not reasonably practicable to hold such inquiry;
- (3) If, in respect of any such employee as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2) the decision thereon of the MD, CMD shall be final.

IV. Natural Justice:-

- (i) Audi Alterem Partem – hear the other party.
- (ii) Nobody shall be a judge in his/her own case.
- (iii) Justice should not be only done but appears to be done.
- (iv) Final order must be a speaking order which means final order should be a reasoned order and should contain –
 - (a) Context
 - (b) Contentions of parties
 - (c) Comparison of contentions / evaluation
 - (d) Conclusion with reason

V. Penalties:-

Penalties that can be imposed on the Company employees have been classified as below. The Managing Director may, for good and sufficient reasons, impose on an employee any of the below mentioned penalties.

- i. Censure;
- ii. Recovery from his/her pay of the whole or part of any pecuniary loss caused by the Company employees to the Company by negligence or breach of orders;
- iii. Withholding of increments of pay;
- iv. Reduction to a lower time-scale of pay grade, post of service;
- v. Compulsory Retirement;
- vi. Termination of service.

VI. Penalty Proceedings:-

Penalty can be imposed only by the Appointing Authority. As per the rule, before imposition of penalty, the disciplinary authority is required to prepare charge sheet which will have a memorandum with the following four annexures:

- (a) Annexure I - Article of charge

- (b) Annexure II - Statement of imputations of misconduct
- (c) Annexure III - List of documents by which the articles of charge is proposed to be sustained
- (d) Annexure IV - List of witnesses through whom the charge is proposed to be proved

Preparation & Issue of Charge Sheet:-

While preparation and serving of the Charge Sheet, great care should be exercised in the discharge of this obligation. It must be ensured that the charges are clear and unambiguous. The details of the facts/transaction from which the charge emanates are known as the Statement of imputations of misconduct or misbehavior. This will be a detailed account. The evidence, based on which the charge is proposed to be established, may be documentary or oral through witnesses.

The charge sheet so prepared is served on the Company's servant concerned with a request to file his/her written statement of defense. Normally, the copies of the documents and the statements of witnesses are supplied along with the Charge Sheet. If the documents are bulky and copies could not be given along with the Charge Sheet, the charged officer may be given an opportunity to inspect the same within a reasonable time say 10 days.

Decision to hold inquiry:-

Further course of action depends upon the response of the Charged Officer. Possible responses are that the Charged Officer may not be responding to the Charge Sheet or may send a reply. Again in his/her reply, the Charged Officer may admit the charge or deny the same. While denying the charge, the Charge Officer may make a bald denial or attempt to convince the disciplinary authority. The disciplinary authority has the following options:

- (a) In case of unconditional and unambiguous acceptance of the charges, there is no necessity of any inquiry. The disciplinary authority may pass orders for imposing suitable penalty after recording reasons in respect of each Article of Charge.
- (b) In case of conditional denial or denial without any convincing reason, or in cases wherein the Charged Officer has not submitted the written statement of defense, the disciplinary authority has to take further action for holding an inquiry for establishing the charges. In case the Charged Officer has admitted some of the charges unconditionally and has refuted others, the disciplinary authority will order inquiry only in respect of the charges, which have not been admitted by the Charged Officer.
- (c) It is also possible that the Charged Officer may, in his/her written statement of defense, give a convincing reply to the allegations against him/her. In such cases the disciplinary authority may close the case and pass orders accordingly after recording the reasons in support of his/her decision.

Appointment of Inquiring Authority (IA) & Presenting Officer (PO):-

If, on examination of the written statement of the Charged Officer, or in cases wherein he/she has not filed any written statement within the prescribed time, the disciplinary authority initiates action for conducting an inquiry for establishing the charges, he/she will appoint an Inquiring Authority (IA) and a Presenting Officer (PO). The IA & PO shall be serving or retired employee of Company or NCSM.

The role of IA is to conduct inquiry in accordance with the provisions of Rule as laid down here as well as the principles of Natural Justice and to give a finding as to whether the charges are proved. The PO's role will be to establish the charges by leading evidence on behalf of the disciplinary authority. While the IA is required to be impartial to the case, there is no such requirement in respect of the PO. While appointing the IA, it must be ensured that he/she is higher in rank to the Charged Officer and does not have any interest or preconceived ideas about the case. As regards the PO, he/she is lower in rank as compared to the IA.

Inquiry Proceedings:-

- a) Copies of the Charge Sheet and the accompanying documents are sent to the Inquiring Authority and the Presenting Officer. Thereafter, the scene of action moves to the court of the Inquiring Authority.
- b) The Charged Officer (CO) is entitled to have the assistance of another officer for the purpose of defence. This person is known as Defence Assistant. The Defence Assistant may be a serving or retired employee of the Company or NCSM. In case the PO is a legal practitioner, the Charged Officer acquires a right to engage a legal practitioner as his/her defence assistant.
- c) As regards engagement of Defence Assistant from outstation, the IA has power to grant permission. But while deciding such requests, he/she should take into account the extra burden on the Company.
- d) During the inquiry, the PO will produce all documentary evidence and also have his/her witnesses examined. The summons to the witnesses will be issued by the IA through the controlling authority. Notice to private witnesses may be sent direct to them or through PO or the CO, as the case may be. A Company employee cannot refuse to be a witness in an inquiry against another Company employee. Non-compliance to summons can be treated as conduct unbecoming of a Company employee rendering himself/herself liable for disciplinary action.
- e) PO will submit documentary evidence which will be taken on record and marked as PD1, PD2 etc.
- f) Examination of witnesses, departmental as well as defence, and recording of evidence is importance stage in the inquiry proceedings. Personal hearing enables the IA to watch the demeanour of the witnesses. Examination of witness will be in three parts – examination in chief, cross-examination and re-examination. The cross-examination of witnesses produced in support of charge sheet against a Company employee is the most powerful weapon in his/her hands and is also a very valuable right.

- g) Oral evidence called on behalf of the disciplinary authority is known as Prosecution Witness (PW). The depositions of the witness are noted down by the Inquiring Authority and the recorded statements are got signed by the parties present and the witness himself/herself.
- h) Admitted documents and facts can be taken note of straightway. Earlier written statement, if any, given by a witness may be read out to him/her and he/she may be specifically questioned whether he/she admits the same or not. If he/she does so, the statement may be marked as an Exhibit and the CO has to proceed with cross-examination.
- i) The PO should produce documents, which are disputed, through witnesses. The witnesses should be examined in such a way as to bring out the case in a logical and understandable manner. He/she will examine the witness without putting leading questions.
- j) On conclusion of the evidence on behalf of the disciplinary authority, the Inquiring Authority will ask the Charged Officer to state his/her defence and lead evidence. Through documents & witnesses, the IA will take on record the documents, which the Charged Officer may wish to rely upon and mark them as DD 1, DD 2 etc. (DD: Defence Document). The Charged Officer has an option to appear as his/her own witness. In such a case, he/she will have to face the cross-examination of the Presenting Officer.
- k) When the evidence for both the parties is over, the Inquiring Authority will question the Charged Officer generally of the circumstances appearing against him/her.
- l) After bringing the facts on records in the form of documentary evidence or through oral evidence, the parties will have to convince the Inquiring Authority as to whether the charges are proved or not. The Presenting Officer will have to convince the Inquiring Authority that on the basis of the facts presented in the inquiry, there are reasons to believe that the charges may be held as proved. Similarly, the Charged Officer will try to convince the Inquiring Authority that on the basis of the information submitted during the inquiry, the charges cannot be held as proved. This process of convincing the Inquiring Authority is carried out either through oral arguments or submission of written briefs. Generally, the parties prefer to submit written briefs.
- m) On conclusion of the deposition of the witnesses for both sides, the Inquiring Authority will first direct the Presenting Officer to submit two copies of his/her written brief within a reasonable time say 15 days from the date of receipt of written brief of Presenting Officer.

Inquiry Report:-

- a) On receipt of the written briefs of the parties, the Inquiring Authority is required to make his/her Inquiry Report. The report will contain:-
 - (i) the background of the case,
 - (ii) details of the hearings held,
 - (iii) the evidence adduced in the inquiry,
 - (iv) contentions of the respective parties,
 - (v) an objective analysis of the evidence,
 - (vi) conclusion, together with the reasons therefor, of the Inquiring Authority as to whether the charges are proved or not.

- (b) Copies of the inquiry report along with other records of the case such as the original documents taken on record, statements of witnesses during the inquiry, daily order sheets, etc. will be sent by the Inquiring Authority to the disciplinary authority.

Ex-parte Inquiry:-

1. If the Charged Officer does not submit his/her written defence within the time specified or does not appear before the Inquiring Authority or otherwise fails or refuses to comply with the provision of the rules, the Inquiring Authority may hold the inquiry *ex parte*, recording reasons for doing so.
2. *Ex parte* proceedings, however, do not mean that findings should be given without investigation. Inquiry is still necessary and entire gamut of inquiry will be followed, although it would be in the absence of the Charged Officer.

Special Procedure in Certain Cases:-

Notwithstanding anything contained in aforesaid rules:

1. Where any penalty is imposed on a Company Employee on the ground of conduct which has led to his/her conviction on a criminal charge, or
2. Where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules.

The Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Company Employee may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under Clause 1 of Special Procedure.

VII. Inquiry Report :-

(A) Principles of natural justice:

Inquiring Authority should keep the principles of natural justice in mind while drafting Inquiry Report, which is guided by the following principles:

- (a) No one should be condemned unheard,
- (b) No one shall be a Judge in his/her own case,
- (c) Final order should be a speaking order,
- (d) Decision must be taken in good faith.

Inquiry Report is only a tool to assist the Disciplinary Authority (DA) in arriving at a decision. Inquiring Authority (IA) should not feel that he/she is a prosecutor. Keeping this guiding principle in view the Inquiry Report should be drafted.

(B) Components of Inquiry Report:

- (a) Introduction regarding appointment etc.,
- (b) Articles of charges and the statement of imputations of misconduct and misbehaviour in brief,
- (c) Defence of Charged Officer (CO) in respect of each article of charge,
- (d) Analysis and assessment of evidence in respect of each article of charge,
- (e) Finding on each article of charge.

(C) Components of records of inquiry:

- (a) Inquiry Report,
- (b) Written statement of defence submitted by CO,
- (c) Oral or documentary evidence submitted by PO & CO and recorded during the inquiry,
- (d) Written brief of PO & CO,
- (e) Order, if any, made by DA and IO in regard to inquiry in daily order sheets (DOS).

VIII. Action On Inquiry Report:-

Procedure for taking action on Inquiry Report:-

- (a) IA's report is not binding on DA. He/she may ask the IA to re-submit the report after further inquiry if he/she finds certain lacuna,
- (b) No fresh inquiry is permitted,
- (c) Whatever correspondence takes place between DA and IA copy must be given to CO,
- (d) If CO is proved guilty, a self-contained, reasoned and speaking order should be issued imposing the penalty.

IX. Remedies after Penalties:-

- 1. APPEAL
- 2. REVISION
- 3. REVIEW

1. Appeals:-

- (a) No appeal shall lie against:
 - i) Any order made by Board of Directors;
 - ii) Any order of interlocutory nature or of the nature of step-in-aid for the final disposal of a disciplinary proceeding;
 - iii) Any order passed by an Inquiring Authority in the course of an inquiry.
- (b) A Company employee may prefer an appeal against the order of penalties imposed by the Disciplinary Authorities within a period of 45 days from the date on which a copy of the order appealed against is delivered to the appellant.

Appellate authority to appraise the evidence for himself/herself

Appeal of the Company employee will be considered by the Appellate Authority considering whether the finding recorded by the punishing authority is justified and is required to appraise the evidence for itself in order to confirm or reverse the findings of the punishing authority. This necessarily implies that reasons must be given for the conclusions arrived at.

The appellate authority, while considering the appeal, has to ensure that the procedure laid down in this rule has been followed by the disciplinary authority before imposing any penalty on the Company employee.

Finally, the appellate authority will also consider whether the penalty imposed is adequate, inadequate or severe taking into account all aspects of the case and pass orders as deemed fit.

The delinquent has no right to personal hearing during the stage of appeal.

2. **Revision:-**

A Company employee, on whom any of the penalty has been imposed and whose appeal has been rejected by the competent appellate authority or the period of filing an appeal has expired, can submit an application for revision to the Board of Directors (BoD) of the Company. An application for revision shall be dealt with in the same manner as if it were an appeal under these rules. It is, therefore, essential that the application for revision should be addressed to the BoD and it should contain all material statements and arguments on which the Company employee relies and should be couched in respectful and courteous language.

The BoD is competent to remand a case to the disciplinary authority for revising the penalty imposed on an employee, if such a revision is necessitated under some peculiar circumstances, as for example in a case where the penalty of recovery is ordered but subsequently it is found that no loss has been sustained by the department.

3. **Review:-**

The BoD may, at any time, either on his/her own motion or otherwise review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come or has been brought to their notice.

Provided that no order enhancing any penalty shall be made by the BoD unless the Company employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed.

S U S P E N S I O N

I. What is suspension?

It is a temporary deprivation of office. During the period of suspension, the contract of service is not terminated. However, the Company employee placed under suspension is not allowed to discharge the functions of his/her office during the period of his/her suspension. It is not a penalty.

II. Who can suspend?

The Managing Director is empowered to place a Company employee under suspension.

III. Suspension may be desirable in the following circumstances:-

- (a) any offence or conduct involving moral turpitude.
- (b) Corruption, embezzlement or misappropriation of Company money, possession of disproportionate assets, misuse of official power or machinery of Company.
- (c) Serious negligence and dereliction of duty resulting in considerable loss to Company.
- (d) Apprehension of the Company employees tampering with witnesses or documents.
- (e) Being involved in a public scandal.

IV. Entitlements during suspension:

A Company employee placed under suspension or deemed suspension is entitled to draw subsistence allowance equal to 50% of his last drawn pay (fixed & variable).

V. Regularization of the period of suspension:

Where the Company employee who was under suspension is fully exonerated in a Departmental proceeding or acquitted by the Court in a Criminal trial, the period of suspension is treated as wholly unjustified. The period is treated as duty for all purposes and he/she is paid full pay and allowances for the period of suspension less the subsistence allowance already drawn by him/her.

VI. Resignation during suspension:-

When Company employee under suspension submits resignation, the Managing Director will consider whether it would be in the interest of the Company to accept the resignation. Normally, it would not be accepted except where allegations do not involve moral turpitude or where evidence is not sufficient to prove the charges leading to removal where proceedings are likely to be protracted and it would be cheaper to the Company to accept the resignation.
