

GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT

No. 13787 (129) Gen.,
2.1 - 25/68

Dated, Bhubaneswar, the 24th July '68

All Departments of Government (including all
branches of P & S Department)
All Heads of Departments
All District Officers

Sub:-

Procedure for conducting departmental proceeding
against a Government servant who avoids to
accept charges framed against him or whose
whereabouts are not known.

The nature of penalties which can be imposed on
a Government servant for good and sufficient reasons has been laid
down in rule 13 of Orissa Civil Services (Classification, Control
and Appeal) Rules, 1962. Procedure for imposition of major and
minor penalties has been prescribed in rules 15 and 16 respectively
of the said Rules. No major penalty can be imposed on a Government
servant without holding an enquiry as envisaged in the Classifi-
cation, Control and Appeal Rules and as indicated in Art 311(2)
of the Constitution. Art 311(2) envisages two opportunities to be
given to a delinquent and it is only after compliance with the
procedure laid down therein that any of the penalties can be imposed
on him. No minor penalty shall be imposed without giving an oppor-
tunity to the Government servant concerned to make any representa-
tion he may wish to make. The Classification, Control and Appeal
Rules do not, however, indicate the procedure to be followed when
the delinquent avoids to receive charges framed against him or
where his whereabouts are not known. After careful consideration
Government have been pleased to decide that in such circumstances
the following procedure should be followed.

Major penalties :- If the whereabouts of the
delinquent are not known or he avoids to accept a copy of the charges
etc., the only alternative left is to publish in a newspaper the
fact that charges had been framed against him for his acts and
omissions which may be specified briefly, stating therein that
charges could not be communicated to him as his whereabouts are not
known and calling upon him to appear before the concerned autho-
rity on any particular day to receive a copy of the charges and to
submit a written statement of his defence if in pursuance of this
notice the delinquent submits a written statement of his defence,
the enquiry may be conducted in the prescribed manner and further
action taken as per the Rules. If in spite of this notice the deli-
quent does not appear before the concerned authority or does not
submit written statement of his defence, the enquiry may be condu-
cted in his absence and a decision taken on merits whether he is
guilty. If in such a case the concerned authority comes to a ten-
tative decision that the delinquent is either to be dismissed,
removed, compulsorily retired or reduced in rank, a second show cause
notice has to be served upon the delinquent either by serving it
upon him or if his whereabouts are not known by publishing the
same in the newspaper directing him to show cause by a fixed date
why the penalty proposed should not be imposed upon him.

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If in response to this notice he appears or shows cause the authority concerned should take that into consideration and pass appropriate orders. If in response to that notice the delinquent does not appear before the authority and does not show any cause final orders have to be passed. The final order passed in the case has to be communicated to the delinquent in the manner indicated above.

Minor penalties :- Where charges framed against the delinquent could not be communicated to him for the reasons mentioned earlier a notice in the manner as mentioned earlier should be published in the newspaper. If in response to this notice no written statement of defence is submitted within the stipulated date, the competent authority in consideration of the case on its merit may pass final orders and communicate the same to him in his address available with him.

[Handwritten signature]
Additional Secretary to Government.

L. Mishra/-
23768

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