

GOVERNMENT OF TAMILNADU

COPY OF:

Personnel and Administrative
Reforms (Per-N) Department,
Fort Saint George, Chennai-9.

LETTER No.1118/Per-N/87, Dated:22.12.1987.

FROM

Tmt.J.Anjani Dayanand, I.A.S.,
Special Commissioner and Secretary to Government.

TO

The Registrar,
High Court, Madras-104.

Sir,

Sub: Public Services - Disciplinary Cases -
Expenditious disposal - Regarding.

Ref: Government D.O.Letter No.46568/Per-N/86-1,
Personnel and Administrative Reforms Depart-
- ment, Dated:24.6.1986.

An instance has come to the notice of the Government wherein, the charges against an individual which were originally framed under rule 17(a) of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules were re-issued after a lapse of five years under 17(b) of the said rules. In that connection the High Court, Madras has observed among others that it cannot be five years for the re-issue of the same charges irrespective of under which part of rule 17 of the

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said Rules the petitioner is sought to be proceeded against, and that such delay will certainly disable the delinquent officer to defend himself effectively, which is a denial of reasonable opportunity:

2. Instructions have been issued from time to time that the disciplinary cases should be disposed of expeditiously. Time limits to dispose of disciplinary cases have already been prescribed as follows:-

1. DEPARTMENTAL DISCIPLINARY PROCEEDINGS:

- i) Investigation, framing of charges and taking decision as to who should deal with the case.(i.e.) Department or Tribunal for Disciplinary Proceedings or Court of Law. - 4 months.
- ii) Conducting enquiry by the Investigating authorities - 6 months.
- iii) Issue of orders after report of Inquiring authority is received where punishing authority is different from inquiring authority. - 140 days.

2. DISCIPLINARY CASES ARISING OUT OF DIRECTORATE OF VIGILANCE AND ANTI CORRUPTION:

- i) To complete the investigation by Directorate of Vigilance and Anti Corruption and to send a report to Government through Vigilance Commission. - One year.
- ii) To Complete the enquiry by the Tribunal and to send its findings to the Departments of Secretariat - One year.

- iii) To Pass final orders by the Government/Heads of Department on receipt of the report of the Tribunal. ..Four Months.

3. Nevertheless, it has been observed that the disciplinary authorities are taking unduly long time in framing of charges, conducting enquiry and disposing of the departmental disciplinary proceedings, it is likely, that' unjustified delay may result in quashing of the disciplinary proceedings by the Courts of Law and consequently the disciplinary authorities may not be in a position to impose any penalty on the erring officials, notwithstanding the fact that the charges stand clearly proved.

4. In the above circumstances, the need to prescribe revised time limits for disposing of "Departmental Disciplinary Proceedings" arises. Further, the time Limits already prescribed and indicated in para 2 above appear to be quite liberal. Hence, the following time limits are now prescribed for processing the disciplinary proceedings so as to ensure that there is no unwarranted delay in finalising them:-

- i) For calling for explanation under Rule 17(a) of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules or framing charges under 17(b) of the aforesaid rules after lapse of notice. ..15 days.

(The choice of the rule under which the disciplinary proceedings should be initiated is very important, and the Disciplinary Authorities are expected to exercise their *miti* and take decision.) ..4..

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- ii) For the accused Officer to peruse the records and to submit his written explanation. .. 30 days.
- iii) For appointment of enquiry Officer wherever necessary after the receipt of the explanation. -- 7 days.
- iv) For the Enquiry Officer to complete enquiry and submit the enquiry report. -- 30 days.
- v) For the Disciplinary Authority to take a decision, after the receipt of the Enquiry Officer's Report. -- 10 days.
- vi) For obtaining the views of TNPSC whenever it is, consulted. -- 30 days.
- vii) For issue of final orders on the departmental disciplinary proceedings:-
 - (a) By Disciplinary Authorities other than Government. -- 7 days.
 - (b) By Departments of Secretariat which have to consult other Departments and obtain orders in circulation. -- 30 days.

5. Government desire that the above time limits should be followed and delay should be eliminated while processing disciplinary cases. The choice of the rule under which the disciplinary proceedings should be initiated is very important and the Disciplinary Authorities are expected to take decision regarding the rule under which disciplinary action should be initiated with due regard to the nature of lapses committed. Indiscriminate recourse to Rule 17(b) will only cause delay in finalising the disciplinary proceedings. If for any valid reason, any

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disciplinary authority is not able to adhere to the above time limits, he should obtain the specific orders of the next higher authority for grant of extension of time, explaining the circumstances under which it has not been possible to process the case within the time limits prescribed.

6. In cases where the delay occurs due to non-co-operation on the part of the accused officers, it is not necessary to wait indefinitely either for their explanation or for their appearance before the enquiry officers. Three reminders may be served on the accused officers to submit their explanations and wherever the explanations are not received in spite of those reminders without valid reasons, the disciplinary authorities can proceed on the assumption that the accused officers have no explanation to offer. Similarly where the accused officers are required to appear before the Enquiry Officers and where they fail to do so without valid reasons, even after serving three reminder on them, the Enquiry Officers ~~may proceed to conduct ex parte enquiries, in accordance with rules and procedures and submit their reports.~~ may proceed to conduct ex parte enquiries, in accordance with rules and procedures and submit their reports.

7. The object behind the issue of these instructions is that all delays while processing disciplinary cases should be avoided. At the ^{same} time, it should be clearly remembered that while handling the disciplinary cases, all the procedures and formalities contemplated ..6

in the Rules should be followed without fails.

8. In this connectidh, Government would like to re-iterate the instructions in their letter No. 77288/Per.N/82-4, dated:22.11.83 that deliberate and arbitrary delay in enquiring the cases on the part of the Inquiry Officer or on the part of the disciplinary authority, as the cases may be, without valid reasons shall be treated as an abetment to shield the delinquent officer and severe disciplinary action should be taken against such officers.

9. Regarding the time limits for completion of investigation/enquiry respectively by Directorate of Vigilance and Anti Corruption/Tribunals and sending their reports, the existing time limits prescribed in the Government letter cited will be followed until further orders.

10. The receipt of the letter may be acknowledged.

Yours faithfully,

Sd/-

for Special Commissioner and Secretary to Government.

/True Copy/
ROC.No.2955/2003/C1.

Copy communicated, for information,
HIGH COURT, MADRAS.

Dated: 18.08.2003.

To.

Sd/-R.Balakrishnan.21.8.2003.
SUB ASSISTANT REGISTRAR(A.D.-I)

Office of the Chief Judl.Magistrate,
Thanjavur at Kumbakonam.Dt:8.9.2003.

R.No.80/2003 Dt:8.9.2003.

Copy Communicated to all the Judicial Magistrate's
in this Unit.

/True Copy/

Saristadar.

Sd/- N.Meenal,8.9.2003.
Chief Judicial Magistrate,
Thanjavur at Kumbakonam.(FAC)