



TAMIL NADU ELECTRICITY BOARD

EMPLOYEES'

DISCIPLINE AND APPEAL

REGULATIONS

(Corrected upto 30th June 2015)



TAMIL NADU ELECTRICITY BOARD EMPLOYEES'
DISCIPLINE AND APPEAL REGULATIONS

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PART-I**TAMIL NADU ELECTRICITY BOARD EMPLOYEES'**
DISCIPLINE AND APPEAL REGULATIONS

In exercise of the powers conferred by Section 79(c) of the Electricity (Supply) Act 1948, the Tamil Nadu Electricity Board hereby makes the following regulations:

REGULATIONS:**1. Short Title and Commencement:**

- (a) These regulations may be called the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations.
- (b) They shall come into force on and from the 10th June 1967.

2. Applicability:

Subject to such exceptions and deviations as the Board may, from time to time, deem necessary to make from the generality of these regulations in specific cases or in the case of any class or classes of employees, these regulations shall apply to all the employees of the Board including the employees of the Government of Tamil Nadu who have opted for service under the Board.

Provided that nothing in these regulations shall operate to deprive any employee of any right or privilege to which he is entitled to by or under any law for the time being in force.

Provided further that in the case of employees appointed on contract, they shall except in so far as they are not governed by the terms of the contract, be regulated by the provisions of these regulations.

These regulations will not be applicable to those categories of employees for whom Standing Orders have been framed under the Industrial Employment (Standing Orders) Act, 1946.

3. Removal of Doubts:

If any doubt arises-

- (a) as to whether these regulations apply to any employee; and
- (b) in regard to the applicability or otherwise of any of the provisions in these regulations, the matter shall be referred to the Board, whose decision shall be final.

4. Definitions:

The terms used in these regulations shall be deemed to have the same meaning attached to them as those in the Tamil Nadu Electricity Board Service Regulations.

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5. Penalties:

The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed upon the employees of the Board namely:-

- (i) Censure.
- (ii) Withholding of increments or promotion:

Provided that in cases where the punishment of withholding of increment cannot be given effect to fully, the monetary value equivalent to the amount of increment ordered to be withheld for the unexpired period of the punishment shall be recovered from the person.

Provided further that in cases of stoppage of increment with cumulative effect, the monetary value equivalent to three times the amount of increment ordered to be withheld, may be recovered.

Provided also that the penalty of withholding of increments shall not be imposed on a person when no increments are to be earned by such person before the date of superannuation:

Provided also that the recovery of the monetary value equivalent to withholding of increments shall be resorted to only in cases where the punishment of withholding of increment cannot be implemented fully consequent on the promotion of the person to a higher post prior to the imposition of the punishment. **##**

Added – vide (Per) B.P.(FB) No.62 (SB), dt.05.11.2002.

Note:- An employee undergoing punishment cannot be ordered to remit the monetary equivalent to the punishment, for consideration for promotion.

- (iii) Reduction to a lower rank in the seniority list or to a lower post not being lower than that to which he was directly recruited whether in the same class of service or in another class of service, or to a lower time-scale not being lower than that to which he was directly recruited, or to a lower stage in a time scale;

Provided that in cases where the punishment of reduction to a lower stage in a time-scale cannot be given effect to fully, the monetary value equivalent to the difference in emoluments as a result of reduction to such lower stage in the time-scale for the unexpired period of the punishment shall be recovered from the person;

Note:- An employee undergoing punishment cannot be ordered to remit the monetary equivalent to the punishment, for consideration for promotion.

- (iv) (a)** Recovery from pay of the whole or part of any pecuniary loss caused to the Board or to the State Government or to the Central Government or to any Government Company or Organisation or Local Authority or to a Local Body, while on deputation, by negligence or breach of orders;
- (b)** Whenever heavy losses are sustained due to issue of any false certificate by a Board employee or due to his gross negligence, his services are liable to be terminated. Besides, the liability for the losses will also be enforced on him and recovery of the value of such losses will be made to the extent necessary from the pay of such employee. Simultaneously, criminal action also must be instituted against such employee.
- (v)** Compulsory retirement otherwise than the retirement of an employee-

 - (a)** On attaining the age of superannuation;
 - (b)** Owing to reduction of establishment;
 - (c)** Owing to his permanent incapacity for service on account of bodily or mental infirmity; and
 - (d)** Whose efficiency has been impaired after completion of 25 years of continuous service.
- (vi)** Removal from service;
- (vii)** Dismissal from service.
- (viii)** Suspension, where a person has already been suspended under regulation 9, to the extent considered necessary by the authority imposing the penalty.

The penalties specified in items (i), (ii), (iv) and (viii) shall be deemed to be minor penalties and the penalties specified in items (iii), (v), (vi), and (vii) shall be deemed to be

major penalties. The penalties mentioned in items (v), (vi), (vii) as the case may be, shall be imposed on a Board employee for the violation of Regulation 25 of the Tamil Nadu Electricity Board Employees' Conduct Regulations, relating to "Bigamous Marriage".

Explanation-I: The discharge:

- (i) of a probationer during the period of probation or at the end of the prescribed or extended period of probation; or
- (ii) of a person engaged under contract; in accordance with the terms of his contract; or
- (iii) of a person appointed otherwise than under contract, to hold a temporary appointment on the expiration of the period of the appointment does not amount to removal or dismissal within the meaning of this regulation.

Explanation-II: The following shall not amount to penalty within the meaning of this regulations, namely:-

- (i) Withholding of increment for failure to pass any departmental examination in accordance with the Regulations or orders governing the conditions of service of an employee;
- (ii) Non-promotion of a Board employee whether in a substantive or officiating capacity, after consideration of his case, for promotion to a service, grade or post to which he is eligible;
- (iii) Reversion of a Board employee officiating in a higher service, grade or post to a lower service, grade or post on the ground that he is considered to be unsuitable for such higher service, grade or post or any administrative ground unconnected with his conduct;
- (iv) Reversion of a Board employee appointed on probation to any other service, grade or post, during or at the end of the period of probation in accordance with the terms of his appointment or to the regulations and orders governing such probation;

- (v) Replacement of the services of a Board employee, whose services had been borrowed from State Government or the Central Government or an authority under the control of the State Government or the Central Government at the disposal of the State Government or the Central Government or the authority from whom the services of such Board employee had been borrowed; and
- (vi) Compulsory retirement of a Board employee in accordance with the provisions relating to his superannuation or retirement.

Explanation-III: The removal of an employee from the service of the Board shall not disqualify him for future employment but the dismissal of an employee from the service of the Board shall ordinarily disqualify him for future employment under the Board.

Explanation-IV: The seniority on re-promotion of an employee reduced to a lower post on time-scale shall be determined by the date of such re-promotion. He shall not be restored to his original position unless this is specifically laid down at the time of the order of punishment is passed or revised on appeal.

Explanation-V: An employee on whom the penalty referred to in item (ii) above was imposed will, on re-promotion, count his previous service in the higher grade under regulation 33(d) of the Tamil Nadu Electricity Board Service Regulations, unless the order of punishment or the order passed on appeal directs otherwise.

Explanation-VI: Where it is proposed to withhold an increment without cumulative effect in the employee's pay as a punishment, the authority inflicting the punishment should, before the order is actually passed, consider whether it will affect the employee's pension, and if so, to what extent. If it is decided finally to withhold the increment, it should be made clear in the order that the effect of punishment on the pension has been considered and that the order is intended to have the effect. \$\$

\$\$ Substituted—vide (Per) B.P.(FB) No.18 (SB), dt.31.03.2001.

6. (a) Competent and Appellate disciplinary authorities:

The authorities which may impose penalties specified in regulation 5 and the appropriate authorities to whom appeal lies are specified in the table below:

Class and category of employees	Nature of penalty	Competent authority to impose the penalty in Col.2	Appellate authority
(1)	(2)	(3)	(4)
1. CLASS – I			
(A) Chief Engineers	(a) Censure	Chairman	Board
	(b) Withholding of increments	Chairman	Board
	(c) Recovery from pay of the whole or part of any pecuniary loss caused to the Board by negligence or breach of orders; or	Chairman	Board
	(d) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld, or equivalent to the amount of reduction to a lower stage in a time scale and where such an order cannot be given effect to.	Chairman	Board

(1)	(2)	(3)	(4)
	(e) Suspension where a person has already been suspended, to the extent considered necessary.	Chairman	Board
	(f) Withholding of promotion.	Board	**
	(g) Reduction to a lower rank in the seniority list or to a lower post or time scale whether in the same or in another class of service or to a lower stage in a time scale.	Board	**
	(h) Compulsory retirement otherwise than on attaining the age of superannuation.	Board	**
	(i) Removal from service	Board	**
	(j) Dismissal from service	Board	**

(B) Officers of Class I other than Chief Engineers	(i) Penalties in items (a) to (e) in Col.2 against Class I employees under 1(A) above.	Secretary (or) Chief Engineer (or) Chief Financial Controller, as the case may be	Chairman
	(ii) Penalties in items (f) to (j) in Col.2 against Class I employees under 1(A) above.	Chairman	Board

(1)	(2)	(3)	(4)
2. CLASS – II			
(A) Internal Audit Officers and Assistant Audit Officers in Board Office Audit Branch	(i) Penalties in items (a) to (e) in Col.2 against Class-I employees under 1 (A) above.	Deputy Chief Internal Audit Officer	Chief Internal Audit Officer
	(ii) Penalties in items (f) to (j) in Col.2 against Class-I employees under 1(A) above.	Chief Internal Audit Officer	Secretary
(B) Section Officers in Board Office Secretariat Branch	(i) Penalties in items (a) to (e) in Col.2 against Class-I employees under 1(A) above.	Under Secretary	Deputy Secretary
	(ii) Penalties in items (f) to (j) in Col.2 against Class-I employees under 1(A) above.	Deputy Secretary	Secretary
(C) Assistant Executive Engineers, Senior Chemist, Junior Chemist, Chief Stores Officer, Stores Officer, Accounts Officer, Assistant Accounts Officers, Personal Assistants,	(i) Penalties in items (a) to (e) in Col.2 against Class-I employees under 1(A) above.	Superintending Engineer or Financial Controller or Senior Personnel Officer, as the case may be.	Chief Financial Controller or Chief Engineer, as the case may be.

(1)	(2)	(3)	(4)
Administrative Officers, Assistant Administrative officers, Press Superintendent, Assistant Press Superintendent, Marine Engineer and Assistant Marine Engineers.	(ii) Penalties in items (f) to (j) in Col.2 against Class I employees under I(A) above.	Chief Engineer	Chairman
(D) Assistant Engineers, Junior Engineers I Grade, and Chief Head Draughtsman.	(i) Penalties in items (a) to (e) in Col.2 against Class-I employees under 1(A) above.	Executive Engineer	Superintending Engineer
	(ii) Penalties in items (f) to (j) in Col.2 against Class-I employees under 1(A) above.	Superintending Engineer	Chief Engineer

3. CLASS-III AND CLASS-IV EMPLOYEES	(a) Penalties in items (a) to (e) in Col.2 against Class-I employees under 1(A) above and Fine in respect of class IV employees.	Immediate superior officer in Class I or Class II Service or any higher authority	Next higher authority
	(b) Penalties in items (f) to (j) in Col.2 against Class-I employees under 1(A) above.	Appointing authority or any higher authority	Next higher authority

** See Regulation 14 (a) (1).

Note: The expression "immediate Superior Officer in Class I or Class II Service" occurring in Column (3) against item 3 (a) above means the immediate Superior Officer in Class I or Class II Service under whom the delinquent was working at the time when the lapses were committed and includes his successor in office.

(b) Competency of authorities superior to disciplinary authority:

Where in any case a higher authority has imposed or declined to impose a penalty under this regulation, a lower authority shall have no jurisdiction to proceed under this regulation in respect of the same case.

(c) The fact that a lower authority has imposed or declined to impose a penalty in any case shall not debar a higher authority from exercising his jurisdiction under this regulation in respect of the same case.

(d) The order of a higher authority imposing or declining to impose in any case a penalty under this regulation shall supersede any order passed by a lower authority in respect of the same case.

(e) The fact that a lower authority has dropped a charge against a person as not proved shall not debar a higher authority from reviving it for reasons to be recorded in writing and taking suitable action on the charge so revived.

7. Disciplinary authority in certain cases:

(a) Where on promotion or transfer, a member of a class of service in a division, category or grade is holding an appointment in another division, category or grade thereof or in another class of service, no penalty shall be imposed upon him in respect of his work and conduct before such promotion or transfer except by an authority competent to impose the penalty upon a member of the class of service in the latter division, category or grade or class of service, as the case may be.

(b) Where a person has been reverted or reduced from one class of service to another or from one division, category or grade of a class of service to another division, category or grade thereof, no penalty shall be imposed upon him in respect of his work and conduct while he was a

member of the class of service, division, category or grade, as the case may be, from which he was reverted or reduced except by an authority competent to impose the penalty upon a member of such class of service, division, category or grade as the case may be.

8. Procedure for imposing Penalties:

(a) In every case where it is proposed to impose on an employee any of the penalties in items (i), (ii), (iv) and (viii) in regulation 5, he shall be given a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before the order imposing the penalty is passed.

Provided that the requirements of this sub-regulation shall not apply where it is proposed to impose on an employee any of the penalties aforesaid on the basis of facts which have led to his conviction by a court-martial or where the employee concerned has absconded or where it is for other reasons impracticable to communicate with him.

Provided further that, in every case where it is proposed, after considering the representation, if any, made by the employee to withhold increment(s) of pay and such withholding of increment(s) is likely to affect adversely the amount of pension payable to the employee or to withhold increment(s) of pay without cumulative effect for a period exceeding three years or to withhold increment(s) of pay with cumulative effect for any period, the procedure laid down in sub-regulation (b) shall be followed before making any order imposing on the employee any such penalty.

(b) (i) In every case where it is proposed to impose on an employee any of the penalties in items (iii), (v), (vi) and (vii) in regulation 5, he shall be given a charge sheet setting forth the grounds on which it is proposed to take action and any other circumstances which it is proposed to take into consideration in passing orders on the case. He shall be required to answer the charge or charges in a written statement within a reasonable time not

exceeding one month and also to state whether he desires an oral enquiry or to be heard in person or both. An oral enquiry shall be held if the employee desires such inquiry, or if so directed by the authority concerned. Even if a person charged has waived an oral inquiry, such inquiry shall be held by the authority concerned in respect of charges which are not admitted by the person charged and which can be proved only through the evidence of witnesses. At that inquiry, oral evidence shall be heard as to such of those allegations as are not admitted. The employee shall be permitted to produce witness in his defence and cross examine any witness on whose evidence the charge rests. The officer conducting the inquiry may, for special and sufficient reasons to be recorded in writing, refuse to call a witness. The enquiring officer shall ask, in writing the delinquent employee immediately after the enquiry is over, whether he had a reasonable opportunity of presenting his case or if he has any complaint in this regard. If there is any complaint in this regard, the enquiring officer will examine the complaints and set right the matter. If it is considered that the alleged denial of reasonable opportunity is made with a view to delay the disciplinary proceedings, the enquiring officer will be competent to ignore the complaint and the reasons for not complying with the request should be recorded. After the inquiry has been completed, the person charged shall be entitled to put in, if he so desires, a further written statement of his defence, whether or not the person charged desired or had an oral enquiry, he shall be heard in person at any stage if he so desires before passing of final orders. A report of the enquiry or personal hearing (as the case may be) shall be prepared by the authority holding the enquiry or personal hearing whether or not such authority is competent to impose the penalty. Such report shall contain a sufficient record of the evidence, if any, and a statement of the findings and the grounds thereof.

\$\$ Provided that the Board employee may take the assistance of any retired Board employee to present the case on his behalf but may not engage a legal practitioner for the purpose unless the inquiring authority is a legal practitioner or the inquiring authority, having regard to the circumstances of the case, so permit.

Explanation.- The Board employee shall not take the assistance of any retired Board employee who has two pending disciplinary cases on hand, in which he has to give assistance; **\$\$**

\$\$ Substituted – vide (P) B.P.(FB) No.41 (SB), dt.16.10.2007.

- (ii) If the Board employee to whom a copy of the charges together with a statement of the allegation on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case, is communicated, does not submit the written statement of his defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this regulation, the inquiring authority may hold the inquiry *exparte*.
- (iii) After the enquiry or personal hearing referred to in this clause has been completed, and if the authority competent to impose the penalty is of the opinion, on the basis of the evidence adduced during the inquiry, that any of the penalties specified in Regulation 5 should be imposed on the person charged, it shall before making an order imposing such penalty furnish to him a copy of the report of the inquiry or personal hearing or both as the case may be, and call upon him to submit his further representation, if any. within a reasonable time, not exceeding fifteen days. Any representation received in this behalf within the period shall be taken into consideration before making any

order imposing the penalty provided that such representation shall be based on the evidence adduced during the inquiry only. It shall not be necessary to give the person charged any opportunity of making representation on the penalty proposed to be imposed.

- (c) (i)** The requirements of clause (b) shall not apply
- (a)** where it is proposed to impose on an employee any such penalty as is referred to therein on the basis of facts which have led to his conviction in a criminal court (Whether or not he has been sentenced at once by such court to any punishment), but he shall be given a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before the order imposing the penalty is passed.
 - (b)** where it is proposed to impose on an employee any such penalty as is referred to therein on the basis of facts which have led to his conviction by a court-martial or where the employee concerned has absconded or where it is for other reasons impracticable to communicate with him.
- (ii)** The provisions of clause (b) shall not apply if the Board is satisfied that in the interest of security it is not expedient to follow the procedure prescribed in that clause.
- (iii)** The requirements of clause (a) or/and (b) shall not apply-
- (a)** when the person is a temporary employee or daily wage earner or casual worker.
 - (b)** when the person charged admits the charge or charges.
 - (c)** where the employee is caught red-handed having committed or while committing an act of misconduct.

- (d) (i)** All or any of the provisions in clauses (a) and (b) may, in exceptional cases, for special and sufficient reasons to be recorded in writing, be waived where there is a difficulty in observing exactly the requirements of the clauses and those requirements can be waived without injustice to the person charged.
- (ii)** If any question arises whether it is reasonably practicable to follow the procedure in clause (b), the decision thereon of the authority empowered to dismiss or remove such employee, as the case may be, shall be final.
- (e) (i)** The competent authority or the enquiry officer, as the case may be, may in his discretion give an opportunity to the accused employee to inspect any document connected with the enquiry but excluding any confidential papers which in his opinion shall not be disseminated but such request for inspection may, for good and sufficient reasons (which need not be recorded nor communicated) be refused partially or wholly. The employee will not be entitled to copies of documents.
- (ii)** Omitted – vide (P) B.P.(FB) No.41 (SB), dt.16.10.2007.
- (f) (i)** Where the competent authority considers that the allegations against an employee, if proved, will necessitate any of the penalties specified in items (i), (ii), (iv) or (viii) of Regulation 5, he may authorise any officer in Class I or Class II Service superior in rank to the employee to initiate disciplinary proceedings and remit the case to the competent authority for passing orders.
- (ii)** Where the competent authority considers that the allegations against an employee, if proved, will necessitate any of the penalties specified in items (iii), (v), (vi) or (vii) of Regulation 5, he shall himself initiate disciplinary proceedings by framing charges and

obtaining the explanation. Thereafter, he may authorise any officer in Class I or Class II service superior in rank to the employee to hold the enquiry against the employee. On the findings of that Officer, the competent authority may award punishment or otherwise give a decision.

Provided that where the competent authority to impose the penalty is the Board; the Chairman shall initiate disciplinary proceedings by framing charges and obtaining the explanation. The enquiry may be conducted either by the Chairman or by any officer authorised by him who is superior in rank to the employee concerned. In the light of the findings in the disciplinary proceedings, if the Chairman is of the opinion that any penalty has to be imposed, the papers shall be placed before the Board for such orders as it may deem necessary.

- (g) Any Officer superior in rank to an employee may call for explanation of the employee for any lapse committed by him notwithstanding the fact that the officer is not competent under these Regulations to impose any penalty on the employee. On receipt of the explanation, if the officer considers that imposition of any penalty is called for, he shall remit the case to the authority competent to impose penalties for awarding punishment or otherwise giving a decision thereon. If the competent authority considers that imposition of any of the penalties specified in items (iii), (v), (vi) and (vii) of Regulation 5 is called for, he shall take action as provided for in Sub-Regulation (f) (ii). If that authority is not competent to impose any of these penalties, he shall remit the case for further action to the authority who is competent to impose the penalty.

Note: In this clause, the expression 'any officer superior in rank' means the officer under whom the employee was working when the lapse was committed and includes his successor in office.

9. Suspension:

- (a) A member of a class of service may be placed under suspension from service, where-
- (i) ## a disciplinary proceedings ## against him is contemplated, or is pending, or
 - (ii) ## a case against him in respect of any criminal offence is under investigation, inquiry or trial. ##

Substituted vide (Per) FB TANGEDCO Proceedings No.3 (SB), dated 07.02.2013.

- (b) An employee who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours shall be deemed to have been suspended under this regulation.
- (c) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee under suspension is set aside on appeal or on review under these regulations and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.
- (d) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee of the Board is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal/removal or compulsory retirement was originally imposed, the employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order

of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the court of law has passed an order purely on technical grounds without going into the merits of the case. **##**

Added – vide (Per) B.P.(FB) No.35 (SB), dt.20.05.2002.

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(dd) Where a Board employee is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceedings or otherwise) and any other disciplinary proceedings are commenced or any other criminal complaint is under investigation or trial against him during the continuance of that suspension, and where the suspension of the Board employee is necessary in public interest as required under sub-regulation (a), the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Board employee shall continue to be under suspension until the termination of all or any of such proceedings including departmental proceedings taken on the basis of facts which led to the conviction in a Criminal Court. **%%**

%% Substituted – vide (P) B.P.(FB) No.63 (SB),dt.5.11.2002.

(e) An order of suspension made or deemed to have been made under this regulation may at anytime be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

10. Disciplinary action in respect of employees of State / Central Government or outside bodies:

(a) If any employee to be proceeded against is an employee of the State or Central Government or of any other outside body and is on deputation to the Board, no punishment shall be imposed on him without the concurrence of the authority who lent his services to the Board. If it is considered that the penalty of compulsory retirement, reduction in rank, removal or dismissal is to be imposed, the competent authority shall complete the enquiry and revert the employee concerned to the State or Central Government or other employer, as the case may be, and also forward the records of enquiry for such action as is considered necessary.

(b) If a Board's employee is on foreign service, the foreign employer shall not impose any punishment on him without the concurrence of the Board. If any of the major punishments of reduction, compulsory retirement, removal or dismissal is to be imposed, the foreign employer shall conduct the necessary enquiry, send the complete papers to the Board and also revert the employee concerned to the Board's Service for such action as is considered necessary by the Board against him.

(c) In case an employee referred to in clause (a) or (b), has to be suspended pending enquiry, the foreign employer shall place him under suspension but shall report forthwith to the lending authority the circumstances leading to the suspension.

10.A. Disciplinary action against Board's employee at the disposal of Government, etc:

Where a Board's employee, whose services are placed at the disposal of the State Government, any Company, Corporation, Organisation of Local Authority, has at any time before his services were so placed, committed any act or omission which render him liable to any penalty specified in Regulation 5, the authority competent under Regulation 6 to impose any such penalty on such member or person shall

alone be competent to institute disciplinary proceedings against him and to impose on him such penalty specified in Regulation 5, as he thinks fit and the borrowing authority under whom he is serving at the time of the institution of such proceedings shall be bound to render all reasonable facilities to such competent authority in instituting and conducting such proceedings.

10.B. Disciplinary action against an employee lent to the Board:

1. Where an order of suspension is made or a disciplinary proceedings is conducted against a person whose services have been borrowed from any Company, Corporation, Organisation, Autonomous Board or other authority, the authority lending his service (hereinafter in this regulation referred as the lending authority) shall forth-with be informed of the circumstances leading to the suspension of such employee or the commencement of the disciplinary proceedings, as the case may:

2. In the light of the findings in the disciplinary proceedings conducted against such employee, if the disciplinary authority is of the opinion that any of the penalties specified in Clauses (i), (ii) and (iv) of Regulation 5 should be imposed on him, it may after consultation with the lending authority pass such orders on the case as it may deem necessary.

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority the services of such employee shall be replaced at the disposal of the lending authority.

3. If the borrowing authority is of the opinion that any of the penalties specified in items (iii), (v), (vi) and (vii) of Regulation 5, should be imposed on such employee, it shall replace the services of such employee at the disposal of the lending authority and transmit to it all the proceedings of the enquiry for such action as it may deem necessary.

10-C. Service of Notice:

Every order, notice and other process made or issued under these Regulations shall be served in person on the Board employee concerned or sent to him by registered post acknowledgment due, or if such person is not found, by leaving it at his last known place of residence or by giving or tendering it to an adult member of his family or if none of the means aforesaid is available, affixing it in some conspicuous part of his last known place of residence.

10-D. While passing final orders, the disciplinary authority shall also pass orders regarding the manner of disposal of the material objects marked during the enquiry. After the appeal time is over, the Officers concerned shall accordingly dispose of the material objects.

11. Record of enquiry:

- (a) The authority imposing any penalty under these regulations shall maintain a record showing:
- (i) the allegations upon which action was taken against the person punished:
 - (ii) the charges framed, if any;
 - (iii) the person's representation, if any, and the evidence taken, if any, and
 - (iv) the finding and the grounds thereof, if any.
- (b) All orders of punishment shall also state the grounds on which they are based and shall be communicated in writing to the person against whom they are passed.

12. Suspension pending enquiry:

The authority which may impose suspension pending investigation or enquiry into grave charges under regulation 9 shall be as follows:

Category of Employees	Authority which may impose suspension
(a) Members of Class I and Class II Service	The authority competent to award 'censure' on the particular category of employees.
(b) Members of Class III and IV Service.	* Immediate superior officer in Class II or Class I Service.

* (As existing)

13. Appeal:

Every employee of the Board including a person who has ceased to be in Board's service shall be entitled to appeal as herein after provided, from an order passed by an authority: -

- (a)** imposing upon him any of the penalties specified in regulation 5; and
- (b)** reducing or withholding the maximum Pension including an additional pension admissible to him.

14 (1) An employee of the Board including a person who has ceased to be a member in whose case the Board has passed original orders, shall be entitled to submit within a period of two months from the date on which the order was communicated to him, a petition to the Board for review of the orders passed by it on any of the grounds specified below:-

- (a)** that the order was not passed by the competent authority.
- (b)** that a reasonable opportunity of defending himself was not given.
- (c)** that the punishment is excessive or unjust:

- (d) discovery of new matter or evidence which the applicant alleges and proves to the satisfaction of the Board was not within the knowledge or could not be adduced, by him before the order imposing the penalty was passed.
- (e) evident error or omission such as failure to apply the law of limitation or an error of procedure apparent on the face of the record.

Provided that the Board may in its discretion, condone any delay in submitting the petition for review within the said period of two months.

- (2) (a) The petition for review which does not satisfy any of the above grounds shall be summarily rejected.
- (b) Omitted.
- (c) Every employee shall be entitled to appeal as indicated below against any order passed by an authority which interprets to his disadvantage the provisions of any Service Regulations or contract of service whereby his conditions of service, pay, allowance or pension are regulated:

Authorities passing orders	Appellate authority
1. Orders passed by an officer of the rank of Executive Engineer or any other subordinate authority which passed the original order.	Officer of the rank of Superintending Engineer having the Administrative control over the authority.
2. Orders passed by an Officer of the rank of Superintending Engineer.	Chief Engineer or Secretary
3. Orders passed by the Chief Engineer, Secretary or Chief Financial Controller.	Chairman
4. Orders passed by the Chairman.	Board

- (d) The appellate authority shall after considering the appeal pass such orders as appears to it just and equitable, having regard to all the circumstances of the case.

15. Consideration of appeals :

(1) In the case of an appeal against an order imposing any penalty specified in Regulation 5, the appellate authority shall consider:

- (a) whether the facts on which the order was based have been established;
 - (b) whether the facts established afford sufficient ground for taking action;
 - (c) whether the penalty is excessive, adequate or inadequate and pass orders
- (i) confirming, enhancing, reducing or setting aside the penalty: or
 - (ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case: provided that-
 - (i) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in items (iii), (iv) (c), (v) (vi) and (vii) of Regulation 5 and an enquiry under sub-Regulation (b) of Regulation 8 has not already been held in the case, the appellate authority shall subject to the provisions of the sub-Regulation (c) of regulation 8, itself hold such enquiry or direct that enquiry be held in accordance with the provisions of sub-Regulation (b) of Regulation 8 and thereafter, on a consideration of the proceedings of such enquiry and after giving the appellant a reasonable opportunity of making representation against the penalty proposed on the basis of the evidence adduced during such enquiry make such orders as it may deem fit;

- (ii) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties in items (iii), (iv) (c), (v), (vi) and (vii) of Regulation 5 and an enquiry under sub-Regulation (b) of Regulation 8 has already been held in the case, the appellate authority after giving the appellant reasonable opportunity of making representation against the penalty proposed on the basis of the evidence adduced during enquiry, make such orders as it may deem fit; and
- (iii) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provisions of sub-regulation (b) of Regulation 8 of making representation against such enhanced penalty.

(2) Any error or defect in the procedure followed in imposing a penalty may be disregarded by the appellate authority if such authority considers, for reasons to be recorded in writing, that the error or defect was not material and has neither caused injustice to the person concerned nor affected the decision of the case.

16. Submission of appeal:

Every person preferring an appeal shall do so separately and in his own name.

17. Contents of appeal:

Every appeal preferred under these regulations shall contain all material statements and arguments relied on by the appellant, shall contain no disrespectful or improper language, and shall be complete in itself. Every such appeal shall be addressed to the authority to whom the appeal is preferred and shall be submitted through the head of the office to which the appellant belongs or belonged and through the authority from whose order the appeal is preferred.

18. Withholding of appeals:

An appeal may be withheld by the authority not lower than the authority from whose order it is preferred, if:-

- (i) it is an appeal in a case in which under these regulations no appeal lies, or
- (ii) it does not comply with the provisions of Regulation 17, or
- (iii) it is not preferred within one month after the date on which the appellant was informed or was in receipt of the order appealed against, and no reasonable cause is shown for the delay, or
- (iv) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case, or
- (v) it is addressed to an authority to which no appeal lies under these regulations:

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it:

Provided further that an appeal withheld on account only of failure to comply with the provisions of Regulations 17 may be resubmitted at any time within 15 days of the date on which the appellant has been informed of the withholding of the appeal, and if resubmitted in a form which complies with those provisions, shall not be withheld.

19. No appeal shall lie against the withholding of an appeal by a competent authority.

20. Forwarding of appeals and submission of list of appeals withheld:

(a) Every appeal which is not withheld under these regulations shall be forwarded to the appellate authority by the authority from whose order the appeal is preferred without an expression of opinion.

(b) A list of appeals withheld under Regulation 18 with the reasons for withholding them shall be forwarded half yearly by the withholding authority to the appellate authority.

21. Powers of an appellate authority:

An appellate authority or the Board may call for any appeal admissible under these regulations which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

22. Review of orders in disciplinary cases:

Any order issued by an authority imposing any of the penalties specified in regulation 5 cannot be reviewed, revised or altered by that authority for any reason whatsoever, but only by the appellate authority, or any higher authority.

23. Nothing in these regulations shall operate to deprive any person of any right of appeal, which he would have had if these regulations had not been made, in respect of any order passed before they come into force. An appeal pending at the time when, or preferred after, these regulations come into force shall be deemed to be an appeal under these regulations and regulation 15 shall apply as if the appeal were against an order appealable under these regulations.

24. Memorial:

(a) Any employee (includes also an employee who was in the service of the Board) whose appeal under these regulations has been rejected by the appellate authority may address a memorial to the Board in respect of that matter. The

memorial shall be submitted to the head of the office to which the employee belongs or belonged within two months from the date on which the final order passed on appeal was communicated to the employee. No such memorial shall be withheld by any authority.

- (b)** A memorial will be liable to summary rejection if-
- (i)** the memorialist has not availed himself of the remedies provided by the regulations or orders applicable to the case;
 - (ii)** the memorial was not submitted within the time limit mentioned in clause (a) above.
 - (iii)** the memorial relates to a matter which has already been disposed of by the Board.

The authority forwarding a memorial shall state on it whether the memorialist has complied with the above requirements.

25. (1) Notwithstanding anything contained in these regulations:

- (i)** the Board or the Chairman, at any time or,
- (ii)** the appellate authority, within six months of the date of the order proposed to be reviewed, may, on its/his own motion call for the records of any inquiry and review any order made under these regulations, and may confirm or enhance the penalty imposed by the order, or impose any penalty where no penalty has been imposed.

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the employee concerned has been given a reasonable opportunity of making representation against the penalty proposed, and where it is proposed to impose any of the penalties specified in clauses, (iii). (iv) (c), (v), (vi) and (vii) of regulation 5 or to enhance the

penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in sub-regulation (b) of regulation 8.

(2) No proceedings for review under sub-regulation (1) shall be commenced until after-

- (i)** the expiry of the period of limitation for any appeal, or
- (ii)** the disposal of the appeal, where any such appeal has been preferred, or
- (iii)** the disposal of the memorial where such memorial has been submitted.

(3) The Board may, at any time, on its own motion, review for good and sufficient reason to be recorded in writing, an original order passed by it or an order passed by it on appeal, and the provisions of sub-regulation (1) in so far as they are applicable to review, shall apply to the review of an original order passed by it or an order passed by it on appeal.

Part-II**Procedure for Disciplinary Proceedings****Chapter -I****Definition**

- (1) 'appellate authority' means the authority to whom an appeal against the decision of the competent authority is preferred.
- (2) 'charge' means allegations of misconduct levelled against the delinquent employee.
- (3) 'delinquent employee' means an employee who is facing charges of misconduct.
- (4) 'de novo enquiry' means a fresh enquiry.
- (5) 'defence witness' means a person who lets in evidence on behalf of the delinquent employee.
- (6) 'deposition' means the statement containing the evidence adduced by the witnesses during the course of enquiry which is to be recorded if it is an oral deposition.
- (7) 'exhibit' means the record produced during the enquiry by the management and the delinquent employee.
- (8) 'findings' means the conclusions arrived at by the Enquiry Officer or the competent authority in an enquiry or departmental proceedings or personal hearing when so given by the competent authority.
- (9) 'memorial' means mercy petition addressed to the authority higher than the appellate, authority to whom no appeal lies.
- (10) 'natural justice' means reasonable opportunity of being heard without any bias.
- (11) 'penalty' means penalty imposed by the competent authority on a delinquent employee for the proved misconduct or breach or violation of any rule or regulation.
- (12) 'prosecution witness' means a witness who lets in evidence on behalf of the prosecution.

Chapter – II

Suspension

1. Suspension meaning of

The word 'suspension' according to Oxford Dictionary, means action of debarring or state of being debarred especially for a time from a function or "State of being kept inoperative for a time". The meaning of the word "suspend" has been given in the dictionary as "to debar, or usually for a time from the exercise of a function or enjoyment of a privilege, specially to deprive temporarily of one's office."

2. Implications of suspension:

(1) An order of suspension has the effect of debarring a Board Employee from exercising the powers and discharging the duties of his office for the period, the order remains in force. By reason of suspension, the person suspended does not lose his office nor does he suffer any reduction in rank. He only ceases to exercise the powers and to discharge the duties of the office for the time being. His powers, functions and privileges remain in abeyance but he continues to be subject to the same authority. He cannot seek employment elsewhere though he does not perform his normal duties. During the period of suspension he is paid 'subsistence allowance' which is normally less than his salary, instead of the pay and allowances he would have been entitled to if he had not been suspended. However, suspension may cause a lasting damage to the concerned Board employee's reputation even if he is ultimately exonerated or found guilty of only a minor misconduct. Suspension causes great mental agony to the person concerned. The suspended Board employee suffers from a sense of degradation in the eyes of his colleagues, friends and relations. A suspended Board employee also suffers from certain other disadvantages in his service conditions like confirmation and promotion. For the Board, it has to pay the suspended Board employee subsistence allowance during the period of suspension without taking any work from him. In the case of a Board

employee who is exonerated of his charges in a departmental proceeding or who, if prosecuted in a criminal charge, is acquitted of his criminal charge, he is entitled to payment of full pay and allowances for the entire period of his suspension even though he did not do any work for the Board for this period. Because of this wide and deep implications of suspension for both the Board and the Board employee concerned, the discretion vested in the competent authority in this regard should be exercised with care and caution after taking all factors into account. The power of ordering suspension should be exercised carefully and with restraint. Before a suspension order is issued, one must be clear in one's mind that it is necessary and unavoidable. Prolonged suspension means that Board pays a Board employee without getting any work from him but at the same time the person concerned is by no means happy.

(2) A Board employee should be placed under suspension only if his continuance in office will be clearly detrimental to the public interest - e.g. by giving him an opportunity to continue in his malpractices or to tamper with the investigation or conduct of the disciplinary proceedings.

If it is possible to retain a person in an unimportant post, pending investigation or enquiry, suspension should not be resorted to. If a transfer from one place to another is considered sufficient, suspension should be avoided. Suspension not only causes hardship and mental agony to the Board employee concerned but also causes additional expenditure to Board. The suspended official will have to be paid subsistence allowance and the substitute in his place will also have to be paid, not to mention the liability to pay the full salary if the suspension is held wholly unjustified on the case ending in acquittal. After a Board employee is placed under suspension, there should not be any complacency in processing and finalising the disciplinary case against him. Immediately after placing an employee under suspension, specific charges should be framed and there should be no delay or time lag whatsoever between the suspension of an employee and the service of the charge memo.

(3) All cases of suspension beyond the period of four months should be reviewed periodically either by the C.E. or Chairman or by the S.E. as case may be. In cases where, the suspension is not justified for valid reasons, the appropriate authority can revoke the suspension. In cases involving corruption, if the matter has been referred to Director of Vigilance and Anti Corruption, the suspension may be revoked after consulting the Director of Vigilance and Anti Corruption not only as a measure to avoid hardship to the Board employee concerned, but also to reduce additional expenditure to Board. The competent authorities should make a review of all such cases and examine whether the suspension could not be revoked pending the disciplinary proceedings, in the light of the criteria laid down in the matter of suspension.

3. Power of ordering suspension and the competent authority to pass orders of suspension:

(1) An order of suspension may be made on members of class I and II Service by the authority competent to award "Censure" on the particular category of employees. The authorities competent to place members of Class III & IV service under suspension are indicated in Appendix-I. All officers ordering suspension on members of Class II, III and IV should send a report to their immediate superior officer to enable the Superior Officer to review the order of suspension with a view to check whether there is any indiscriminate exercise of powers of ordering suspension.

(2) Before passing an order of suspension, the authority proposing to make the order should verify whether it is competent to do so. An order of suspension made by an authority which does not have the power to pass such an order is illegal and will give cause of action for:

- (a) Setting aside the order of suspension; and
- (b) Claiming full pay and allowances for the period the Board employee remained away from duty due to the order of suspension.

(3) If employee of the State or Central or of any other outside body who is on deputation to the Board has to be suspended pending enquiry, the Board can place him under suspension. The lending authority should however, be informed forthwith of the circumstances leading to the suspension of such an employee or the commencement of the disciplinary proceedings, as the case may be.

4. Guiding Principles for the Disciplinary Authority to order suspension:

(1) A member of a Class of Service may be placed under suspension where,

- (i) an enquiry into grave charges against him is contemplated; or is pending, or
- (ii) a complaint against him of any criminal offence is under investigation or trial and if so such suspension is necessary in the public interest.

A Board employee who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty eight hours shall be deemed to have been suspended and the suspension order issued as soon as it is made known to the authority.

It is not possible to give an exhaustive list of charges that can be treated as "grave" for purpose of ordering suspension. However, the following categories of cases clearly involve grave charges: -

- (i) Case of corruption and those involving moral turpitude;
- (ii) Cases of misconduct which are likely to end in dismissal, removal or compulsory retirement of the delinquent; and
- (iii) Cases of misconduct where reversion to a lower post is contemplated.

(2) The power of ordering suspension should be exercised carefully and with restraint by the competent authority. The illustrations mentioned in paragraph (1) above should serve as guidance in the matter. Further guidelines are indicated below:-

Board's interest should be the guiding factor in deciding whether a Board Employee should be placed under suspension and the disciplinary authority should have the discretion to decide this taking all factors into account. The following are the circumstances in which the disciplinary authority may consider it appropriate to place a Board Employee under suspension. Here it may be made clear that these guidelines are intended for guidance only and should not be taken as mandatory as these are not intended to fetter the discretion of the disciplinary authority.

- (i)** Cases where continuance in office of the Board Employee will prejudice the investigation, trial or any enquiry (e.g. apprehended tampering with witnesses or documents);
- (ii)** Where the continuance in office of the Board Employee is likely to seriously subvert discipline in the office in which the Board employee is working;
- (iii)** Where the continuance in office of the Board Employee will be against the wider public interest other than those covered by (i) & (ii) above such as there is a public scandal and it is necessary to place the Board Employee under suspension to demonstrate the policy of the Board to deal strictly with officers involved in such scandals, particularly corruption; and
- (iv)** Where allegations have been made against the Board employee and the preliminary inquiry has revealed that a prima-facie case is made out which would justify his prosecution or his being proceeded against in departmental proceedings, and where the proceedings are likely to end in his conviction and or dismissal, removal or compulsory retirement from service.

There are also certain types of misdemeanours some of which are given below, where suspension may be desirable:-

- (i)** Any offence or conduct involving moral turpitude;
- (ii)** Corruption, embezzlement or misappropriation of Board money, possession of disproportionate assets, misuse of official powers for personal gain;
- (iii)** Serious negligence and dereliction of duty resulting in considerable loss to Board;
- (iv)** Desertion of duty;
- (v)** Refusal or deliberate failure to carry out written orders of superior officers;
- (vi)** Unruly, disorderly riotous behaviour within office premises/work spots;
- (vii)** Assaults between workmen within the office premises/work spots; and
- (viii)** Gheraos.

Here again it may be made clear that the above list is not exhaustive and is not intended to fetter the discretion of the competent authority to place a Board employee under suspension for other kinds of misdemeanours. It has, however, to be emphasized that the discretion to place the Board employee under suspension in respect of types of misdemeanours specified in items (iii); (iv) and (v) above should be exercised with greater care and restraint. Suspension should not be resorted to as a matter of course in disciplinary proceedings even if they are likely to result in the imposition of a major penalty unless the nature of the misdemeanours or offence and the other attendant circumstances also justify such action.

5. Deemed Suspension

(1) A Board employee is deemed to have been placed under suspension in the following circumstances:-

(i) If a Board employee is detained in custody, whether on a criminal charge or otherwise, for a period longer than forty eight hours, he will be deemed to have been placed under suspension. A Board employee who is detained in custody under any law providing for preventive detention or as a result or proceedings for his arrest for debt will fall in this category.

(ii) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Board Employee under suspension is set aside in appeal or on review under the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations, and the case is remitted for further enquiry or action or with any other directions, the order of his suspension will be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(iii) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Board employee is set aside or declared or rendered void in consequence of a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances, of the case, decides to hold a further enquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed the Board employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(2) If a Board employee who has been detained for a period exceeding 48 hours is later on released on bail, such release will not affect the deemed suspension which will

continue to be in force until revoked by the competent authority under Sub-regulation (e) of Regulation-9 of Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations. A duty is cast on the Board employee who may be arrested for any reasons to intimate promptly the fact of his arrest and circumstances connected therewith to his official superior even though he might have been released on bail subsequently. Failure on the part of the Board employee to so inform his official superior will be regarded as suppression of material information and will render him liable to disciplinary action on this ground alone, apart from the action that may be called for on the outcome of the Police Case against him.

6. Order of Suspension

- (1) A Board Employee can be placed under suspension only by a specific order made in writing by the competent authority. A standard form in which the order should be made is given in Appendix II. The authorities competent to place a Board Employee under suspension should adopt the appended form, while placing a Board employee under suspension. A Board Employee should not be placed under suspension by an oral order. Suspension takes effect from the date on which the order of suspension is made or any subsequent date specified in such order. In the case of deemed "suspension", the suspension automatically takes effect from the date on which the event which occasioned such "deemed suspension" takes place, even without a formal order of suspension. However, it is desirable for purposes of administrative record that a formal order in this behalf is issued by the competent authority stating the date from which the Board employee concerned is deemed to be under suspension and the circumstances leading to such deemed suspension.

- (2) Except in cases in which a Board Employee is deemed to have been placed under suspension in the circumstances described in paragraph 5 above, an order of suspension can take effect only from the date on which it is made. Suspension cannot be ordered with retrospective effect. The word "Suspension" connotes temporary deprivation of office, position or privilege. This concept of the word 'Suspension' rules out the possibility of a Board Employee who is in service and who has in law performed the duties of his office during a certain period, being placed subsequently under suspension for that period. When in law he has performed the duties there can be no question of forbidding him from exercising the functions of his office during that period which has already passed. Hence, no order of suspension should be made with retrospective effect except in the case of deemed suspension and a retrospective order of suspension will be both meaningless and improper.
- (3) An officer who is on leave or who is absent from duty without permission will not be performing any functions of his office. In such cases, it is not necessary to recall a Board employee if he is on leave for the purpose of placing him under suspension. When a Board employee is placed under suspension while he is on leave, the unexpired portion of the leave should be cancelled by an order to that effect. It is not permissible to grant leave for a Board employee under suspension with reference to Regulation 58 of Tamil Nadu Electricity Board Service Regulations.
- (4) The order of suspension should specify the headquarters of the Board employee during the period of suspension. It should normally be the last place of duty. The competent authority may, however, for reasons to be recorded in writing, fix any other place as his headquarters in the interest of public service. If a Board employee under suspension requests for a change of headquarters, the competent authority may comply with the request if it is

satisfied that such a course will not put the Board to any extra expenditure like grant of traveling allowance, etc., or create difficulty in investigation or in processing the departmental proceedings, etc. A Board employee under suspension cannot leave the headquarters without prior permission.

7. Subsistence allowance during suspension:

1. A Board Employee under suspension is entitled to an allowance called subsistence allowance under the provisions of Regulation 56 of Tamil Nadu Electricity Board Service Regulations and Standing Orders subject to the production of the following certificates:-

- (i) The employee is not engaged in any other employment profession or vocation;
- (ii) The employee continues to incur the expenditure for which the compensatory allowances are granted.

2. There is difference between suspension pending enquiry and suspension as a penalty. Suspension pending enquiry is no punishment.

Chapter – III

Initiation of Disciplinary Proceedings

1. Application of the Rules:

The Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations shall apply to all the employees of the Board including the employees of the Government of Tamil Nadu who have opted for service under the Board excluding those covered by the Industrial Disputes Act, 1947.

2. The Standing Orders for Workmen engaged in clerical departments of the Tamil Nadu Electricity Board shall apply to all persons working in the industrial establishment under the control of the Tamil Nadu Electricity Board who are "workmen" as defined in Section 2 (i) of the Industrial Employment (Standing Orders) Act, 1946 and who are engaged in clerical and allied work.

3. The Standing Orders in respect of workmen other than those engaged in clerical work shall apply to all persons working in the industrial establishments under the control of Tamil Nadu Electricity Board and who are "workmen" as defined in Section 2 (i) of the Industrial Employment (Standing Orders) Act, 1946 other than those engaged in clerical work.

4. Penalties:

Under the above Regulations / Standing orders, the competent authority may impose on a Board employee any of the following penalties:-

Minor Penalties:

T.N.E.Board Employees' Discipline and Appeal Regulations	T.N.E.Board Standing Orders in respect of workmen other than those engaged in clerical work	Standing Orders for workmen engaged in clerical Departments of the T.N.E.Board.
(1)	(2)	(3)
(i) Censure	(i) Censure	(i) Censure
(ii) Fine (in case of employees in Class IV service).	(ii) Fine, subject to the provisions of the payment of Wages Act, 1936 as amended from time to time.	(ii) Fine, subject to the provisions of the payment of Wages Act, 1936 as amended from time to time.
(iii) Withholding of increment or pro- motion.	(iii) Stoppage of increment or incre- ments with or without cumulative effect.	(iii) Stoppage of increment or incre- ments with or without cumulative effect.
(iv) Recovery from pay of the whole or part of any pecuniary loss caused to the Board by negligence or breach of orders.	(iv) Recovery from pay/wages of the whole or part of any pecuniary loss caused to the Board by the negligence or breach orders by the workman.	(iv) Recovery from pay/wages of the whole or part of any pecuniary loss caused to the Board, by the negligence or breach of orders by the workman.
(v) Suspension, where a person has already been suspended under Regulation 9 to the extent considered necessary by the authority imposing the penalty.	(v) Suspension where a person has already been suspended for a period not exceeding 30 days at a time.	(v) Suspension for a period not exceeding 30 days.

EXPLANATION

I. The following will not amount to a penalty:

(a) Withholding of increments of pay of a Board employee for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment.

(b) Non-promotion of a Board Employee whether in a substantive or officiating capacity, after consideration of his case to a service, grade or post for promotion to which he is eligible.

II. Procedure to be followed where the punishment of withholding increment cannot be given effect to

In cases of stoppage/withholding of increment, when it cannot be effected, if without cumulative effect, the monetary equivalent of the increments ordered to be withheld and if with cumulative effect, the monetary equivalent to 3 times of his increments ordered to be withheld, may be ordered to be recovered.

Major Penalties:

T.N.E.Board Employees' Discipline and Appeal Regulations	T.N.E.Board Standing Orders in respect of workmen other than those engaged in clerical work	Standing Orders for workmen engaged in clerical Departments of the T.N.E.Board.
(1)	(2)	(3)
(i) Reduction to a lower rank in the seniority list or to a lower post or time scale, whether in the same class of service or in another class of service, or to a lower stage in a time scale.	(i) Reduction in the time scale of pay for a specific period.	(i) Reduction in the time scale of pay for a specific period.
	(ii) Demotion to lower post or lower grade.	(ii) Demotion to lower post or lower grade.

T.N.E.Board Employees' Discipline and Appeal Regulations	T.N.E.Board Standing Orders in respect of workmen other than those engaged in clerical work	Standing Orders for workmen engaged in clerical Departments of the T.N.E.Board.
(1)	(2)	(3)
<p>(ii) Compulsory retirement otherwise than the retirement of an employee:</p> <p>(a) On attaining the age of superannuation;</p> <p>(b) Owing to reduction of establishment.</p> <p>(c) Owing to his permanent incapacity for service on account of bodily or mental infirmity; and</p> <p>(d) Whose efficiency has been impaired after completion of 25 years of continuous service.</p>	<p>(iii) Compulsory retirement otherwise than a workman,</p> <p>(a) Retiring from the service of the Board on attaining the age of retirement.</p> <p>(b) Termination of service owing to reduction in the establishment.</p>	<p>(iii) Compulsory retirement.</p>
(iii) Removal from service	(iv) Removal from service	(iv) Removal from service.
(iv) Dismissal from service	(v) Dismissal from service.	(v) Dismissal from service.

EXPLANATION

(1) The following will not amount to a penalty:

(a) Reversion of a Board employee officiating in a higher service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher

service, grade or post or on any administrative ground unconnected with his conduct.

(b) Reversion of a Board employee appointed on probation to any other service, grade or post, to his permanent service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment of the rules and orders governing such probation.

(c) Replacement of the services of an employee whose services had been borrowed from a State Government or the Central Government or an authority under the control of a State Government or the Central Government at the disposal of the State or the Central Government or the authority from which the services of such employee had been borrowed.

(d) Compulsory retirement of a Board employee in accordance with the provisions relating to his superannuation or retirement.

(2) Removal of a Board employee from the service of the Tamil Nadu Electricity Board shall not be disqualification for future employment under the Board.

(3) Dismissal of a Board employee from the service of the Tamil Nadu Electricity Board shall ordinarily be a disqualification for future employment under the Board.

(4) The discharge - (a) of a person appointed on probation before the expiry or at the end of the prescribed or extended period of probation; or (b) of a person engaged under contract, in accordance with the terms of his contract; or (c) of a person appointed otherwise than under contract to hold a temporary appointment on the expiration of the period of the appointment, does not amount to removal or dismissal within the meaning of this Regulation.

5. Warning:

A warning is not one of the penalties mentioned in the Standing Orders or Discipline and Appeal Regulations under which the lightest of the contemplated penalties is "censure",

"Warning", is only a caution to Board servants to be more careful in future and to avoid repetition of a mistake or irregularity committed by him. As its very meaning connotes, a "warning" would have served its purpose if the Board employee who was administered the "warning" subsequently improves and does not commit a repetition of the conduct which initially led to a "warning" being administered. The recording of "warning" in the personal file and the placing of copies of such orders in the personal file would necessarily create prejudice against the Board employee concerned when his record has to be assessed for purposes of promotion, etc., and this is neither permissible nor fair considering that "warning" is not a recognised punishment. However, "warning" in the past can be taken into account while determining the quantum of a punishment in a future case.

6. Disciplinary Authority:

The authorities competent to impose any of the penalties mentioned in paragraph 4 on the employees governed by the Discipline and Appeal Regulations have been specified in Regulation 6 of the Tamil Nadu Electricity Board Employees' Discipline and appeal Regulations. The authorities competent to impose penalties on the workmen governed by the Standing Orders are given in Appendix-I.

7. Authorities competent to institute disciplinary proceedings:

The following authorities are competent to institute disciplinary proceedings against the employees not governed by Standing Orders:-

- (i) The appointing authority or any other higher authority;
- (ii) Disciplinary authority, i.e. authority who is competent to inflict punishment according to rules, and
- (iii) Authority to whom the power to issue charge-sheet has been delegated in accordance with the valid order or binding rules.

It is not necessary that the charges should be framed by the authority competent to award a penalty or even that the

inquiry should be conducted by that authority. The charges can be framed and the inquiry held by any officer acting under the orders of the authority competent to award the penalty. Regulation 8 (f) of the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations provides that the competent authority may authorise any officer in Class I or II service superior in rank to the employee to initiate departmental proceedings and to hold enquiry against the employee. On the basis of the findings of that officer, the competent authority may award punishment. The authorities competent to institute disciplinary proceedings against the employees governed by Standing Orders are given in Appendix-I.

8. Authorities Competent to initiate Disciplinary Proceedings against Employees of Board whose Services are placed at the disposal of State/Central Government or outside bodies:

(1) In the case of employees of the Board lent to other Departments of the Government/Corporation or other Statutory Bodies, the disciplinary authority in respect of the post held by the officer for the time being may impose any of the prescribed penalties except those of compulsory retirement, removal or dismissal from service, but before imposing any such penalty, such authority, should consult the lending authority in the matter and the opinion of the latter should ordinarily prevail. In cases which call for the punishment of compulsory retirement, removal or dismissal, the borrowing authority should complete the enquiry and forward the records together with its findings to the lending authority which should pass such orders on it as it may think fit.

(2) The terms governing the deputation of Board employee on foreign service to Public Corporation, companies, organisations and local authorities should contain the following provision for taking disciplinary action against

them for past acts of omission and commission while they were in Board Service:-

Thiru_____, who is a member of the Tamil Nadu Electricity Board service will be deemed to be such member for the purpose of Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations / Standing Orders notwithstanding that his services are placed at the disposal of the_____ (foreign employer to be specified). If Thiru_____ has committed any act or omission which renders him liable to any penalty, the authority who is competent to deal with his case with reference to Discipline and Appeal Regulations/ Standing Orders shall be competent to institute disciplinary proceedings against him and to impose on him such penalty specified in the rule as it thinks fit and the foreign employer whom the employee is serving at the time of institution of such proceedings shall be bound to render all reasonable facilities to the competent authorities instituting and conducting such proceedings.

Failure to include the above term in the order of the deputation on foreign service will result in avoidable complications in dealing with cases of foreign service.

9. Institution of Formal Departmental Proceedings:

(1) Every disciplinary case is mostly preceded by a preliminary enquiry or investigation which will be conducted either by the Director of Vigilance and Anti Corruption or by the Vigilance Cell of the Board or by the officers of the Board. This investigation or enquiry is purely a fact finding enquiry to determine whether there is a prima-facie case for a formal enquiry. Such an enquiry is only meant for the information of the Board or the disciplinary authorities concerned, about the conduct of their employees.

(2) The Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations provide for two procedures, namely one for the imposition of a major penalty and the other for the imposition of a minor penalty. Once a decision has

been taken, after a preliminary enquiry or investigation, that the prima facie case exists and that formal disciplinary proceedings should be instituted against a delinquent Board employee under the above Regulations, the disciplinary authority will need to decide whether proceedings should be taken under sub-regulation (a) (i.e. for imposing a minor penalty) or under sub-regulation (b) (i.e. for imposing a major penalty) of Regulation 8 of the said Regulations. The choice of the Regulation at this stage is a matter of vital significance. It will determine the procedure to be followed for further conduct of the proceedings. The procedure for the imposition of a minor penalty is comparatively simple and the disciplinary proceedings can be conducted quickly. The procedure for the imposition of a major penalty is much more elaborate and the oral enquiry is held more or less on the pattern of a Court trial. A decision, has therefore to be taken by the disciplinary authority on the basis of the circumstances of each case as revealed by preliminary investigation and by determining provisionally the nature of the penalty - Whether major or minor - that may be imposed upon the Board employee in the event of the satisfactory substantiation of the allegations.

10. Procedure for imposing Minor Penalties:

(1) In cases in which the disciplinary authority decides that proceedings should be initiated for imposing a minor penalty, the disciplinary authority will inform the Board employee concerned in writing of the proposal to take action against him by a Memorandum accompanied by a statement of imputations of misconduct or misbehaviour for which action is proposed to be taken giving him a reasonable opportunity of making any representation that he may desire to make within a prescribed period. No mention should be made of the nature of the penalty which the disciplinary authority wishes to impose. There is no provision in the relevant regulation for the inspection of documents to enable the accused Board employee to submit his defence statement, but the rules of natural justice require that wherever a case is based on documentary evidence and if the accused officer requests for the inspection of such documents, he should be allowed

necessary facilities. After taking into consideration the representation of the Board employee or without it, if no such representation is received, the disciplinary authority will proceed after taking into account such evidence as it may think fit, to record its findings on each imputation of misconduct or misbehaviour.

(2) If as a result of its examination of the case and after taking the representation made by the Board employee into account the disciplinary authority is satisfied that the allegations have not been proved, it may exonerate the Board employee. An intimation of such exoneration will be sent to the Board employee in writing.

In case, the disciplinary authority is of the opinion that the allegation against the Board employee stands substantiated it may impose upon him any of the minor penalties specified in the Discipline and Appeal Regulations.

11. Procedure for imposing Major penalties:

(1) In cases in which the disciplinary authority decides that proceedings should be initiated for imposing any of the major penalties specified in the Discipline and appeal Regulations, the grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges which will be communicated to the person charged, together with a statement of allegations on which each charge is based and if any other circumstances which it is proposed to take into consideration in passing orders on the case. The delinquent shall also be required, within a reasonable time, to put in a written statement of his defence and to state whether he desires an oral-enquiry or to be heard in person or both.

The Standing Orders do not however contemplate different procedures for imposing minor or major penalties.

The following procedure shall be followed before awarding a punishment to any workman:

- (i) No punishment shall be imposed unless the workman is informed in writing of the alleged misconduct.

- (ii) The workman shall be given reasonable time to file a written statement to the charge/charges which charge notice shall contain the allegations based on which the charge/charges have been framed.
- (iii) When the charge has not been admitted, an enquiry shall be conducted.
- (iv) While conducting an enquiry the following procedure shall be followed:-
 - (a) The workman shall be given a reasonable notice of the date and venue of the enquiry.
 - (b) The oral statement of the workman, if any, at the time of enquiry shall be reduced to writing.
 - (c) The witness to prove the misconduct(s) shall be examined in the presence of the workman and the workman shall be given an opportunity to cross-examine the witness.
 - (d) The workman shall be given a reasonable opportunity to peruse the relevant records and copy down the minutes of the enquiry.
 - (e) The workman shall be given a reasonable opportunity to defend himself and to examine witnesses, if any, on his behalf. In defending himself, the workman if he so desires, shall be assisted by a representative of a trade union to which he belongs, who shall normally be a workman of the Tamil Nadu Electricity Board. In special cases, the representative of the said trade union, who is not a workman of the Tamil Nadu Electricity Board, will assist the workman with the permission of the enquiry officer.
 - (f) The report of the Enquiry Officer, when the Enquiry Officer is different from the punishing authority, shall be furnished to the workman.

- (g) In awarding punishment, the punishing authority, shall take into account the gravity of the misconduct, the previous record of the workman and of any other extenuating or aggravating circumstances that may exist.
- (h) A Copy of the final orders in a disciplinary case shall be supplied to the workman. If the order passed is appealable it should be indicated in the order as to the authority to whom the appeal shall lie and the time within which such an appeal shall be filed. The appellate authority may condone delays if any in preferring the appeal after satisfying himself that the reasons for the delay are genuine.

(2) Framing of Charges

This is the most crucial stage in the entire proceedings because the success of any disciplinary case depends primarily on the soundness of the charges. The charges are in turn, based on imputations so that if the imputations or allegations are found solidly on unshakable evidence, the chances of successful conclusion of the proceedings are greatly enhanced. The Courts of Law have repeatedly held that mere suspicion can never take the place of proof and evidence and it is pointless to serve a charge sheet which is not based on clear-cut evidence. The sole purposes of framing a charge is that the employee should be made to understand the charge alleged against him.

(3) A charge is the formally drawn up accusation against a Board employee. It may be described as the prima-facie proven essence of the allegations levelled against him. Generally, charges are framed in certain broad categories such as carelessness and negligence in the performance of official duties, laxity of control and supervision over the staff, causing financial losses and unnecessary expenditure to the Board, accepting sub-standard work, execution of work below specification or without proper sanction, false measurement of work executed and improper maintenance of accounts,

falsification and fabrication of records, official misconduct, corrupt practices and actions involving moral turpitude.

The articles of charge should be framed with great care. The following guidelines will be of help:-

(a) The particulars regarding date and time are important requirements of a properly framed charge-sheet;

(b) Each charge should be expressed in clear and precise terms and it should not be vague;

(c) A separate charge should be framed in respect of each separate allegation;

(d) Multiplication or splitting up of charges on the basis of the same allegation should be avoided;

(e) In giving the charge-sheet care should be taken to see that the charge-sheet is given in a language which the employee can easily understand. In order that the employees must know correctly the charges levelled against them, it is necessary that the charge-sheet is given to them in the language which is very commonly understood.

(f) Charge-sheet is merely a description of allegations against an employee which are still unproved and care should be taken that the language of the charge-sheet should not show that the management has reached the conclusion that the employee is guilty;

(g) In a large number of cases the misconducts are enumerated in the Regulations or Standing Orders. Each misconduct is represented by a separate sub-para, para, rule or section. In cases where the misconduct can be brought under the relevant clause of misconduct in the Standing Orders that clause should be quoted in the charge-sheet. If however, in cases where the misconduct cannot be correlated correctly to the relevant clause in the Standing Order it is better that such incorrect correlation to the Standing Order is avoided;

(h) In case of certain irregularities one single act does not constitute misconduct but if they are habitual then they

amount to misconduct. The common examples are negligence or absence without taking leave. Whenever the habit is a constituent part of the charge, it must be specifically mentioned in the charge-sheet otherwise the charge would be defective;

In case of habitual negligence it is not only necessary to mention the word "habitual" but the past record showing the habit should also be given;

(i) One of the most important particulars which should be mentioned in the charge is in respect of the subject or object of the misconduct concerned. If this is not mentioned, then the charge is invalid (i.e.)

- (a)** In case of disobedience, the order disobeyed must be mentioned.
- (b)** In case of theft, full particulars of the material stolen must be indicated.
- (c)** In case of misappropriation, all particulars regarding the amount misappropriated must be given.
- (d)** In a charge of rioting, it is necessary to mention the names of other persons, as one person could not create riot.

The charge-sheet should also be accompanied by a list of witnesses who are proposed to be produced during the oral inquiry in support of the charges. In preliminary enquiry number of witnesses are examined and their statements recorded. It is not necessary that all those who were examined during the preliminary enquiry should be produced in the enquiry also. Only such witnesses should be produced who are considered to support the charges and give material evidence. Copies of complaints made by the complainants and copies of statements taken from witnesses which form the basis on which the charge or charges are framed against the delinquent officer should be furnished to him at the time of communication of the charge-memorandum itself. The statements of the witnesses who were examined in the preliminary enquiry but are not proposed to be produced in

the oral enquiry need not be made available to the accused. A list of documents which are proposed to be produced in support of the charges should also accompany the charge-sheet. The charge-sheet should be signed by the appropriate disciplinary authority. The statement should give full recitation of the specific facts of commission and omission on the part of the Board employee in support of each article of charge. It should also briefly mention any other circumstances which it is proposed to take into consideration. A Model Form of charge sheet is in Appendix-III.

12. Delivery of the charge memo:

The disciplinary authority will deliver or cause to be delivered the charge-sheet together with the required enclosures to the Board employee concerned. The service of charge-sheet is a pre-requisite to the validity of departmental enquires. If it is not established that the charge-sheet was served upon an employee then subsequent proceedings in the course of departmental enquiries are invalid and ineffective. It is, therefore of utmost importance to find out before initiating departmental enquiry that there is sufficient material to show the service of the charge-sheet. Regulation 10 (c) of the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations provides that every order, notice and other process made or issued under the said Regulations shall be served in person on the Board employee concerned or sent to him by Registered Post Acknowledgement due or if such person is not found, by leaving it at his last known place of residence or by giving or tendering it to an adult member of his family or if none of the means aforesaid is available by affixing it in some conspicuous part of his last known place of residence. The disciplinary authorities should scrupulously observe the procedure in regard to the mode of service of notices or order on the delinquent officer who may refuse to receive such orders or make themselves not available by adopting dilatory tactics.

13. The Board Employee should be required to submit his reply to the articles of charge (i.e. the written statement of defence) by a date to be specified in the charge Memo. For the convenience of the delinquent as well as the disciplinary authority, a questionnaire as in Appendix-IV will be furnished to the delinquent asking him to resubmit the questionnaire duly filled in along with his explanation to the charge memo. Furnishing of the questionnaire alone cannot be considered a substitute for asking him specifically in the charge memorandum whether he desires an oral enquiry or to be heard in person or both and that the failure in this regard will vitiate the proceedings.

14. Ten days time may be given from the date of receipt of the charge sheet to submit his explanation. The dated ack. should be obtained and recorded in the file. If either the explanation to charge sheet or a request for extension of time for submission of explanation is not received within the stipulated time, the concerned officer should proceed further.

In cases where the delinquent makes a written request for extension of time for offering his explanation for the charge sheet, such request should be considered favourably to a reasonable extent and extension of time for a period not exceeding 15 days should be given. If however there is sufficient reason to believe that the delinquent is asking for time to prolong the case, he may be given another opportunity to send his reply specifically pointing out that no further time will be given and if the reply is not received within the stipulated time, further action may be taken without waiting for the explanation.

15. On receipt of the written statement of the defence, the disciplinary authority should examine it carefully. If the explanation is accepted further proceedings may be dropped and the delinquent employee exonerated of the charges. In cases where the delinquent admits his guilt and when the admission is unqualified, un-conditional and unambiguous there is no need for any elaborate enquiry. The delinquent

may be merely called by a specific notice and he may be asked to testify whether he had given his explanation admitting the guilt and necessary punishment may be awarded. If the disciplinary authority finds that the charges have not been admitted by the Board employee in his written statement of defence the disciplinary authority may itself enquire into such charges or appoint an Enquiring Authority to enquire into the truth of the charges. An oral enquiry will be held in respect of charges which are not admitted by the delinquent officer.

Chapter – IV

Appointment of Enquiry Officer

1. An Enquiry Authority to enquire into the charges framed against an accused Board employee has to be formally appointed by the Disciplinary Authority. The Enquiry Officer, the preliminary Investigation Officer and the authorities empowered to issue a charge sheet, as also to punish, should be different persons as far as practicable. Domestic enquiry, should normally be conducted by those officers of the Department who shall not be in a position to impart personal knowledge into the proceedings. Similarly, a person who might be required to adduce evidence at the enquiry should not be appointed as Enquiry Officer. The enquiry should be held by someone who is placed above the employee and not by a person holding the same or lower rank. Enquiry Officers shall be nominated by designation so that the new incumbent can continue as the Enquiry Officer with the information available on records. The Enquiry Officer should be a responsible officer of the Establishment. It is essential that he is fully conversant with all the rules and procedures. Along with the order of appointment of enquiry officer, the following documents should be sent to him:-

- (i)** A copy of Investigation report, preliminary explanation Memo and the explanation of the delinquent.
- (ii)** A copy of the articles of charge.
- (iii)** A copy of written statement of defence submitted by the Board employee. If the accused Board employee has not submitted a written statement of defence, this fact should be clearly brought to the notice of the Enquiring Authority.
- (iv)** A copy of the statements of witnesses whom the prosecution proposes to produce in support of the charges;
- (v)** Evidence providing the delivery of documents referred to in (ii) above to the accused Board employee. The date of receipt of the document by the accused should be clearly

indicated. The date of receipt of the articles of charges by the Board employee will need to be taken into account by the Enquiring Authority in fixing the date of the first hearing.

2. On receipt of the order of appointment and the above documents, the Enquiry Authority is required to send a notice to the accused Board employee asking him to appear before the Enquiry Authority at the place, date and time specified in that notice. In the same communication, the following may be added:

"At the Enquiry, he will be given full opportunity to conduct his defence by examining his witnesses and cross-examining the witnesses against him. Should he fail to be present for the enquiry as advised, the enquiry will be held ex-parte".

When departmental action against a Board employee is taken up on a report from the Director of Vigilance and Anti-Corruption, the officer conducting the enquiry shall intimate the Director, the exact date, time and place of enquiry sufficiently in advance so that arrangements will be made for the production of witnesses and for the Officer of the Directorate who conducted the enquiry to be present at the time of the departmental enquiry to assist the Enquiring Officer. The above procedure is absolutely essential in the interests of successful prosecution in all departmental proceedings and it should be strictly followed in all such proceedings. Simultaneously, with the appointment of the Enquiry Officer, the disciplinary authority shall also inform the accused officer about the appointment of the Enquiry Officer to enquire into the Charges framed against him.

Chapter-V

Enquiry

(1) Generally the Enquiry is held at the place or the office where the misconduct had occurred but it is not strictly necessary to do so. The inquiring Authority may, however fix any other place for the enquiry or different places for different hearings during the course of the enquiry, considering the convenience of the parties concerned with reference to the purpose of each hearing. The enquiry will normally be conducted during the office hours. But, if the delinquent prefers and if the Enquiry Officer also agrees, the enquiry can be proceeded beyond office hours.

(2) Request for the consideration of postponement of enquiry can be given twice which can be considered as reasonable opportunity having been given to the delinquent. If he asks more than twice, it need not be considered as reasonable opportunity. But it shall be taken as a dilatory tactics adopted by the delinquent. Any postponement should not exceed 10 or 15 days because several stages of the enquiry has to be gone through for completing the enquiry. Depending on the nature of difficulty posed by the delinquent the number of days may be fixed; 3 days as minimum and 15 days as maximum may be considered as reasonable time depending upon the circumstances. While conducting the enquiry there should be no violation of principles of natural justice. The principles of natural justice are:-

- (a)** that a party would have the opportunity of adducing all relevant evidence on which he relies;
- (b)** that the evidence of the opponents should be taken in his presence;
- (c)** that he should be given the opportunity of cross examining the witnesses examined by the management;
- (d)** that no material should be relied on against him without his being given an opportunity of explaining them.

The following obligatory questions have to be asked by the Enquiry Officer to the delinquent and recorded in the proceedings:-

(a) At the beginning of the enquiry:

The delinquent should be asked whether he has received the charge sheet. After reading out the charge to the delinquent he should be asked whether he understands the charge and admits the charge or not

(b) At the end of the enquiry:

- (i) Is he willing to give any additional information to be recorded before concluding the enquiry?
- (ii) Whether he has satisfied with the conduct of the enquiry and all reasonable opportunities afforded to him during the enquiry?

(3) Inspection of Documents:

(1) Before the regular hearings commence, the accused officer has to be allowed, for preparing his defence, the inspection of documents relied upon by the prosecution in support of the charges. The accused officer is free to take extracts of the documents.

In asking for such documents, the Board employee will also indicate the relevance of the document to the presentation of his case.

(2) The delinquent officer should also be allowed to peruse the records pertaining to that case or be furnished with copies thereof, if he so desires, either before or after the enquiry. However, if in any case it is considered that a certain record required by the delinquent officer cannot be furnished or disclosed to him in Board's interest or for any other substantial reasons which can be justified, he should be informed accordingly and the fact of such refusal together with the reasons therefor should be recorded in writing. The non-

compliance with the request of the delinquent officer in such cases will not vitiate the order of the punishing authority on that score if the orders are passed after duly taking into account the principles of natural justice.

(3) As regards the additional documents asked for by the accused officer, the Enquiring Authority should satisfy himself that they are reasonable relevant to the charges under enquiry. The accused may be asked to give the relevancy of the documents that he wishes to inspect. If the Enquiring Authority considers that the documents or some of them are not relevant, he may refuse to requisition them after recording the reasons in writing.

(4) Summoning of Witnesses:

(1) The Enquiring Authority has no powers to compel attendance of witnesses and production of documents. The witnesses cited by the prosecution as well as by the defence may, therefore, be requested by the Enquiring authority to appear before him on the date, time and place mentioned in the notice of request. The Enquiring Authority may consider the relevancy of the witness cited by the accused before summoning them. He may, for special and sufficient reasons to be recorded in writing, refuse to call a witness; failure so to record the reasons will vitiate the enquiry.

(2) Statement of Prosecution witnesses:

The witnesses examined at the preliminary enquiry held before the framing of charges, whose evidence is considered necessary to prove the charges must be recalled at the regular enquiry after the charges have been framed. It shall not be necessary to record over again the evidence recorded at the preliminary enquiry, but the evidence so recorded should be read out at the regular enquiry in the presence of the person charged and he should be given an opportunity to cross-examine the witnesses, whether or not he had already cross-examined them at the preliminary enquiry. If, however, any such witness was examined at the preliminary enquiry in

the absence of the person charged, such witness should, if the person charged so desires, be examined in-chief in his presence at the regular enquiry instead of the evidence given by the witness at the preliminary enquiry being read out, and the person charged should also be given an opportunity to cross-examine the witness. It is not necessary that every person who was examined at the preliminary enquiry should be examined at the regular enquiry though it is incumbent on the Enquiring Officer to examine at the regular enquiry any particular witness previously examined whom the officer charged specially asks should be examined. But no evidence other than that of persons examined at the regular enquiry should be relied upon in arriving at the findings.

It is better that the enquiry proceedings of the enquiry are written by the Enquiry Officer himself in his own handwriting or otherwise by an Assistant who is present during the enquiry. If the proceedings are written by an Assistant, the Assistant should sign underneath "written by me" and the Enquiry Officer will record as "Recorded in my presence".

At the bottom of each page, the signature of the delinquent and the connected witnesses have to be obtained; Delinquent need not sign in the exhibit produced by the prosecution side but in the proceedings it will be recorded.

If the Departmental employees are cited as witnesses by the delinquent employee, the Department should afford all facilities and grant leave, etc., to them. But, Travelling Allowance need not be met by the Board.

(3) Examination of Witnesses:

On the date fixed for the hearing, the Enquiry officer himself will conduct the enquiry. The Enquiry Officer may ask the delinquent officer to indicate the documents, which have been inspected by him. Documentary evidence by which the articles of charges are proposed to be proved may then be produced by the officer having the custody of the documents

or by an officer deputed by him for the purpose. Unlike in the Courts of Law, it is not necessary that the authority in whose custody the documents are, should personally come to produce the documents and prove signatures, etc., thereon. The investigation officer who has taken over the documents during the course of investigation may produce the documents on behalf of the various authorities from whom he took possession of the documents. The documents produced may be numbered as Exhibit P.1, P.2 and so on. These may be signed by the Enquiry Officer.

(4) Examination-in-chief:

The first to be examined should be the main complainant or the main departmental witness. This is called examination-in-chief. It is not necessary that the witnesses should be examined in the same order as they were mentioned in the list of witnesses. The witnesses who are examined may be numbered as P.W.1, P.W.2, and so on. The Enquiring Officer may not permit asking leading questions in a manner, which will allow the very words to be put into the mouth of the witness which he can echo back.

(5) Cross examination:

After examination-in-chief is over, the delinquent employee should be allowed to cross examine the witness. The question put by the employee and the answers by the witness should be recorded below the evidence itself under heading, "Cross-Examination by the delinquent employee". If the employee does not wish to cross examine, the same should be recorded that the employee was asked to cross examine the witness and he did not do so.

The opportunity of cross examination should not be denied. It is the duty of the Enquiry Officer to protect the witness and disallow questions if they are of inordinate length or oppressive or irrelevant. A record should be made to this effect.

(6) Re-examination of witnesses:

After cross-examination of witness by or on behalf of the Board employee, the Enquiry officer may put such questions to the witness as he may think fit in order to obtain necessary clarification or elucidation on any point arising out of the evidence adduced by the witness concerned. Such a witness may be cross-examined by or on behalf of the Board employee with the leave of the Enquiry Officer on matters covered by the questions put by the Enquiry Officer.

If the witness is not familiar with the language in which the evidence has been recorded, then an interpreter should read out what has been written and after explaining what was written obtain the signature of the witness and accused and it should also be recorded that an interpreter read out the recorded evidence. The above described process should be repeated in respect of all witnesses in support of the charges against the employee.

(7) Depositions:

The depositions of each witness should be recorded on a separate sheet indicating the name and address of the witness. The depositions may generally be recorded as narrations dictated by the Enquiry Officer but on certain points it may be necessary to record the questions and answers verbatim. After evidence of each witness is completed the Enquiry Officer will read out the depositions, to the witness in the presence of the Board Employee. Verbal mistakes in the depositions, if any, will be corrected in their presence. However, if the witness denies the correctness of any part of the record, the Enquiry Officer may instead of correcting the evidence, record the objection of the witness. The Enquiry Officer will record and sign the following certificate at the end of the depositions of each witness:-

"Read over to the witness in the presence of the accused and admitted correct/objection of witness recorded".

The witness will be asked to sign every page of the depositions. The accused officer, when he examines himself as the defence witness, should also be required to sign his deposition. If a witness refuses to sign the deposition, the Enquiry Officer will record this fact and append his signature.

(8) Defence Witnesses:

After the closure of the case for the disciplinary authority, the Board employee shall be required to state his defence and to lead his evidence. The defence witnesses will be examined in the same way as prosecution witnesses. The accused Board employee has also the right to examine himself as a witness. The documents produced by the defence witnesses will be numbered as Exhibit D.1, Exhibit D.2, and so on and the witnesses who give oral evidence will be numbered as DW.1, D.W.2 and so on. All the witnesses should be examined in the presence of the accused employee.

(9) Adjournment:

(a) If it is not possible to complete an enquiry on the same day, it may be adjourned to another day convenient to all concerned and a record should be made by the Enquiry officer, at the end of the day's proceedings.

(b) The accused does not have the right to ask for an adjournment as and when he likes, but this question may be decided on the facts of each case, keeping in mind that every assistance must be afforded to the accused.

(10) Union Representation at the Enquiry:

The Standing Orders permit a workman if he so desires to be assisted by a representative of a Trade Union to which he belongs, who shall normally be a workman of the Tamil Nadu Electricity Board. In special cases, a representative of the said Trade Union, who is not a workman of the Tamil Nadu Electricity Board may also assist the workmen with the permission of the Enquiry Officer.

According to Disciplinary and Appeal Regulations, no pleader or outside representative shall be allowed to appear on behalf of the accused employee during the enquiry.

If the employee against whom the enquiry is held, misbehaves with the Enquiry officer or with the Witnesses or with any other person present during the enquiry or does any act hindering the smooth conduct of the enquiry, such fact shall be recorded by the Enquiry Officer. If the employee against whom the enquiry is held leaves the enquiry during the conduct of the enquiry proceedings without the permission of the Enquiry Officer, the Enquiry Officer may at his discretion, proceed with the enquiry without the employee being present after recording such fact.

(11) Final Hearings:

After the completion of the production of evidence on both sides, the Enquiry Officer will ask the accused Board employee to put in, if he so desires, any further statement of his defence. The term "reasonable opportunity" has been interpreted very liberally by the Courts. Therefore, the Enquiry Officer should ask in writing the delinquent, immediately after the enquiry is over whether he had a reasonable opportunity of presenting his case or if he has any complaint in this regard. If there is any complaint in this regard, the enquiry officer will examine the complaint and set right the matter. If it is considered that the alleged denial of reasonable opportunity is made with a view to delay unduly the disciplinary proceedings, the Enquiry Officer will be competent to ignore the complaint and the reasons for not complying with the request should be recorded.

(12) Part-Heard Enquiries:

If an Enquiry Officer after having heard and recorded the whole or any part of the evidence in an enquiry ceases to function as Enquiry Officer for any reason, and a new officer is appointed as Enquiry Officer for conducting enquiry, he may

proceed with the enquiry from the stage left by the predecessor and act on the evidence already recorded by his predecessor or on the evidence partly recorded by his predecessor and partly recorded by him. However, if the new Enquiry Officer is of the opinion that a further or a fresh examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, he may recall the witness for examination, cross-examination and re-examination.

(13) Ex-Parte Proceedings:

If the Board employee to whom a copy of the charge memo., has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Enquiry Officer or otherwise fails or refuses to comply with the provision of the Standing Orders/Disciplinary and Appeal Regulations, the Enquiry Officer may hold the enquiry ex-parte. In ex-parte proceedings, the entire gamut of the enquiry has to be gone through. The notices to witnesses should be sent, the documentary evidence should be produced. During the course of enquiry the accused officer is free to put in appearance and participate in the enquiry. In such a case, the details of what has transpired in his absence may be furnished to him at his request.

Finding of the Enquiry Officer:

The Officer holding the enquiry should record his finding on each charge separately after carefully considering the evidence adduced in support of it as well as that for the defence.

Chapter – VI

Report of the Enquiry Officer

I. An oral enquiry is held to ascertain the truth or otherwise of the allegations and is intended to serve the basis on which the disciplinary authority has to take a decision as to whether or not the imposition of any penalty on the Board employee is called for. The findings of the Enquiry Officer are very important and they should be based on evidence adduced during the oral enquiry and records. The assessment of documentary evidence does not present much difficulty. The oral evidence has however to be taken and weighed together, including, not only what was said and who said it, but also when and in what circumstances it was said and also whether what was said and done by all concerned was consistent with the normal probabilities of human behaviour relevant for the case. The Enquiry Officer who actually records the oral evidence has also the opportunity to watch the demeanor of a witness and has to form a judgement as to his credibility. Taking into consideration all circumstances and facts, the Enquiry Officer, as a rational and prudent man, has to draw inferences and to record his reasoned conclusion as to whether the charges are proved or not. The Enquiry Officer should take particular care, while giving his findings on the charges to see that no part of the evidence which the accused Board employee was not given an opportunity, to refute, examine or rebut has been relied upon in drawing conclusion against him. No material from personal knowledge of the Enquiry Officer bearing on the facts of the case, which has not appeared either in the charge memo or the statement of allegation or in the evidence adduced at the enquiry and against which the accused Board employee had an opportunity to defend himself, should be imported into the case. The Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations also provides for a "personal hearing" to be given to the accused officer if he desires it in addition to the oral enquiry. Whether or not, the person charged desired or had an oral enquiry, he shall be heard in person at any

stage if he so desires before passing of final orders. A report of the enquiry or personal hearing (as the case may be) shall be prepared by the authority holding the enquiry or personal hearing whether or not such authority is competent to impose the penalty. Such report shall contain a sufficient record of the evidence, if any and a statement of the findings and the grounds thereof. The report of the Enquiry officer will contain the following:-

- (i) An introductory paragraph in which reference will be made about the appointment of the Enquiry Officer and dates on which and the places where the enquiry was held;
- (ii) Charges that were framed;
- (iii) Charges which were admitted or dropped or not pressed, if any;
- (iv) Charges that were actually enquired into;
- (v) Brief statement of facts and documents which have been admitted;
- (vi) Brief statement of the case of the disciplinary authority in respect of the charges enquired into;
- (vii) Brief statement of the defence;
- (viii) Points for determination;
- (ix) Assessment of the evidence in respect of each point set out for determination and the findings thereon;
- (x) Finding on each article of charge;

II. A folder containing:

- (a) list of exhibits produced in proof of the articles of charge;
- (b) list of exhibits produced by the Board employee in his defence;
- (c) list of witnesses examined in proof of the charges;
- (d) list of defence witnesses examined.

- III. A folder containing depositions of witnesses arranged in the order in which they were examined.
- IV. A folder containing written statement of defence, if any, and written briefs filed by both sides, applications, if any, made in the course of the enquiry with orders thereon and orders passed on any request or representation made orally.

GUIDELINES TO ENQUIRY OFFICER

- (1) Enquiry Officer's function is like a judge in Civil Court and he shall remain unbiased and neutral.
- (2) The Enquiry Officer should have a clear and open mind and determination to conduct and complete the enquiry.
- (3) The Enquiry Officer should not be an eye witness to the incident or should not be a person who detected the case.
- (4) The Enquiry Officer should be one having no personal ill will towards the accused.
- (5) The Enquiry Officer should not be one subordinate in rank to that of the accused.
- (6) The Enquiry Officer should be very calm and give patient hearing and at the same time firm enough to over rule wherever necessary any objection not related to the charge and enquiry is raised.
- (7) The Enquiry Officer should not be perturbed if any objection is raised by the delinquent.
- (8) The function of the Enquiry Officer is to enquire the charges only (i.e.) to elicit fact on the charges and he is not to propose what should be appropriate penalty assuming the guilt is proved.

- (9)** The Enquiry Officer should limit his questioning to matters well connected with the charges only.
- (10)** All reasonable opportunity to cross examine the prosecution witnesses by the delinquent and also to produce the defence witnesses should be given.
- (11)** Enquiry Officer may not put leading questions.
- (12)** Delinquent should not be examined first. He should be examined only last.
- (13)** Though law does not require that the enquiry should be in the local language, it would be better, if the proceedings are conducted in the local language particularly when the delinquent insists on that.
- (14)** The Enquiry Officer should deal with the matter before him objectively, fairly and impartially.

Chapter-VII

Finalisation of Disciplinary Proceedings

(1) The report of the Enquiry officer is intended to assist the Disciplinary Authority in coming to a conclusion about the guilt of the Board employee. Its findings or recommendations are advisory in character and are not binding on the Disciplinary Authority who can disagree with them and come to its own assessment of the evidence forming part of the record of enquiry. On receipt of the proceedings of the enquiry and the findings of Enquiry Officer along with other connected records, the Disciplinary Authority will go through the proceedings of the Enquiry and other connected records carefully to ensure that all procedures specified for initiation of disciplinary proceedings, conduct of enquiry etc., have been scrupulously followed, it is also the responsibility of the Disciplinary Authority to check whether adequate opportunities have been given to the delinquent official to cross-examine all the witnesses examined on behalf of the Board and to peruse the documents relied on by the Board which are relevant to the charges framed. If after verifying the records the disciplinary Authority considered that there is procedural flaw in conducting the enquiry, it can always order re-enquiry setting out reasons therefor. The reasons for conducting re-enquiry should, however be communicated to the delinquent official.

(2) The Disciplinary Authority should also examine the findings of the Enquiry Officer carefully. It should verify whether the Enquiry Officer while giving his findings has taken into account evidence adduced during the enquiry and also other records relied on by the Board. The Disciplinary Authority shall also check that the Enquiry Officer has not taken into account extraneous matters or other records not connected with the case while giving his findings.

(3) After verifying the above aspects the Disciplinary Authority will record its findings in respect of each article of charge. If the Disciplinary Authority disagrees with the findings

of the Enquiry Officer on any article of charge or charges, it will while recording its own findings, also record reasons for disagreement.

4. (a) Procedure to be adopted for imposing Penalties on the employees governed by Standing Orders:

Having regard to its own findings on the charges, if the Disciplinary Authority is of the opinion that a penalty (whether minor or major) is to be imposed on the Board employee, the employee shall be supplied with a copy of the report of the Enquiry Authority and be called upon to show cause, within a reasonable time against the particular penalty proposed to be inflicted. Any representation in this behalf submitted by the employee shall be taken into consideration before final orders are passed, provided that such representation shall be based only on the evidence adduced during the enquiry. In the case of an employee who is found guilty in a criminal Proceedings and against whom a disciplinary proceedings is instituted after his conviction, it will be sufficient if a single Show-Cause Notice is issued to him.

(b) Procedure to be followed in imposing penalties on the employee governed by Disciplinary and Appeal Regulations:

Having regard to its own findings on the charges, if the Disciplinary Authority is of the opinion that any of the minor penalties should be imposed on the Board employee, such a minor penalty may be imposed on the Board employee straightaway by furnishing a copy of the report of the Enquiry Officer. However, in such cases, the Disciplinary Authority should satisfy himself that the delinquent was given a "reasonable opportunity" during the oral enquiry to defend his case and such reasonable opportunity is one envisaged in Regulation 8(a) of the Tamil Nadu Electricity Board Employees' Disciplinary and Appeal Regulations.

However, in cases where no oral enquiry has been conducted, the following observations of the Madras High Court in its judgement of W.P.No.4483 of 1965 (P.V.Venkataverathan Vs. State of Madras) should be noted for guidance:-

"So, when a person is given notice to show-cause why he should not be proceeded under rule 17(b) of Tamil Nadu Civil Service (Classification, control and Appeal) Rules (Corresponding Regulation in 8(b) of Tamil Nadu Electricity Board Employees Discipline and Appeal Regulations) it is not incumbent on him to make a full and complete representation and he may content himself with just indicating his defence and reserve a fuller statement at a later stage, as the petitioner did in this case by indicating that he would like to peruse further documents. In the circumstances, it cannot be said that a written statement filed by a person in reply to a charge under rule 17(b) of T.N.C.S. (C.C.& A) Rules (Corresponding Regulation in 8(b) of Tamil Nadu Electricity Board Employees, Discipline and Appeal Regulations) can be treated as a full and complete representation under rule 17(a) of T.N.C.S. (C.C. & A) Rules (Corresponding Regulation in 8(a) of T.N.E.Board E.D.&A Regulations). If the punishing authority treated the written statement which need not necessarily be full and complete, as a representation under rule 17(a) of T.N.C.S. (C.C & A Regns) (corresponding Regln. in 8(a) of TN.E.Board Employees D&A Regulations and proceeded to punish the person under rule 17(a) of T N C S (C.C & A Rules) (corresponding Regulation in 8(a) of T.N E.B. Employees D.A.Regulations) the person is entitled to complain that he had no reasonable opportunity to refute the charge made against him. If the Government changes its mind and decided to proceed under rule 17(a) of T N.C.S (CC&A Rules) (Corresponding Regulation in 8(a) of T.N E B Employees. D&A Regulation), it is open to it to issue a fresh notice under rule 17(a) (corresponding Regulation in 8(a) receive representation and proceed according to law"

If the disciplinary proceedings had been instituted by a higher authority competent to impose a major penalty and on

receipt of the report of the Enquiry Officer it appears that a minor penalty will meet the ends of justice, the final order imposing a minor penalty should be passed by the same higher Disciplinary Authority which had initiated the proceedings and not by the lower Disciplinary Authority though he maybe competent to impose a minor penalty.

5. After the receipt of the report of the Enquiry Officer and having regard to its own findings on the charges, the authority competent to impose the penalty mentioned in clause (b) of rule 8 of the T.N.E.Board Employees' Discipline and Appeal Regulations has arrived at a conclusion in regard to the penalty to be imposed on the basis of the evidence adduced during the enquiry, he shall make an order imposing such penalty and it shall not be necessary to give the person charged any opportunity of making representation on the penalty proposed to be imposed. A copy of the full report of the Enquiry Officer shall also be sent along with the order.

6. Personal Hearing

The denial of the request of the Accused Officer to be heard in person in addition to oral enquiry by the Enquiry Officer is tantamount to the denial of a reasonable opportunity to the accused officer to defend himself and militates against the ends of natural justice. So, whether or not the person charged desired or had an oral enquiry, he shall be heard in person at any stage if he so desires before passing final orders. A report of the enquiry or personal hearing (as the case may be) shall be prepared by the authority holding the enquiry or personal hearing whether or not such authority is competent to impose the penalty. Such report shall contain a sufficient record of the evidence, if any, and a statement of the findings and the grounds thereof.

7. Final orders on the Disciplinary Proceedings

The orders of the competent authority imposing the penalty should show that the various aspects of the evidence which are dealt with by the accused officer in his representation are considered. It is undoubtedly the duty of

the punishing authority to examine the evidence and satisfy himself that the evidence does prove the guilt of the accused. The provision for the personal hearing and consideration of the same before coming to a conclusion have been made in the rules to afford another opportunity to the person charged to prove his innocence. It is therefore obligatory on the part of the authorities concerned to consider the representations in all its aspects before imposing the penalty. In determining the quantum of penalty, the Disciplinary Authority should take into account only that material which the accused Board employee had the opportunity to rebut. The object is to ensure that no material of which the Board employee was not given prior notice and which he was not given adequate opportunity of rebutting or defending himself against should be taken into account for deciding the quantum of punishment to be awarded. The object of punishment is prevention of Crime. The punishment is intended to have double effect, namely to prevent the person from repeating the offence and to prevent others from committing similar offences. In every case the factors to be considered are: (a) Motive of the offence; (b) magnitude of the offence and (c) the previous record of the employee and of any other extenuating or aggravating circumstances that may exist. The final order should be 'Speaking Order'. The authorities who are competent to impose the penalties should alone sign the order It should not be signed by any other authority on behalf of the Disciplinary Authority concerned. It is also settled that.

(1) before something amounts to an order - (a) It must be expressed in the name of the appropriate authority and (b) it must be formally communicated to the person charged.

(2) Until the order is communicated, the authorities concerned may consider the matter over and over again and till communicated, the order is only provisional in character. Communication of the order is complete as soon as an order is issued and is sent out to the Board employee concerned no matter when he actually receives it.

(3) An order passed in a disciplinary case where a Board employee is dismissed or removed from service or reduced in rank, is liable to be declared null and void if such an order is passed by an incompetent authority or it is exercised by a competent authority but not according to the manner prescribed by the statute. Two things are essential for a valid order of dismissal or removal from service or reduction in rank. The first requirement, is that such an order must be made either by the authority that appointed the Board employee concerned or by some authority superior to that authority. The second requirement is that provisions in Regulation 8 (b) of T.N.E. Board Employees' Discipline and Appeal Regulations or the relevant provisions in the Standing Orders of the Board as the case may be, have been complied with. It has been emphasised to ensure the strict observance of the above requirements in dealing with the disciplinary cases. However, it is noticed that there are cases where the orders passed in disciplinary cases were set aside by courts on the ground that they were not passed by a competent authority. All orders passed in disciplinary cases involving dismissal, removal or reduction in rank should contain a specific statement to the effect that the authority inflicting the punishment is not an authority subordinate to the authority who appointed the concerned officer. It should also be specifically stated that the provisions in Regulation 8 (b) of the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations or the relevant provisions of the Standing Orders of the Board as the case may be have been complied with.

Chapter-VIII
Miscellaneous

1. Past Record

An officer's past record should not be taken into account in arriving at a finding as to the truth or otherwise of the charges against him. In awarding punishment, the punishing authority shall take into account the gravity of the misconduct, the previous record of the workman and of any other extenuating or aggravating circumstances that may exist.

2. Action against Temporary Board Employees

The Discipline and Appeal Regulations and Standing Orders do not make any difference between permanent and temporary employee. The provisions will apply equally to all Board employees irrespective of whether they hold permanent or temporary posts or officiating in any one of them. But the provisions do not apply to all cases of termination of service. Only in cases where removal dismissal or reduction in rank is imposed by way of penalty, the above provisions are attracted. The simple termination of any appointment under the Board's Regulations will not amount to imposing any penalty. But, if a temporary Board employee is discharged or removed from service attaching a stigma to the order of termination based on misconduct or any such reason, then such discharge or removal will amount to a penalty and in that case, it will be necessary to comply with the provisions of Regulations 8 (b) of the Discipline and Appeal Regulations or relevant provisions in the Standing Orders as the case may be.

3. Expeditious Disposal of Disciplinary Cases

It is imperative to note that the departmental proceedings should be thorough in every respect. As these proceedings are of a quasi-judicial character, it is of the greatest importance that they should be so conducted as not to give rise to any feeling, in the mind of the person charged that the

enquiry was not conducted in an impartial and detached frame of mind, especially in the case, where the officer conducting the enquiry is himself in the position of a prosecutor. All the requirements of the rule should therefore be complied with scrupulously.

It is also very necessary that there should be no avoidable delay in completing the proceedings. Where an officer is suspended pending an enquiry into his conduct on the ground that it is undesirable to allow him to continue on duty during the enquiry, it is all the more necessary that the enquiry should be completed with expedition and orders passed as early as possible.

Undue and abnormal delays in disciplinary cases defeat the very purpose for which action is taken against the persons concerned and hence disciplinary cases should be dealt with at all stages with greatest expedition.

It will not be pleasant for any person against whom disciplinary proceedings are pending to wait for many months and sometimes even some years to learn the result. The suspense and mental anguish thus engendered is enormous and must seriously endanger his health and mental balance. It is sheer callous cruelty to prolong such suspense for a longer period than is strictly necessary. It is therefore desired to impress on the authorities that all disciplinary cases should be disposed of with utmost expedition.

Disciplinary cases should be examined thoroughly and dealt with at all stages with utmost vigilance so that Board is not placed in a disadvantageous position in case those orders are set aside by the courts or higher authorities for procedural defects. They should exercise the greatest care in the disposal of disciplinary cases and should strictly adhere to the provisions in the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations/Standing Orders.

The authorities should follow strictly the procedures prescribed in the Discipline and Appeal Regulations and Standing Orders before imposing the punishment on a delinquent Board employee. With a view to help the punishing authorities to avoid technical irregularities a check memorandum is in Appendix V. The punishing authorities should follow the check memorandum scrupulously at every stage of the Disciplinary Proceedings and make it a part of the Disciplinary case file. No irregularities will occur in disciplinary cases if the check memorandum and the various procedures indicated in the foregoing paragraphs are scrupulously followed.

APPENDIX - I

Statement showing the Authority Competent to Suspend, Frame Charges and to Impose Punishments on the Workmen covered by (i) The Tamil Nadu Electricity Board Standing Orders in respect of Workmen other than those engaged in clerical work and (ii) the Standing Orders for workmen engaged in Clerical Departments of the Tamil Nadu Electricity Board.

Office system/ circle where the workmen covered by the Standing Orders are working	Authority competent (i) to suspend (ii) to frame charges in cases where imposition of minor punishment may arise, (iii) to impose punishments (minor) mentioned in Group A in the Note below.	Authority competent (i) to suspend (ii) to frame charges in cases where imposition of major punishment may arise and (iii) to impose punishments (major) mentioned in Group B in the Note below.
(1)	(2)	(3)
1. Board Office Secretariat Branch	Under Secretary or any Officer of equivalent or higher rank under whom the workman is working or any higher authority.	Appointing authority or any higher authority.
2. Board Office Audit Branch	Internal Audit Officer or any officer of equivalent or higher rank under whom the workman is working or any higher authority.	-do-
3. Board Office Adminis- trative Branch.	Personal Assistant or any Officer of equivalent or higher rank under whom the workman is working or any higher authority.	-do-

(1)	(2)	(3)
4. Board Office Accounts Branch	Assistant Accounts Officer or any Officer of equivalent or higher rank under whom the workman is working or any higher authority.	Appointing authority or any higher authority.
5. Board Office Technical Branch.	Personal Assistant or any officer of equivalent or higher rank under whom the workman is working or any higher authority.	-do-
6. Distribution Circles, Generation Circles, Construc- tion Circles, and Project Circles.	Assistant Executive Engineer / Assistant Accounts Officer/ Personal Assistant or Stores Officer or any officer of equivalent or higher rank under whom the workman is working or any higher authority.	-do-

Note: For the purpose of the above Annexure, the punishments will be grouped as follows:-

Group-A

1. Censure.
2. Fine, subject to the provisions of the Payment of Wages Act, 1936 as amended from time to time.
3. Stoppage of increment with or without cumulative effect.

Explanation: In cases of stoppage of increment, when it cannot be effected, if without cumulative effect, the monetary equivalent of the increments ordered to be withheld and if with cumulative effect, the monetary equivalent to 3 times of his increments ordered to be withheld, may be ordered to be recovered. (In the workmen S.Os.)

- 3 (a). Stoppage of increment or increments with or without cumulative effect.

Explanation: In cases where stoppage of increment with cumulative effect cannot be effected, the monetary equivalent of three times of the increment ordered to be withheld may be ordered to be recovered. If the stoppage of increment is without cumulative effect, the monetary equivalent of the increments ordered to be withheld may be ordered to be recovered. (In the clerical Staff S.Os.)

4. Recovery from Pay/Wages of the whole or part of any pecuniary loss caused to the Board by the negligence of or breach of orders by the workmen.

5. Reduction in the time scale of pay for a specific period.

Explanation: Where an order of reduction in the time scale of pay cannot be given effect to, the monetary equivalent to the amount of reduction in the time scale ordered may be recovered from the pay/wages of the workmen.

6. Suspension, where a person has already been suspended for a period not exceeding 4 days at a time (In the workmen S.Os.).

- 6 (a). Suspension for a period not exceeding 4 days (in the clerical staff S.Os.).

Group-B

1. Demotion to lower post or lower grade.

Note: No workman shall be demoted to any post or grade lower than to which he was initially recruited under the Board.

2. Compulsory retirement.
3. Removal from service.
4. Dismissal from service.

The Authority with whom Appeal shall lie and the time within which Appeal shall be filed

Punishing Authority		Authority with whom appeal shall lie	Time limit for filing appeal
(1)		(2)	(3)
1.	Any Officer below the rank of Secretary, T.N.E.B. in Board Office Secretariat Branch and Board Office Audit Branch.	Secretary, Tamil Nadu Electricity Board	One Month from the date of receipt of orders
2.	Secretary, T.N.E.B.	Chairman, T.N.E.B.	- do -
3.	Any Officer below the rank of Chief Engineer in BOAB/B.O.Tech Branch.	Chief Engineer concerned	- do -
4.	Chief Engineer	Chairman, T.N.E.B.	- do -
5.	Any Officer below the rank of Chief Financial Controller in Board Office Accounts Branch.	Chief Financial Controller	- do -
6.	Chief Financial Controller	Chairman, T.N.E.B.	- do -
7.	Any Officer below the rank of Chief Engineer in Thermal Power Stations	Chief Engineer	- do -
8.	Any Officer below the rank of Superintending Engineer in Distribution Circles, Generation Circles, Construction Circle and Project Circles	Superintending Engineer concerned	- do -
9.	Superintending Engineer	Chief Engineer concerned	- do -

APPENDIX-II**(Model form of order of Suspension)****Tamil Nadu Electricity Board****Memo No _____ Dated _____ .**

Sub: Establishment - Thiru. (Name & Designation)
 _____ - Suspension
 from Service - Ordered.

* WHEREAS Thiru _____

(Please indicate the factual details and reasons for suspension)

AND WHEREAS an enquiry into grave charges against Thiru _____ is contemplated.

AND WHEREAS in the circumstances of the case, it is necessary in the public interest to place the said Thiru _____ under suspension from service.

* WHEREAS an enquiry into grave charges against Thiru _____ is contemplated.

AND WHEREAS in the circumstances of the case, it is necessary in the public interest to place the said Thiru _____ under suspension from service and the reasons for such suspension cannot be furnished in the larger public interest:

* WHEREAS an enquiry into grave charges against Thiru _____ is pending and the following charges have been framed in the Memo No _____.

* AND WHEREAS in the circumstances of the case it is necessary in the public interest to place the said Thiru _____ under suspension from service.

* WHEREAS a complaint against Thiru_____ of any criminal offence is under investigation/Trial;

AND WHEREAS in the circumstances of the case it is necessary in the public interests to place the said Thiru_____ under suspension from service.

Now, therefore, under sub-regulation (a) of Regulation 9 of Tamil Nadu Electricity Board Employees' Discipline & Appeal Regulations/Standing Order 31 (2) (a) of Tamil Nadu Electricity Board Standing Orders in respect of workmen other than those engaged in clerical work/Standing Order 20 (2) (a) of Standing Orders for workmen engaged in clerical Department of Tamil Nadu Electricity Board, the said Thiru_____ is with immediate effect/from the date of his relief from duty, placed under suspension from service, until further orders.

2. During the period of suspension, the said Thiru_____ will be paid subsistence allowance and Dearness Allowance as admissible under Regulation 56 of the Tamil Nadu Electricity Board Service Regulations / Standing Order 31 (2) (b) of Tamil Nadu Electricity Board Standing Orders in respect of workmen other than those engaged in clerical work/Standing Order 20 (2) (b) of Standing Orders for workmen engaged in clerical Department of Tamil Nadu Electricity Board. He should furnish a Certificate to the effect that he is not engaged in any employment, business, profession or vocation during the period of suspension while claiming the subsistence allowance every month.

** He will, in addition, be paid the following compensatory allowance;

3. The Headquarters of the said Thiru_____ during the period of suspension shall be_____ and the said Thiru_____ shall not leave the Headquarters without obtaining the prior permission of the authority concerned.

* Delete whichever part is inapplicable.

** Delete if inapplicable.

APPENDIX- III**Memorandum No.** _____ **Dated:** _____.

Sub: Establishment - Class _____ Service -
 Thiru _____ - Disciplinary action -
 Charges framed.

Ref :

You are/were working as _____
 from _____ to _____. It has been reported that
 on _____ (date) at _____ (Time and
 date, place) you (mention the details of the incident, act,
 omission or misconduct).

2. The following charge is/are therefore framed against
 you, namely: -

Charge of going on illegal strike:

That the conditions of your employment are governed by
 the award of the Industrial Tribunal (_____) in
 Reference No _____ of _____
 between (employer) and (Union). This award was operative
 on _____. One of the terms of this award was
 that during the operation of this award no employee of the
 Board including yourself will raise any industrial dispute or
 prefer any demand or resort to any collective action for any
 demand for claiming special allowance and other allowances
 not continued or given by the aforesaid award.

In breach of the terms of this award, you in combination
 with (Names of others) without giving any previous notice to
 the Board went on illegal strike on/with effect from and in spite
 of the notice dated _____ put up by the Board for
 information of all workmen including yourself for resuming
 their respective duties with immediate effect you failed to
 resume your duties.

You, therefore, appear to have committed a breach of Standing Order No _____ by going on an illegal strike on/with effect from:-

Charge of taking bribes:

That you have been employed as a Purchasing Inspector in the Board for the purpose of effecting purchases of sundry stores for engineering department of this Board. On _____ (date), you placed an order with _____ (firm) for _____ (state here quantity and articles purchased) and in lieu of giving the Purchase Order to this firm you have privately received an amount of Rs. _____ from the said firm.

You are, therefore, charged with having committed a breach of Standing Order No _____ by taking bribe in respect of the duty entrusted to you.

Charge of absence without leave for more than 10 consecutive days:

That on _____, you obtained privilege leave _____ (days) from the Board on the ground that your mother was seriously ill and your attendance was necessary. Though your leave expired on (date _____) you have absented yourself from _____ to _____ without obtaining prior permission for overstaying after expiry of leave period. On making enquiries, it has further been found that your mother was not sick and that you have obtained the original leave on false representation to the Board.

In these circumstances, you are hereby charged with having committed a breach of Standing Order No _____ by having absented yourself without leave for more than 10 consecutive days without any sufficient ground and breach of standing order no.....for having obtained leave from _____ to _____ on false ground.

Charge of drunkenness:

Reference may also be made to the provisions of the Conduct Regulations.

Under the Standing instructions issued to the staff by this Board no employee should be found in drunken state during the office hours.

It has been reported that in spite of your attention being drawn to the above stated instructions you on _____ at _____ were found in a state of drunkenness and on being interrogated for the same you behaved disorderly with _____ your immediate superior, in the office.

You are, therefore, charged with having committed a breach of Standing Order No _____ for having been found in drunkenness as stated above on (date) _____ at _____

Charge of riotousness:

It has been reported to the management that you are in the habit of quarrelling with your fellow staff members on petty matters and thereby disturbing orderly and peaceful working in the office. On _____, you along with your colleagues M/s. _____ (Name) _____ started quarrelling with (Name) _____ and (Name) _____

By the aforesaid conduct, you along with _____ (Names) have acted riotously and you are, therefore, charged with having committed a breach of Standing Order No. _____ for having been riotous on _____.

Charge of commission of an act subversive of discipline:

You have been employed as a confidential steno for the Manager Mr_____. It has been found that you being a member of _____ union have been giving out the contents of the correspondence between the management and the Government of_____ in respect of demand of the aforesaid union for reinstatement _____ workmen dismissed by this Board.

In particular you divulged the substance of the aforesaid correspondence to Mr_____ between_____ and _____ which ought not to have been done in view of the confidential nature of your duties.

You are, therefore, charged with having committed a breach of Standing Order No_____ for having been divulging the confidential information as alleged above and thereby committing an act subversive of discipline.

3. From the facts stated above and on basis of preliminary enquiry done in connection with the aforesaid facts; it appears that you have committed the misconduct of _____ which is a misconduct, specified in/falling under Standing Order No_____ of the Standing Orders.

4. You are hereby required to submit a written explanation to the above charges within_____ days of the receipt of this charge-sheet, failing which it will be presumed to have admitted the above charge or presumed to have no explanation to offer. The management thereupon shall be at liberty to proceed further in the matter on presumption of your such admission without any further notice or communication to you.

5. If however, you do not admit the charges referred to above, an enquiry will be conducted. If you desire an enquiry,

you may fill up the questionnaire enclosed herewith and return the same to the undersigned, within 15 days from the date of receipt of this memo.

6. The receipt of this memo may be acknowledged.

Competent Authority:

Note: The competent authority is the authority who can institute the departmental proceedings against the employee. In the absence of any provision in the Standing Orders or in the Regulations specifying the authority competent to institute the departmental proceedings, the competent authority shall be the appointing authority or any other higher authority.

APPENDIX – IV**Form of Questionnaire**

1. Have you any objection to the form of any of the charges?;
2. In addition to the written statement of your defence which you are now required to submit, you are entitled to continue your defence by the following methods-
 - (a) An oral enquiry held in your presence:
 - (b) To be heard in person without an oral enquiry:

Note: The following witnesses will be recalled to prove the charges.

(i) Witnesses examined in your presence at the preliminary enquiry:

- 1.
- 2.
- 3.

(ii) Witnesses not yet examined in your presence:

- 1.
- 2.
- 3.

The evidence recorded from (i) at the preliminary enquiry will be read out at the regular enquiry and you will be given an opportunity to cross examine the witness again.

Any evidence recorded from (ii) at the preliminary enquiry will also be read out at the regular enquiry unless you prefer that any of the witnesses be examined in Chief before you instead. Whichever course you choose you will be given an opportunity to cross examine them.

You are also informed that other witnesses will also be examined as and when found necessary.

3. (a) Do you wish to give evidence yourself?

(b) If so on what points:

4. (1) Do you wish to have any witnesses examined on your behalf?

(2) If so state their names and note briefly to which they are called to depose.

Note: After the completion of the enquiry you may if so desire put in a further written statement of your defence.

5. Do you desire to be supplied with copies of any records or the depositions of witnesses or the report of the enquiring officer? If so, give particulars of the records, copies of which are required.

Signature :

Designation :

Date:

Office :

List of documents which are proposed to be produced in support of the charges

The following documents will be filed as exhibits:-

- (1)**
- (2)**
- (3)**
- (4)**

2. You are also informed that other documents will also be filed as exhibits as and when found necessary.

SECTION OFFICER.

APPENDIX - V**Check Memorandum for Disciplinary Cases**

1. Whether definite and specific charges have been framed? In the case of charges relating to receipt of illegal gratification the particulars of date, time and place, to the extent known or established in the preliminary enquiry should be mentioned.
2. Whether a statement of allegations on which each charge is based has been communicated?
3. Whether the accused officer has been asked to :-
 - (i) put in his written statement of defence;
 - (ii) to state whether he wants an oral enquiry, and
 - (iii) to state whether he wants to be heard in person?

Note: The accused officer should be allowed a personal hearing before or after enquiry, if so desired by him.

4. If the accused officer does not want an oral enquiry, whether such an enquiry was directed by the authority concerned?
5. Whether evidence has been recorded at the oral enquiry in the presence of the person charged?
6. Whether the witnesses examined at the preliminary enquiry, if any, were recalled during the oral enquiry to prove the charges?
7. Whether copies of the evidence such as the complaints and statements made by witnesses during preliminary enquiry, etc., on which the competent authority proposed to rely upon, have been furnished to the accused officer as early as possible before the prosecution witnesses are to be cross-examined?

8. Whether the documentary evidence including inspection reports, statements by witnesses recorded by the Vigilance and Anti-corruption Department, etc., relied upon both by prosecution and defence, have been filed as exhibits and properly proved?
9. If any witness was examined at the preliminary enquiry in the absence of the person charged, was his presence considered necessary at the oral enquiry by the accused officer and, if so, was he examined in the presence of the person charged?
10. Whether the person charged was allowed to cross-examine the witnesses produced by the prosecution, to give evidence in person and to call witnesses on his behalf?
11. Was any witness asked for by the person charged, refused to be allowed, and if so, was sufficient reason recorded to that effect ?
12. Did any contingency arise where the request of the accused officer for furnishing certain records could not be conceded or disclosed to him in public interest or for any other substantial and justifiable reason. If so, whether the accused officer was informed accordingly and the fact of such refusal together with the reasons therefor recorded in writing?
13. Was the person charged asked to put in if he so desired, any further statement of his defence after completion of the oral enquiry?
14. Was there any request to be heard in person in addition to the oral enquiry, and if so, was it complied with?
15. Did the Enquiring Officer ask in writing the accused officer immediately after the enquiry is over, whether the accused officer had a reasonable opportunity of presenting his case. If there has been any complaint, was it set right by the Enquiring Officer?

16. Does the proceedings of the oral enquiry contain a sufficient record of the evidence and statement of the findings and the grounds thereof?
17. Whether the past record of the accused officer is proposed to be taken into account in determining the penalty to be imposed, and if so, whether it was made a specific charge either in the main charge-sheet issued in the first instance or in the form of an additional charge-sheet issued before the commencement of an enquiry in respect of the main charge-sheet and whether the person charged was afforded all the facilities necessary for enabling him to meet the allegations based on the past record.
18. Was a copy of the report of the enquiring authority, in case it was different from the one competent to impose the penalty referred to at item (17) above, supplied along with the communication of provisional conclusion?
19. Was a report of the enquiry and/or the personal hearing with findings, recorded by the enquiring authority even in cases where he is himself the punishing authority?
20. Was a copy of the report of the enquiring authority supplied along with the communication of provisional conclusion even in cases where the enquiring authority is the same as the authority competent to impose the penalty?
21. Is the final order proposed to be issued self-contained?
22. Has the acknowledgment of the person been obtained in token of having received the copy of the final orders, or alternatively, was the order sent by registered post acknowledgment due?