

P.O. Brief & Inquiry Report



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On conclusion of oral hearing in the inquiry proceedings, IO directs the PO to submit prosecution brief with a copy to CO and reply on this brief by CO. After receipt of PO & CO brief IO prepares the inquiry report.

In fact, before preparation of PO brief as well as Inquiry report, issue of evaluation of evidences deduced during the course of inquiry comes to both PO and IO.



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EVALUATION OF EVIDENCES

Culling out truth from the conflicting statements of the contesting parties is perhaps the most challenging part of the assignment of the Presenting Officer, Inquiring Authority, Disciplinary Authority as well as Appellate Authority. This complex process is known as evaluation of evidence.

Generally two types of evidence are led in departmental proceedings viz.

- (a) documentary evidence and
- (b) oral evidence.



EVALUATION OF EVIDENCES

Following are some of the cardinal principles in drawing conclusions in judicial/quasi judicial proceedings:

- a) Conclusions must be based on evidences
- b) There is no room for conjectures or surmises in drawing conclusions
- c) Reliance must be placed on the evidence made available to the Charged Officer during the inquiry
- d) No evidence behind the back of the Charged Officer
- e) Decision making authorities should not import personal knowledge into the case

EVALUATION OF EVIDENCES

Standard of proof:

Standard of proof or level of proof, refers to the quality of evidence produced to establish a fact. In a sense it indicates as to how strongly the evidence establishes the fact it purports to prove. Generally the following three levels of proof are referred to in judicial/legal proceedings:

- (a) Preponderance of probability
- (b) Clear and convincing evidence
- (c) Proof beyond reasonable doubt

EVALUATION OF EVIDENCES

In criminal proceedings, standard of proof required is proof beyond reasonable doubt.

On the other hand, preponderance of probability is adequate to establish the charge in departmental proceedings.

Hearsay evidence is strictly prohibited in criminal trials. However, there is no bar against the reception of hearsay evidence by domestic tribunals. What value is to be attached to such evidence depends upon the facts and circumstances of each case and their corroboration.

EVALUATION OF EVIDENCES

Preponderance of Probability:

Literal meaning of the word preponderance: is superiority in power, influence & number or weight.

As a level or standard of proof, preponderance of probability means “more likely to have happened than otherwise.

Hearsay Evidence:

When a witness states a fact based on what he/she had heard from some other source without being a direct witness to the event, evidence tendered by such a person is known as hearsay evidence.

EVALUATION OF EVIDENCES

Circumstantial Evidence:

Circumstantial evidence is the opposite of direct evidence. When no eyewitness is available, issues can be decided based on circumstantial evidence.

Rules regarding circumstantial evidence.

- (a) The circumstances from which the conclusion of guilt is to be drawn should be fully established
- (b) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty
- (c) The circumstances should be of a conclusive nature and tendency.

EVALUATION OF EVIDENCES

Burdon of proof:

General rule is that one who wants the IO to believe something, must lead evidence to establish the fact. This is known as the burden of proof. Responsibility lies with both Presenting Officer as well as the Charged Officer.



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EVALUATION OF EVIDENCES

Factors based on which the statement of a witness is given credence:

Factor	How does it apply
Integrity of the witness	Statement made by a person lacking integrity carries low credibility
Interest in the outcome of the case	A person who is interested in the outcome of the proceedings carries low credibility
Competence	Statement on technical issues are to be made by persons who are conversant with it
Conduct	A witness who does not exaggerate, admits what he/she did not see or hear carries more credence
Consistency	Whether the statement is free from any self contradiction
Corroboration	Whether the statements are in tune with the evidence derived from other sources
Demeanour	How does the witness look during deposition

EVALUATION OF EVIDENCES

Demeanour:

Demeanour denotes the posture and behaviour of the witness while deposing. This constitutes an important input in determining the credibility of evidence tendered by the witnesses.

Generally the following constitute demeanour:

- Hesitation,
- Doubts,
- pace of deposition,
- variations in tone,
- confidence,
- calmness,
- posture, eye contact or the lack of it,
- facial expression i.e. bright or pale, etc.

EVALUATION OF EVIDENCES

General Principles for Evaluation of Evidence:

- Evidence is to be weighed; not counted
- Affirmative statements carry more weight than negative statements
- Actions carry more weight than words
- Even un- impeached evidence may be rejected
- Rejection of evidence by one does not necessarily mean the acceptance of the opposite

CONCLUSION

Conclusions on Article of charge after evaluation of evidences may be either:

- (a) Article of charge proved.
- (b) Article of charge not proved.
- (c) Article of charge partially proved.



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Preparation of P. o. brief



PO BRIEF

Submission of the written brief is the culmination of the activities of the Presenting Officer.

During the hearing, the parties to the proceeding present documentary evidence and lead oral evidence. Evidence presented during the hearings serve the purpose of presenting facts. The facts must lead to some inference. The link between the bare facts and the inference is required to be established through logic.

PO BRIEF

Source Material for the PO Brief :

- (a) Charge sheet
- (b) Documents submitted in the course of inquiry
- (c) Statements of the witnesses during Examination in Chief, Cross Examination and Re-examination
- (d) Statement of defence given by the Charged Officer under different rules
- (e) Daily Order Sheets
- (f) Interlocutory Orders passed by the Inquiring Authority in the course of Inquiry

PO BRIEF

Precautions while preparing the PO Brief :

- (a) **Form:** Although no form has been prescribed for the written brief of the Presenting Officer it is desirable that the same conforms to a form which will facilitate easy presentation and effective communication of the ideas.



PO BRIEF

(b) **Facts:** The brief should contain all the relevant facts which help in establishing the charge and also the fact the charged officer has been provided with reasonable opportunity. Every inference/conclusion in the brief must be duly supported by evidence. This the facts based on which the conclusions are drawn must be pointed out

(c) **Logic:** Bare facts may not be able to lead to any conclusion. The facts are to be linked to the charge through logic



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PO BRIEF

(d) **Language:** Although, ideas constitute the backbone of the brief, yet the language must be faultless, powerful, impressive and easy to understand

The basic purpose of preparing the brief is presenting the details and convincing the Inquiring Authority about the reasons for concluding that the charges are proved. The facts to be presented in brief may be many. The analysis and presentation of these facts call for communication skill of a fairly high order. The brief is required to be read and understood by the Inquiring Authority without any clarification from the Presenting Officer.

PO BRIEF

Format for the PO Brief :

No statutory format for PO Brief is prescribed. However vigilance manual suggested the format for PO Brief as

1. **Introduction:** It is desirable that the brief starts with an introduction wherein the details of the case may be given.



PO BRIEF

2. **Charge:** The second item in the written brief must be the details of the charges. The para may read
“The articles of charge framed against Shri. xxx are:

3. **Proceedings during the Preliminary Hearing:** Details such as the denial of the charges by the Charged Officer during the Preliminary Hearing, the details of the State documents admitted and disputed by the Charged Officer may be indicated here.



PO BRIEF

4. **Opportunities given to the Charged Officer:** Providing reasonable opportunity to the Charged Officer is an essential requirement of the disciplinary proceedings. Besides, the Charged Officer is likely to mention in his written brief that he was not provided with reasonable opportunity. Hence, the Presenting Officer should commence his contentions with a submission about the opportunities given to the Charged Officer.

5. **Case of the Disciplinary Authority:** This paragraph will predominantly rely on the statement of imputations of the misconduct. Here the Presenting Officer may indicate the facts on the basis of which the charge is required to be proved.

PO BRIEF

6. **Evidence on behalf of the Disciplinary Authority:** After narrating the case of the Disciplinary Authority, the Presenting Officer may give the details of the evidence actually led on behalf of the Disciplinary Authority vis-a-vis the evidence mentioned in the Charge Sheet (Annexure III and IV).

7. **Evidence on behalf of the Charged Officer:** The details of the oral and documentary evidence presented by the Charged Officer may be listed.

PO BRIEF

8. **Evaluation of evidence:** In this portion, the Presenting Officer should highlight the facts established by each piece of evidence. There are two ways of achieving this, viz.

(a) The Presenting Officer may take up the facts to be established for proving the charge one by one, and indicate the evidence which establishes the fact.

(b) Alternatively, the Presenting Officer may take up each item of evidence presented on behalf of the Disciplinary Authority and indicate what points have been established by each piece of evidence.

PO BRIEF

9. **Analysis of the case of the Charged Officer:** Although the case of the Disciplinary Authority is to stand on its own legs, it is advisable for the Presenting Officer to anticipate and counter the submissions of the Charged Officer.
10. **Conclusion:** Finally, the brief of the Presenting Officer should contain a specific assertion to the effect that on the basis of the evidence presented during the Inquiry, Charges should be held as proved.



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Preparation of Inquiry report



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INQUIRY REPORT

Purpose of the Inquiry Report is to analyse the evidence received in the course of the inquiry and the submissions made by the PO and the CO through their respective briefs and give a finding as to whether the charges are proved.



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INQUIRY REPORT

Source Material for the Inquiry Report :

- (a) Charge sheet
- (b) Documents submitted in the course of inquiry
- (c) Statements of the witnesses during Examination in Chief, Cross Examination and Re-examination
- (d) Statement of defence given by the Charged Officer under different rules
- (e) Submissions by the Presenting Officer and the Charged Officer including written brief

Daily Order Sheets and the orders passed during the inquiry may also supply useful material in answering allegations of inadequate opportunity if any raised by the Charged Officer.

INQUIRY REPORT

Precautions while preparing Inquiry Report :

(a) The authority should confine to stating as to whether the charges have been proved or otherwise. Any mention by the Inquiring Authority regarding the quantum of penalty may raise serious doubts about its neutrality.

(b) It must be ensured that all the findings and conclusions in the report are based on evidence produced during the inquiry

INQUIRY REPORT

(c) Only on the material made available to the Charged Officer and in respect of which opportunity was provided for controverting the same can be relied upon for drawing conclusions.

(d) Inquiring Authority should ensure not to import its personal knowledge in preparing the report



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INQUIRY REPORT

When charge other than one mentioned in charge sheet gets established during the inquiry proceedings:

It is the statutory responsibility of the Inquiring Authority to give its finding on any article of charge different from the original article of charge if the same is established in the course of the inquiry. This is subject to the condition that the Charged Officer had an opportunity of defending himself/herself against such a charge.

INQUIRY REPORT

In this connection Explanation under Rule 14(23) of the CCA Rules provides:

“EXPLANATION- If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge:

Provided that the findings on such article of charge shall not be recorded unless the Government servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.”

INQUIRY REPORT

Format of the Inquiry Report :

Rule 14(23) of the CCS (CCA) Rules broadly indicates the content of the Inquiry Report as under:

- (a) The articles of charge and the statement of the imputations of misconduct or misbehaviour;
- (b) The defence of the Government servant in respect of each article of charge;
- (c) An assessment of the evidence in respect of each article of charge;
- (d) The findings on each article of charge and the reasons thereof.

INQUIRY REPORT

Other than this, no statutory format for IO report is there. However vigilance manual has suggested a format as:

- (a) An introductory paragraph in which reference will be made to the appointment of the Inquiring Authority and the dates on which and the places where the hearings were held;
- (b) Charges that were framed;
- (c) Charges which were admitted or dropped or not pressed, if any;
- (d) Charges that were actually enquired into;

INQUIRY REPORT

- (e) brief statement of facts and documents which have been admitted;
- (f) Brief statement of the case of the disciplinary authority in respect of the charges enquired into;
- (g) Brief statement of the defence;
- (h) Points for determination;
- (i) Assessment of the evidence in respect of each point set out for determination and finding thereon;
- (j) Finding on each article of charge;

INQUIRY REPORT

Documents sent along with the Inquiry Report :

The inquiring authority shall forward to the disciplinary authority the records of inquiry each in separate folder :

- (a) The report prepared by him/her.
- (b) Documents produced in the course of inquiry
 - (i) Documents produced on behalf of the Disciplinary Authority
 - (ii) Documents produced on behalf of the Charged Officer



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INQUIRY REPORT

- (c) Statements of witnesses by way of Examination in Chief, Cross Examination and Re-examination in the order in which the witnesses were examined
- (d) Daily Order Sheets relating to the Inquiry
- (e) Written Statements of defence under various Rules
- (f) Orders passed by the inquiry Authority and the Disciplinary Authority in the course of inquiry
- (g) Correspondence entered into during the course of inquiry

THANK YOU

