

Procedure to have a Domestic Enquiry – III **Appointment of Enquiry Officer & Attendance to Enquiry**

Blog Series – 16 **February 15 2020** **Statutory other than PoSH – Vol.8**

Where the employee who was prima-facie alleged to have involved in a misconduct, can be suspended or not, which can be decided by the Manager/HR.

Upon such decision to conduct an enquiry the Management shall appoint an Enquiry Officer, can be the Manager or any person appointed for the purpose of Enquiry. There shall be a Representative from Management.

A copy of the Charge sheet with complete details of misconduct is shared with Delinquent employee, Management Representative and the Enquiry Officer.

Notice of Enquiry

The name of the Enquiry Officer and the other details like – time, date and place enquiry shall be communicated to the Delinquent employee.

The management should give its evidence first to prove the charges alleged against the Delinquent employee.

Enquiry Officer shall decide on the Enquiry Process, which will be based only on Documental evidence or Oral evidence or both, while commencing the enquiry.

Attendance of both employee and Management is necessary to conduct the enquiry.

As “Principle of Natural Justice” the Delinquent employee shall be always given a chance to defend/prove/justify himself/herself.

Attendance and Ex-Parte proceedings

Attendance

- The Delinquent employee shall not absent himself / herself in protest of the complaint
- Withdrawing of some facility cannot be a reason for non-attendance by the Delinquent employee

- Denial of providing copies of few confidential documents cannot be base for the Delinquent employee
- The decision of the Enquiry Officer is final in allowing any other person, including an Advocate, to Represent the Delinquent employee. Such denial cannot be a reason for non-attendance or withdrawal from the enquiry.
- Non-attendance in case of genuine illness is permissible
- Any adjournment in case of approved leave to the employee, shall be permissible
- If the employee fears a physical assault and ask for an adjournment may not be accorded by the Enquiry Officer
- Enquiry can be conducted during odd hours, during such hours the employee performs duty.
- Enquiry officer is empowered to adjourn or declare ex-parte, as per his/her discretion.
- Where an Delinquent Employee does not appear for an enquiry, it can be decided as ex-parte but cannot be treated as Disobedience of Orders.

Ex-Parte Proceedings

- △ The Enquiry Officer can decide on taking Ex-parte proceedings against the Delinquent Employee in case, he/she does not attend on the date of enquiry fixed and communicated
- △ Any boycott or refusal to attend the proceedings even after the rulings of Enquiry Officer, can be treated as Ex-parte
- △ When a Delinquent employee knows the date of enquiry and does not co-operate with the enquiry officer or does not attend the proceedings, he cannot complain, in case if the proceedings are ex-parte.
- △ Enquiry can be held ex-parte, where an employee intentionally refuses to participate in the enquiry.
- △ If the Delinquent Employee withdraws from the enquiry, it does not mean that he/she admits the charges alleged against him/her. The enquiry officer must record evidence of the management in support of the charges.

We shall discuss on further process in the next blog.

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