

CHAPTER IX

THE ROLE AND FUNCTIONS OF THE INQUIRY COMMITTEE/ INQUIRY OFFICER IN DISCIPLINARY PROCEEDINGS

901. Introduction:

Rule 9 (2) of the Railway Servants (Discipline & Appeal) Rules, 1968 refers to the appointment of Inquiry Officer (IO). It provides that “whenever the Disciplinary Authority (DA) is of the opinion that there are grounds for inquiring into the truth of any imputation or misconduct or misbehaviour of a railway servant, it may itself inquire into the truth thereof or appoint an authority to inquire into the truth thereof.” However, unless it is unavoidable, the disciplinary authority should refrain from being the Inquiry Officer and should instead appoint another officer for the purpose of conducting inquiry.

902. Who should be appointed as Inquiry Officer:

The principles of natural justice imply “fair hearing”, “unbiased judgement” and “clear speaking order”. It, therefore, follows that the person to be appointed as Inquiry Officer :-

- (i) should not be interested in the subject matter of the inquiry in any manner;
- (ii) should not be biased;
- (iii) should not be a witness in the proceedings;
- (iv) should not have expressed an opinion about the merits of the case;
- (v) should be sufficiently senior to the charged official to evoke confidence of all concerned;
- (vi) should be higher in status to that of the officer who conducted the fact finding inquiry. This will eliminate the possibility of the Inquiry Officer being influenced by the findings of the superior officer.

Note:- (1) To facilitate expeditious disposal of disciplinary cases against Group “C” and “D” officials, full time enquiry officers have been provided on the Railways. The enquiry organization, which was earlier under the control of the Personnel Department, has also been brought under the control of the Senior Deputy General Manager.

{Board’s letters No. 77-E(GC)-1/41 dated 25-2-78 and D.V’s D.O. No. 19/1/72 DG (V)/C. Br., dated 16-11-78 and E(D&A) 2000 RG 6-24 dated 20.2.2001 }.

903. Application alleging bias against the Inquiry Officer:

Whenever an application alleging bias against the Inquiry Officer is moved by the Charged Official, the proceedings should be stayed and the application with relevant material should be forwarded to the Revisionary Authority for consideration and passing appropriate orders thereon. Such application should be moved as soon as the charged official becomes aware of the bias. Though no hard and fast rule can be laid down regarding the time when an application of bias against the Inquiry Officer should be moved, yet it is advisable that such an application is moved at the earliest after the appointment of the Inquiry Officer, the reason being that the charged official cannot be allowed to sit on the fence till the proceedings have progressed sufficiently or have been completed to move such an application simply because he finds that the decision is going or likely to go against him.

904. Role and Functions of Inquiry Officer:

904.1 Though the Inquiry Officer is a creation of the disciplinary authority, he is not subject to the directions or influence of the latter in regard to the conduct of inquiry, evaluation of evidence, or his findings. He is expected to function independently without any interference in the discharge of his functions.

904.2 To enable the Inquiry Officer to hold the inquiry, the Disciplinary Authority (DA) is required to furnish copies of the following documents to the Inquiry Officer (IO) alongwith his letter of appointment or immediately thereafter :-

- (i) a copy of the articles of charge and the statement of imputations of misconduct or misbehaviour alongwith the list of documents and list of witnesses required to prove the articles of charge;
- (ii) copies of the statements of witnesses, if any, recorded during the preliminary inquiry/investigation by which the articles of charge are proposed to be sustained.
- (iii) evidence proving the delivery of the relevant documents to the charged officer;
- (iv) a copy of the statement of defence, if any, submitted by the charged official or a clear statement that the charged official has not replied to the charge sheet within the specified time; and
- (v) orders appointing the PO

905. Action by the Inquiry Officer:

On receipt of the above documents, the IO will, after studying the documents, send a notice to the Charged Official within 10 days asking him -

- (i) to present himself for a Preliminary Hearing at the appointed time, place and date so fixed and to name his Defence Assistant.

Note:- (1) The charged official can present his case with the assistance of any other Railway servant employed on the same Railway as that on which he is working. The defence counsel should fulfil the conditions as laid

down in the Railway Servants (Discipline & Appeal) Rules, 1968. Nomination of an assisting Railway servant shall not be accepted if he has three pending cases on hand in which he has to assist.

- (2) "Professional lawyers" shall not be permitted to act as defence helpers in departmental proceedings. Professional lawyers include Law Assistants.
- (3) In the case of a non-gazetted Railway servant an official of a Railway Trade Union, who is a full time union worker, recognised by the Railway Administration on which he is working may also be engaged as Defence Helper. The restriction that at the time of nomination, the assisting person should not have three pending disciplinary cases on hand in which he has to assist, will not apply if the nominated defence helper is a Railway Trade Union Official, provided that not more than one adjournment of the enquiry will be granted on the ground of his inability to attend the inquiry.

(Railway Board's letter No. E (D&A) 69 RG6-38 dated 13-2-1970, Notification No. E(D&A) 2003/RG6-8 dated 27.5.2005).

- (4) The charged official may also present his case with the assistance of a retired Railway servant provided such a retired Railway servant concerned should not act as a Defence Helper in more than seven cases at a time and fulfils other conditions laid down in Board's circular No. E (D&A) 91 RG6-148 dated 05.11.1992.

(RailwayBoard's letter No. E(D&A) 2002 RG6-13 dated 14.5.2003).

- (ii) He will also intimate to the Presenting Officer (PO) the date, time and place of Preliminary Hearing.

906. Preliminary Hearing:

906.1 On the day fixed for the Preliminary Hearing, the IO will ask the Charged Official (CO) :-

- (a) whether he pleads guilty to any of the articles of charge, and if not,
- (b) whether he has any defence to make.

906.2 If the Charged Official pleads guilty unequivocally, to all or any of the charges, the IO will record the plea, sign the record and obtain the signature of the Charged Official thereon. In respect of those articles of charge, he has to return a finding of guilt. He should proceed with the inquiry only in respect of those articles of charge which are not admitted by the CO in the Preliminary Hearing.

- 906.3 If the Charged Official refuses to plead or omits to plead or pleads not guilty or accepts charges conditionally, or does not appear on the fixed date without any valid reasons, the IO will record an order that the Charged Official may for the purpose of preparing his defence -
- (a) inspect all listed documents within five days extendable by another five days;
 - (b) submit a list of witnesses to be examined on his behalf with their addresses indicating what issues they will help in clarifying; and
 - (c) submit a list of additional documents which he wishes to have access to, indicating the relevance of the documents in the presentation of his case within 10 days extendable by another ten days on the discretion of the IO.

Note ÷ The request of the charged official to have access to additional documents which are not mentioned in the list of documents sent to him with the charge sheet will be considered by the Inquiry Officer and not by the Disciplinary Authority.

- 906.4 The charged official shall indicate the relevance of the additional documents to the presentation of his case. If the Railway servant fails to indicate and convince the Inquiry Officer about the issues to which the production of additional documents are relevant, Inquiry Officer may reject the request in writing, giving reasons thereof, for requisitioning the documents. If the documents are relevant, the Inquiry Officer will arrange to have the documents to be shown to the Railway servant. In case of doubt, a point may be stretched in favour of the charged official. Even when the Inquiry officer has decided to call for additional documents, the authority having the custody or possession of the documents may decide that the production of such documents would be against public interest or security of State.

{Rule 9 (12) read with Rule 9 (15) and 9 (16) of the Railway Servants (Discipline & Appeal) Rules, 1968 as amended vide Board's letter No. E (D&A) 78-RG6-11 dated 6-2-1980}

- 906.5 If PO/charged official are present they will be supplied with copies of the above orders otherwise it will be sent to them through registered post AD to reach them in good time.

907. Regular Hearing:

- 907.1 On the completion of the preliminaries, i.e., inspection of listed documents and additional documents by the Charged Official, the Inquiry Officer will fix a date for Regular Hearing. In the notice sent for the purpose he will indicate the place, date and time for Regular Hearing. Summons will also be sent to prosecution as well as defence witnesses. Non-compliance of summons by the charged official can be treated as 'conduct unbecoming of a government servant'.

- 907.2 On the date of Regular Hearing, PO will present listed documents one by one. Inquiry Officer who will mark them as Ex.S.1, Ex.S.2, Ex.S.3, (i.e. Prosecution document 1, 2, 3, etc.) if these are not challenged by the CO. A document challenged by the CO can be marked only when it is produced through a witness, who certifies its genuineness.
- 907.3 Witnesses on behalf of the Disciplinary Authority will then be examined by the PO. Each witness will be given a number as SW.1, SW.2, SW.3, etc. which means State Witness 1, State Witness 2, State Witness 3. A new sheet of paper will be used for recording evidence of each witness. IO may put such questions to a witness as he thinks fit to bring out the truth so that he has a fair and clear understanding of the case.
- 907.4 Before the close of the case on behalf of the Disciplinary Authority, PO may, with the permission of the IO, produce new evidence. An adjournment of 3 clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned, should be given by the IO. New evidence shall not be permitted to fill up any gaps in the evidence. However, it can be permitted to remove an inherent lacuna or defect in the evidence which has been produced originally. If the charged official demands a copy of the list of new evidence allowed to be presented, it shall be furnished to him. IO may himself call for new evidence or recall and re-examine any witness. The charged official may also be allowed to bring in new evidence if production of such evidence is necessary and in the interest of justice.
- 907.5 After the PO closes the case, the Inquiry Officer shall require the Charged Official to state his defence, orally or in writing. If the defence is made orally, it shall be recorded by the IO who will give a copy to the PO after obtaining the signatures of the railway servant thereon. If the statement of defence is in writing, CO will furnish a copy to the Presenting Officer.
- 907.6 The Inquiry Officer shall inquire from the Charged Official whether he would like to be his own witness. In case CO prefers to become his own witness he will be examined like any other defence witness. Evidence on behalf of the Charged Official shall then be recorded.
- 907.7 Documents produced by the Charged Official will be marked as Ex.D.1, Ex.D.2, Ex.D.3, etc. Similarly, witnesses examined on behalf of the Charged Official will be marked as DW.1, DW.2, DW.3, etc. DW stands for Defence Witness.
- 907.8 On the conclusion of the case of the charged official, the IO may, and shall if the charged official has not examined himself as his own witness, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the charged official to explain any circumstances appearing against him.
- 907.9 General questioning of the charged official by the Inquiry Officer on the circumstances appearing against him (the charged official) is absolutely necessary as a number of cases have failed to stand scrutiny of the Courts on account of the failure of the Inquiry Officers to observe this technicality. If the charged official does not desire to be

questioned by the Inquiry officer or refuses to offer himself for examination by the latter, the Inquiry Officer should suitably record this fact in the Daily Order Sheet as also include the same in his Report.

907.10 The Inquiring Authority may permit the PO and the CO to argue their respective cases before him. The PO will argue the case first and CO will do so thereafter. The IO may permit filing of written briefs, if so requested. PO will submit his written brief first to the IO with a copy to the CO. The CO will, thereafter, submit his brief to the IO with a copy to the PO. This is because the last word must come from defence. Generally, a time of 3 to 7 days after conclusion of the oral inquiry should be given for submission of written briefs.

908. Daily Order Sheet:

Immediately on receipt of his order of appointment, the Inquiry Officer should open a "Daily Order Sheet". In the absence of an order sheet, it is difficult to know whether at the various stages, the Inquiry Officer has violated the procedure without prejudicing any of the rights of the Government servant (A.K. Das vs. Sr. Supdt. of Post Office, AIR 1969 A & N 99). Daily Order Sheet thus contains a running record of all important events occurring during the course of the enquiry as well as the record of the business transacted on each day of the hearing and the orders passed by the Inquiry Officer on oral or written representation of both the parties, i.e. Presenting Officer and the Charged Official. The entries in the daily order sheet should be signed by the Inquiry Officer to authenticate them. The entries relating to each date of hearing should also be signed by the Presenting Officer and the Charged Official with date. Since the daily order sheet is a record of important happenings during the course of enquiry maintained by the Inquiry Officer, it has to be as per his direction. If the Charged Officer refused to sign or records an objection on the order sheet at the time of signing, the Inquiry Officer should record the fact of refusal to sign by the Charged Officer and further give his comments on the objection and sign the record. He should not enter into an argument with the Charged Officer on this account. This is because the Supreme Court, in the case of Union of India vs. T.R.Verma - AIR 1957 SC 882, has held that in the event of a dispute arising as to what happened before the Inquiry Tribunal, the statement of the Presiding Officer (i.e. the Inquiry Officer) in that regard is generally to be taken as correct. The daily order sheet should generally contain:

- (i) a date-wise brief record of all important happenings in the course of enquiry;
- (ii) a brief statement of all oral or written representations by the Charged Officer or the Presenting Officer and orders passed thereon by the Inquiry Officer;
- (iii) record of business transacted on each day of oral hearing, and
- (iv) orders of the Inquiring Authority for holding of hearings, their adjournments, etc.

909. Findings on new Charge:

If in the opinion of the IO the proceedings establish an article of charge different from the original articles of charge, he may not record his findings unless the railway servant has either admitted the related facts or had a reasonable opportunity of defending himself against such articles of charge.

910. Ex-parte Inquiry:

If the Charged Officer does not submit his defence within the time specified or does not appear before IO or otherwise fails or refuses to comply with the provisions of the rules, the IO may hold the inquiry ex-parte recording reasons for doing so. Even in such a case, intimation about the next date of hearing is required to be sent by the IO to the CO on each occasion. A record of the proceedings of each day on which the CO was not present has to be made available to him to enable him to join the inquiry subsequently, should he desire to do so.

911. Change of Inquiry Officer:

If an IO is changed in the middle of an inquiry, the new IO shall hear the case from the stage which it had already reached.

912. Stay of Proceedings:

Disciplinary proceedings should not normally be stayed except under orders of a Court or under written orders of Disciplinary Authority who should record detailed reasons for such orders.

913. Standard of Proof:

913.1 The Supreme Court has held that standard of proof required in a disciplinary case is that of 'preponderance of probability' and not 'proof beyond reasonable doubt'.

913.2 A departmental enquiry is inherently different from judicial proceedings in a Court of Law and need not be carried out rigidly in accordance with the rules applicable to judicial proceedings. The Inquiry Officer should ensure that reasonable opportunity is given to the accused for defending himself in the course of inquiry.

914. Evaluation of Evidence:

914.1 Oral inquiry is a quasi-judicial proceeding. It is held to ascertain the truth or otherwise of the allegations. It forms the basis on which the disciplinary authority has to take a decision regarding the penalty, if any, to be imposed. IO's findings must, therefore, be based on evidence adduced during the inquiry. Proper evaluation of evidence is most important.

914.2 The inferences and conclusions should be based upon reason. IO should take particular care to see that no part of evidence, which the charged official was not given

opportunity to refute, explain or rebut, has been relied on against him. No material from personal knowledge of the IO which does not form part of evidence should be used while arriving at conclusions.

914.3 The IO is not the Prosecutor. It is not his duty to somehow prove the charge. He is appointed to assist the Disciplinary Authority in taking a correct and impartial decision on the basis of the evidence on record. It is not for him to assume that the accused officer is guilty and to obtain admissions from him. His objective is to sift the evidence with a view to arrive at the truth. If instead of putting questions with a view to elucidating answers for a proper understanding of the facts before him, he resorts to searching cross-examination with a view to pinning down the accused officer to the acceptance of any statement/event which is likely to be against his interest, he ceases to be fair and unbiased judge which is primarily the role of an Inquiry Officer. Assumption of such a role defeats the very purpose of holding an impartial inquiry and thus vitiates the entire process. The Courts have, time and again, held that when the officer holding the inquiry takes a role different from that of a person who is to adjudicate on the dispute impartially and without bias he becomes disqualified and the result of the inquiry cannot be termed as fair or unbiased.

914.4 The most crucial facet of the personality of the official conducting the departmental inquiry is his impartial approach, as he is performing a quasi-judicial function. His conduct must be above board so much so that he should not merely be impartial but also seen to be so, to ensure that the inquiry commands the confidence it deserves. This aspect assumes greater significance when there is no Presenting Officer. As it is not feasible to appoint Presenting Officer in majority of the inquiries, the Inquiry Officer has to examine/cross examine the witness including the defence witnesses to find out the truth in the charges.

(Board's letter No.E(D&A)2000RG 6-60 dated 9.5.2001).

914.5 The main functions of an Inquiry Officer are three fold -

- (i) to record both oral and documentary evidence;
- (ii) to evaluate evidence;
- (iii) to give his findings.

914.6 He is in no case to comment on the quantum of penalty in cases where the charges are proved as that would amount to going beyond his charter and usurping the function of the Disciplinary Authority.

915. Report of Inquiry Officer:

915.1 After the evidence has been taken and the arguments are over, the IO writes his report and submits it to DA alongwith the records of the inquiry. IO becomes *functus officio* after he has submitted his report to the DA.

- 915.2 The Inquiry Officer should prepare a report at the conclusion of the enquiry and should record his findings on each of the charges, supported by reasons therefor. He should indicate whether the charge(s) is/are fully established, partially established or not established. The scope of the enquiry should be strictly limited to the charges as mentioned in the charge-sheet and which are not admitted by the accused.
- 915.3 The Inquiry Officer's report should be concise and confined to the subject of the charges. In the Inquiry Report, the actual findings should be in respect of each of the charges indicated in the charge-sheet and enquired into, and the wording of the findings on each of the charges should be clear, precise and unequivocal and not couched in vague phraseology. The report should be submitted to the Disciplinary Authority with the complete record.
- 915.4 As a copy of the Inquiry Report eventually is required to be furnished to the accused official, the report of the Inquiry Officer should be confined to the charges only. Other facts coming to the notice of the Inquiry Committee / Inquiry Officer during the course of enquiry, but having no direct bearing on the charges should be given in a separate note and not form part of the inquiry report.

916. Guiding Principles for Conducting Inquiries:

- (1) The Inquiry Committee/Inquiry Officer is set up to assist the competent authority in finding out as to whether the accused person is guilty of the offence with which he is charged. The main function of the Inquiry Committee/Inquiry Officer is to follow the rules and principles of natural justice in disciplinary proceedings cases. The accused servant should be given an opportunity of producing the relevant evidence on which he relies. In the final report it is the duty of the Inquiry Officer/Inquiry Committee to record his/their findings in respect of each charge included in the charge sheet and his/their findings should be supported by the reasons thereof.
- (2) The Inquiry Committee/Inquiry Officer should before commencing the inquiry proceedings ensure that the procedure for issuing charge sheet etc., as laid down in the Discipline and Appeals Rules, has been fully complied with. If the Inquiry Committee/Inquiry Officer finds any departure from the rules or any irregularity in the procedure, the Committee/Inquiry Officer should seek the advice of the Disciplinary Authority. If any clarifications are necessary on certain points, the Committee/Inquiry Officer should group all objections together and not raise them piecemeal. Unnecessary objections should be avoided by the Inquiry Committee/Inquiry Officer.
- (3) It is necessary that the Inquiry Committee/Inquiry Officer should have a complete and thorough knowledge of the Disciplinary and Appeal Rules so that no lacuna is allowed in the disciplinary proceedings. They should study the details of the case in advance and relevant documents and connected papers. The Discipline and Appeal Rules should not be interpreted generously by the Inquiry Officer/Inquiry

Committee. What is required on their part is to apply the rules correctly in disciplinary cases.

- (4) The Inquiry Committee/Inquiry Officer should not become over-legalistic and show special indulgence to the accused official. The Inquiry Officer should not suffer from any misconceptions or preconceived ideas as the role of the Inquiry Officer is clearly laid down in the Discipline and Appeal Rules and it is the duty of the Inquiry Officer/Inquiry Committee to study these rules thoroughly and follow them. Difficulties arise only where the Inquiry Officer / Inquiry Committee go astray and ignore the statutory rules on the subject or try to be 'over-legalistic'.
- (5) Proceedings should be precisely and carefully worded so as to convey the correct meaning.
- (6) The language used must be such as cannot be interpreted to be defamatory.
- (7) The departmental enquiry cases should be promptly disposed of and should not be retained by the Inquiry Officer for an inordinate length of time. Delays often result in suppression of relevant facts and evidence. The Inquiry Officer need not indulge in unnecessary correspondence with the accused on minor matters like nomination of "Defence Counsel" etc. Some time limit should be fixed and the Inquiry Officer should proceed with his enquiries thereafter. The accused official is always interested in prolonging the proceedings which should be discouraged. Usually dilatory tactics are adopted by the accused official on one pretext or the other, and this tendency should always be discouraged and curbed.
- (8) When dates are fixed for hearing by the Inquiry Officer, he should not postpone the hearing on flimsy grounds. Absence of one or the other party without reasonable and sufficient cause should not bind the Inquiry Officer to postpone the hearing.
- (9) The Inquiry Officer should not obtain any certificate from the accused official at the end of the enquiry that he has been given reasonable opportunity.
- (10) Evidence in the form of an affidavit cannot be ruled out in departmental proceedings. At the same time it cannot be taken as conclusive. The Inquiry Officer has to decide the value to be attached to an affidavit in each case on merits on the basis of the totality of evidence including the results of the cross-examination, etc.
- (11) The defence counsel can assist the accused, instruct and guide him in his defence and can examine, cross-examine and re-examine witnesses. He can also make submissions before the Inquiry Officer on behalf of the accused. He will, however, not answer questions on behalf of the accused or prompt the accused in his answers.
- (12) The insistence of the accused official for a particular specified Railway employee to act as his defence counsel, should not be considered sufficient reason to

adjourn the enquiry, even where the Railway employee concerned cannot be spared on administrative grounds to attend enquiry.

- (13) If the defence counsel endeavours to go beyond his jurisdiction during the course of the enquiry proceedings, the Inquiry Officer should be firm and intervene wherever necessary.
- (14) If the person assisting or the charged official himself refuses to accept the decision of the Inquiry Officer / Inquiry Committee on any point, his protest must be obtained in writing and recorded in the proceedings. When a person assisting the accused official has resorted to leaving the proceedings where his protest has been over-ruled, the Inquiry Officer should continue the Inquiry and make a record of the same in the proceedings. It is open to the Inquiry Officer to instruct the accused to defend himself with the assistance of another assisting Railway employee.
- (15) In cases investigated by CBI, the Presenting Officer may be an official of CBI whilst in cases investigated by the Railway Vigilance Branch, the Presenting Officer may be nominated on the recommendation of the Vigilance Branch and the person so nominated should be one who has not investigated the case.
- (16) Requests for information or facility to examine documents etc. are generally made in piecemeal by the accused official. This tendency on the part of the charged official should be curbed by the Inquiry Officer.
- (17) It is obligatory on the part of the Inquiry Officer to supply copies of the oral evidence to the charged official in all cases.
- (18) In a departmental enquiry it is not necessary for the Inquiry Officer to furnish to the charged official copies of the statements made by witnesses in a preliminary enquiry, or in a police investigation which leads to the enquiry, provided no references of these witnesses has been made in the chargesheet and the statement of allegation. At the same time, the statements of these witnesses should not be made use of in arriving at the findings in the departmental enquiry until and unless these witnesses are examined by the Inquiry Officer in the presence of the accused who should also be given an opportunity to cross-examine them.
- (19) If the charged official applied orally or in writing for the supply of copies of the statements of witnesses mentioned in the list sent to him alongwith the charge sheet, the Inquiry Officer shall furnish him with such copies as early as possible.

- (20) The Inquiry Officer should not make use of reports of a preliminary enquiry, or the reports made by the Police after investigation. These reports are not to be considered in the enquiry. The charged official should not be given access to these reports. Any reference of such reports should be avoided in the statement of allegations, but if any reference is made, it would be difficult for the Inquiry Officer to deny access to these reports.
- (21) In a departmental enquiry, the charged official is entitled to cross-examine the witnesses examined in support of the charges framed against him. This is a very valuable right and it should be made clear on the record of the proceedings that the charged official was given the opportunity to cross examine the witnesses.

In a very large number of cases on the Railways, there is no Presenting Officer and the function of the Presenting Officer in examining and cross-examining the witnesses, should be done by the Enquiry Officer himself. However, he should avoid searching cross examination.

[Railway Board's letters No.E(D&A)70RG6-41 dated 20-10-71 and No.E(D&A)2000/RG6-60 dated 9.5.2001]

- (22) All statements of witnesses should be recorded in writing. Any questions and answers by the Inquiry Officer and charged official or his defence counsel etc. should also be recorded. All these should be signed by the witnesses and the Inquiry Officer on each page. The evidence of witnesses unable to read and write should be read over and translated to them, and the Inquiry Officer shall certify on such witness deposition that the statement was read and explained to the deponent who has admitted it to be correct.
- (23) If any person refuses to sign statement of evidence, it should be read out to him in full and should be signed by the Inquiry Officer certifying that it is a true record of the evidence given by the accused or witness.
- (24) The Inquiry Officer should ensure that the charged official has been given the opportunity of adducing all relevant evidence on which he relies. The evidence of witnesses produced in support of the charges should be taken in the presence of the charged official and he should be given the opportunity of cross-examining the witnesses.
- (25) If the Inquiry Officer decides to call new witnesses in support of the charges, after the charged official has made the statement in his defence, the charged official should be given a further opportunity to cross-examine the witnesses as well as to make a supplementary statement after the statement of the witnesses (who are called in subsequently) have been recorded.
- (26) The Inquiry Officer may address the SPE/CBI directly in regard to the production of their witnesses and need not route such requests through the Vigilance Branch / Disciplinary Authority.

- (27) It is the responsibility of the charged official to present the defence witnesses before the Inquiry Officer. In cases where the Enquiry Officer is requested to address the defence witnesses who are Railway employees, he may issue a letter to this effect, but this will not have the force of summons. The onus of production of witnesses, who are Railway employees will, however, be on the charged official.
- (28) It is within the discretion and competence of the Inquiry Committee / Inquiry Officer to refuse / call any witness or to disallow any statement or questions which are, in their / his opinion, objectionable or irrelevant. The fact of such refusal and the reasons therefor must, however, be recorded.
- (29) De-novo enquiry should not be held if the Inquiry Officer's findings are not acceptable to the Disciplinary Authority. Such a step, if taken, would be inconsistent with the Discipline and Appeal Rules as the rules do not provide for such de-novo enquiry. In such circumstances, the Disciplinary Authority is required to follow the provisions contained in Rule 10(1) &(2) of RS (D&A) Rules.
- (30) The Inquiry Officers should also consult the Vigilance Manual, Volume I, Chapter on "Disciplinary Proceedings" and the "Vigilance Hand Book" published by the Central Vigilance Commission from time to time for clarification regarding any doubt. While consulting the manual published by the Central Vigilance Commission, it may be borne in mind that the procedure mentioned therein are applicable in Central Civil Services but the spirit of the rules / regulations mentioned therein are applicable in Railway cases also, particularly regarding the role and functions of the Inquiry Officer in conducting disciplinary proceedings.