



**GOVERNMENT OF THE PUNJAB
SERVICES & GENERAL ADMINISTRATION
DEPARTMENT
(REGULATIONS WING)**

17th August, 2015

NOTIFICATION

NO.SORI(S&GAD)1-30/2003(P-II). The Competent Authority is pleased to approve the following Guidebook for conducting inquiry under the Punjab Employees Efficiency, Discipline and Accountability Act 2006 to eliminate, as far as possible, chances of delay by removing bottlenecks in inquiry proceedings:

(1) Deficiencies in departmental inquiries under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006

Punjab Employees Efficiency, Discipline and Accountability Act, 2006 was promulgated with a view to promote efficiency in the public service and to inculcate discipline in the state functionaries. However, delay to finalize departmental inquiries generally occurs due to the following reasons:

- (i) inadequacy of the relevant information and material made available to Authority;
- (ii) delay in:
 - (a) the appointment of inquiry officer or inquiry committee;
 - (b) issuing of enquiry order containing charges against the accused; and
 - (c) nomination of departmental representative;
- (iii) failure of the inquiry officer to hear the case on day to day basis;
- (iv) failure to promptly dispose of the objections raised by the accused on procedural or technical points;
- (v) failure to show the relevant record to the accused, if he so desires;
- (vi) ignorance of the inquiry officers about the proceedings related to the departmental inquiries;
- (vii) improper production of the prosecution evidence before the inquiry officer or inquiry committee by the departmental representatives;
- (viii) delay in finalization of enquiry by the competent authority after receipt of inquiry report;
- (ix) non-maintenance of record of inquiries or probes in the departments to enable the administrative secretaries to supervise and monitor the proceedings of departmental inquiries;
- (x) resultant effects of leaving the legal or procedural lacunae in the departmental enquiries necessitating de novo proceedings thereby prolonging enquiries for months and years endlessly; and
- (xi) ultimate reversal of the effects of disciplinary actions through Court orders on account of legal and procedural lapses in the conduct of departmental proceedings.

(2) Objective of the Guidebook

The objectives of guidebook are as follow:

- (i) to improve the understanding of the Punjab Employees Efficiency, Discipline and Accountability Act 2006 (cited as "PEEDA Act 2006"); and

- (ii) to facilitate the task of completion of inquiry under the PEEDA Act 2006.

(3) Feature of the Guidebook

- (i) It must, however, be clearly borne in mind that model drafts cannot be used as “fill in the blanks” formats. These shall have to be suitably adapted to suit the requirements of each case. Hence, the Guidebook may be adopted according to the suitability of case.
- (ii) The Guidebook is not a substitute for the substantive law which should invariably be studied at every stage of the proceedings.
- (iii) The Guidebook is intended merely to be an aid to better understanding of the law.
- (iv) The Guidebook contains the detail of officers who can exercise the powers of competent authority as per delegation of powers under the PEEDA Act 2006.

(4) Points to be considered for proceeding under the PEEDA Act 2006

The following points should be kept in mind while conducting proceeding under the PEEDA Act 2006;

(i) Scope of the PEEDA Act 2006

- (a) The PEEDA Act 2006 is applicable upon the employees in Government service, corporation service and retired employees but proceedings shall only be initiated against the retired employee within one year from his retirement.

(b) Limitation:

The PEEDA Act 2006 does not apply to:

- i) a Judge of a Higher Court; or
- ii) a subordinate officer or official of the High Court; or
- iii) a employee of such Courts as well as police employees.

(ii) Procedural under the PEEDA Act 2006

The PEEDA Act 2006 contains step-wise chronological detail of the procedure of departmental inquiry along with following model drafts:

- (a) Order of appointment of inquiry officer or committee; **(Annex-I)**
- (b) Show cause-cum-personal hearing notice under section 13(4); **(Annex-II)**
- (c) Show cause notice under section 7 (b) read with section 5(1)(a); and **(Annex-III)**
- (d) Personal hearing notice under section 7(d) **(Annex-IV)**

(iii) Competent authorities under the PEEDA Act 2006

- (a) As per section 2 (f) of the PEEDA Act 2006, competent authority means “the Chief Minister” or any officer or authority authorized by the Chief Minister to exercise the powers of competent authority under the PEEDA Act 2006.
- (b) The Chief Minister has declared competent authorities to exercise powers against different classes of employees vide notification No.SORI(S&GAD)1-30/03 dated 13-02-2013 **(Annex-V)**.
- (c) For the purpose of determining competent authority, original pay scale sanctioned with the post shall matter and the higher pay scale granted on account of temporary arrangements i.e. officiating, acting, current charge shall not be considered.
- (d) The Chief Minister has also declared the competent authorities to exercise powers under PEEDA Act, 2006 against the employees placed in surplus pool, S&GAD, retired employees of Government

and autonomous bodies, corporation etc., vide notification No.SORI (S&GAD)1-30/2003 dated 06-02-2007 (**Annex-VI**).

(iv) Grounds for proceeding and penalties

- (a) An employee can be proceeded against under PEEDA Act 2006 on the charges of inefficiency, misconduct, corruption and on being engaged in subversive activities. These terms have been defined in section 2 and clause (iv) of section 3 of the PEEDA Act 2006.
- (b) On completion of proceedings, the employee may be awarded minor or major penalties under the section 4 of the PEEDA Act 2006. However, the following factors may be kept in mind while imposing any penalty:
 - (i) penalty should be commensurate with the gravity of charges;
 - (ii) punishments to contract employees will be specific such as censure, stoppage of increments, fine, recovery, removal and dismissal from service;
 - (iii) one increment is earned in a calendar year, therefore, punishment of withholding one increment may be awarded for a period of one year;
 - (iv) in case more than one increments are to be withheld then the same should correspond to the number of years. For example penalty of withholding of five increments may be awarded as under:

“withholding of annual increments for a period of five years.”;
 - (v) in the case of regular civil servants or employees of autonomous bodies, punishment of reduction to a lower post and pay scale can only be imposed upon the accused, if he has been appointed by promotion to the post;
 - (vi) punishment of compulsory retirement should be imposed only if the accused has ten years of service or more to his credit; and
 - (vii) for retired employees, only punishments mentioned in clause (c) of section 4 of the PEEDA Act 2006 can be awarded within two years of their retirement as provided in section 21 of the of the PEEDA Act 2006.

(v) Detail of charges or allegations

In previous disciplinary law or rules, charge sheet was prepared separately while in the PEEDA Act 2006, the detail of charges has to be reflected in the order of enquiry, issued by the competent authority. However, charges should be specific and give all necessary details. Sometimes it happens that complete charges are not reflected in the original enquiry order, hence, the cases are remanded to reframe the charges which create administrative as well as legal complications. Therefore, in the original enquiry order, complete charges should be included apportioning the responsibility in case of joint enquiry.

(vi) Suspension

- (a) Section 6 of the PEEDA Act, 2006 provides that the competent authority may place the employees under suspension for a period of 90 days if an action is proposed to be initiated against him and suspension is considered necessary.

- (b) After suspension, the enquiry should be initiated immediately, and there should be no gap. In case the competent authority does not intend to reinstate the concerned employee, prior approval of the competent authority should be obtained for extension in suspension period. In case no extension in suspension is granted by the competent authority, the concerned officer shall be deemed to be reinstated.
- (c) The officer shall be deemed to be reinstated into service on the expiry of 120th day after initiation of his suspension period and reinstatement is to be made with immediate effect.

(vii) Dispense with regular enquiry

- (a) As per section 5 of the PEEDA Act 2006, if the competent authority determines that there are sufficient grounds for initiating proceedings against an employee, it can proceed by issuing a show cause notice dispensing with the enquiry.
- (b) Clauses (a) and (b) of subsection (1) of section 5 read with section 7 of the PEEDA Act 2006, give detailed grounds and procedure for summary proceedings against an accused. However, proviso to Clauses (b) of subsection (1) section 5 makes it mandatory upon the competent authority to dispense with the enquiry in following cases:
 - (i) an employee has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
 - (ii) an employee is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, he is satisfied that there is no need to hold an inquiry.

- (c) The orders of inquiry or the show cause notice, as the case may be, shall be signed by the competent authority but where the Chief Minister is competent authority, the same shall be signed by such officer as may be authorized by him in this behalf.
- (d) In the case of charges of grave corruption having been proved, the penalty of dismissal from service and recovery shall be imposed in the light of the clause (f) of section 7 of the PEEDA Act 2006.
- (e) In the case of absence from duty for more than one year, the penalty of compulsory retirement, removal or dismissal from service shall be imposed upon the accused in the light of the clause (f) of section 7 of the PEEDA Act 2006.
- (f) Summary proceedings should be decided very carefully by the competent authority. The superior courts in most of the cases set-aside the orders of penalty on the grounds that sufficient or sound reasons have not been incorporated in the order to proceed against the accused through show cause notice dispensing with the regular inquiry.
- (g) Where it is required that the charges could be established through a detailed inquiry, then the competent authority should avoid summary trial and hold regular inquiry instead of issuing show cause notice.

(viii) Action in case of conviction or plea bargain

- (a) As per section 8 of the PEEDA Act 2006 if an employee is convicted by a court of law or has entered into plea bargain or acquitted by a court of law as a result of compounding of an offence, action may be taken against employee.
- (b) Without issue of show cause: If the employee has been convicted of charges of corruption or entered into plea bargain, he shall be dismissed from his service. In such cases, there is no need to issue show cause notice.
- (c) Issuance of show cause: If the employee is convicted other than charges of corruption then procedure provided in section 7 of the PEEDA Act 2006 may be followed and the accused may be proceeded through issuance of show cause notice and dispensing with the inquiry.
- (d) In case, an employee is acquitted from the court of law as a result of compounding of an offence then procedure provided in section 9 of the PEEDA Act, 2006 may be adopted i.e. a regular inquiry may be held against the accused to substantiate the charges.

(ix) Appointment of inquiry officer

Under clause (a) of subsection (1) of section 9 of the PEEDA Act 2006 an inquiry officer shall be senior in rank to the accused. Rank means official position or standing and not the basic scale.

For example: an Administrative Secretary who is in BS-20 and a Director General of his attached department who is also in BS-20, for the purpose of appointment of an inquiry officer, the Secretary shall rank senior to the Director General.

(x) Role of inquiry officer

- (a) As per subsection (2) of section 9 of the PEEDA Act 2006, timely provision of record and list of witnesses to the inquiry officer be ensured by the competent authority for concluding the inquiry proceeding within the stipulate time.
- (b) To expedite the inquiry, day to day proceedings should be held by the inquiry officer or the inquiry committee.
- (c) No adjournment may be given unnecessarily in the inquiry proceedings.
- (d) To facilitate the accused, he should be provided relevant record and, if not possible, then he should be allowed to peruse the relevant record and submit his reply within time.
- (e) An inquiry format/pattern may be adopted containing charges, examination of evidence and its analyses, rebuttal of the charges by the departmental representative.
- (f) Clear findings should be given and specific recommendations may be made by the inquiry officer on each charge.
- (g) Recommendations of the inquiry officer should be commensurate with the quantum of guilt and appropriate penalties be imposed upon the accused.
- (h) Before awarding penalties of stoppage of increments etc., the length of service and date of retirement of the accused may also be kept in view by the inquiry officer and competent authority.

Note: In most of the cases, the penalties recommended by the inquiry officer or inquiry committee and awarded by the competent authorities are set-aside by the courts on the grounds that such penalties are not commensurate with the charges leveled against the accused.

- (i) The inquiry officer may submit his recommendations within 60 days to the competent authority. Extension in time beyond 60 days can be sought from the competent authority with cogent reasons by the inquiry officer.

Note: Instructions in this regard have been issued by the Regulations Wing, S&GAD for timely completion of inquiry so that it may not prolong unnecessarily which may affect career progression of the accused i.e. promotion, posting, transfer and training etc.

- (j) The competent authorities have to, as per instructions bearing No.SORI(S&GAD)1-86/2014 dated 11-08-2014 (**Annex-VII**), ensure that enquires initiated under the PEEDA Act, 2006 are completed by the relevant authorities or enquiry officers within the stipulated timeframe provided in section 7(c), 10(6) and 13(7) of the PEEDA Act 2006.

(xi) Joint enquiry where one accused is absent.

- (a) Subsection (2) of section 10 of PEEDA Act, 2006 provides that if the accused fails to furnish his reply within the stipulated period of time, the inquiry officer or inquiry committee after completing codal formalities may decide ex-parte. Moreover, the inquiry officer has specific powers to summon the accused. If one accused is absconder, he may be proceeded ex-parte and the enquiry against other co-accused can be completed or finalized.
- (b) Where one or more of the accused challenge the enquiry proceeding in a court and obtained orders of status quo from the court, the enquiry proceeding shall also be suspended against the remaining accused.
- (c) It is responsibility of the department concerned to get the stay orders vacated at the earliest so that the process of enquiry proceeding is completed expeditiously.

(xii) Role and responsibility of the departmental representative

- (a) Clause (c) of subsection (1) of section 9 of the PEEDA Act 2006 provides that departmental representative should be appointed by designation because in case of his transfer or retirement etc., his substitute can assist the inquiry officer or competent authority to expedite the inquiry proceedings as to:
 - (i) eliminate the delay caused due to appointment of a new departmental representative; and
 - (ii) departmental representative, who is available at present, may easily assist to the inquiry officer as well as hearing officer or competent authority inquiry as the proceedings are usually followed on the basis of availability of record.
- (b) Duties of departmental representative have been provided in section 12 of the PEEDA Act 2006, hence, the departmental representative should work as a prosecutor; he should be a responsible official.
- (c) It is the duty of departmental representative to fully substantiate the charges leveled against the accused, relevant necessary material or copies may be provided to the accused to prepare his reply.
- (d) The accused may apply to the competent authority for copies of record and the competent authority should decide on kind of papers necessary to be provided to the accused. These normally relate to the record, on which the charges are based.

(xiii) Action to be taken by the competent authority on receipt of enquiry report

- (a) On receipt of inquiry report the competent authority shall determine whether:
 - (i) inquiry has been conducted in accordance with the provisions of the PEEDA Act 2006., or
 - (ii) enquiry has not been conducted in accordance with the provisions of the PEEDA Act 2006.
- (b) The competent authority, in case of situation at sub-clause (i) of clause (a), shall further determine whether:
 - (i) charges have been proved; or
 - (ii) charges have not been proved.
- (c) Following actions will be taken by the competent authority:
 - (i) If charges are not proved Exonerate the accused under section 13(3) of the PEEDA Act 2006
 - (ii) If charges are proved
 - (a) Issue show cause notice including the proposed penalties along with enquiry report and give seven days to reply;
 - (b) Indicate date of personal hearing before himself or hearing officer.

Note: Officer of the rank of a Secretary to Government or above only can appoint a hearing officer on his behalf.
 - (c) Direct the departmental representative to appear at the time of hearing; and
 - (d) Pass final orders under subsection (5) of section 13 of the PEEDA Act 2006 after affording personal hearing.
- (d) As per section 9 of the PEEDA Act 2006, recommendations of the inquiry officers are not binding on the competent authority. However, it does not mean that the competent authority may exclusively use its discretion. It should have valid or sound reasons to disagree with the recommendations of the inquiry officer.
- (e) It happened in most of the cases that the superior courts have set-aside or modified the penalties where the inquiry officers have recommended minor penalties against the accused and the competent authorities disagreeing with the inquiry officers, imposed major penalties upon the accused. Instructions issued by the Regulations Wing, S&GAD vide No. SORI (S&GAD)1-37/2014 dated 10-09-2014 are relevant (**Annex-VIII**).
- (f) In case of situation at sub-clause (ii) of clause (a) where inquiry has not been held in accordance with law:

- (i) remand the enquiry to inquiry officer or inquiry committee for rectification of lapses or formalities in the proceedings; or
 - (ii) order a de novo enquiry.
- (g) As per instructions bearing No.SORI (S&GAD) 17-10/2015 dated 30-04-2015 (**Annex-IX**) where the officer has been allowed leave for the study purpose his case for extension of leave has to be decided on merit expeditiously and on time or at the very outset of the course or programme like Ph.D. All the cases of extension in leave for study purposes may be decided on merit in timely manner to avoid administrative inconvenience.

(xiv) Role of hearing officer

- (a) As per clause (d) of section 7 of the PEEDA Act 2006 where the competent authority is Secretary to the Government or above and it is determined that charges have been proved against the accused, it may appoint a hearing officer to afford personal hearing on his behalf.
- (b) The role of hearing officer is to give opportunity of personal hearing to the accused, record his statement and its rebuttal from the departmental representative.
- (c) At the time of hearing, the concerned accused may submit his additional evidence which can be analyzed and recorded by the hearing officer.
- (d) The hearing officer shall submit to the competent authority findings of the Inquiry, the statement of the accused and rebuttal of the departmental representative.

Provided that the hearing officer will not submit his opinion about the proceedings.

- (e) The hearing officer should follow the instruction issued by the Regulations Wing S&GAD vide circular letter No.SORI(S&GAD)4-46/2013 dated 09-10-2013 (**Annex-X**) which provide that the hearing officer shall:
 - (i) be required to provide an opportunity of personal hearing to the accused and to record his submissions during these proceedings and submit for consideration of the competent authority;
 - (ii) confine himself strictly to preparation of record of personal hearing; and
 - (iii) not comment upon the conclusions, findings and recommendations of the inquiry officers since the competent authority is responsible for taking a final decision on merits of the case without any influence or bias which such unauthorized comments may create.

(xv) Inquiry against the employees posted outside cadre

- (a) Section 15 of the PEEDA Act 2006 provides about the disciplinary action against the employees who are posted outside their cadre and only the competent authority can impose penalty upon the accused whether he is working in the department or outside his cadre.
- (b) In case of non-gazetted employee, it is not necessary for borrowing organization to get prior approval from his competent authority in the lending organization. However, in the case of Gazetted officer, prior approval of the competent authority, in the lending organization is mandatory before proceeding against him.

In both the situations, after completion of inquiry proceedings, the record of material is required to be sent to the lending organization for final decision/ imposition of penalty by the competent authority, in accordance with law.

- (c) In case of joint inquiry, where an employee belong to one department and a co-accused to the other department or autonomous body (on deputation or otherwise), the penalty can only be imposed by the competent authority of each one of such co-accused.

(xvi) Appeal or review

- (a) As per section 16 of the PEEDA Act 2006, an accused can submit appeal against the penalty awarded by the competent authority to the next authority or appellate authority directly within 30 days of the order of penalty.
- (b) In case appellant files an appeal before wrong forum, it should be transmitted to the actual appellate authority, by the authority other than the appellate authority who happens to receive that appeal.
- (c) It is mandatory for the appellate authority to call for the record and comments from the concerned department before deciding the appeal of the appellant.
- (d) Opportunity of personal hearing to the accused may not be afforded, if the appellate authority intends to uphold the order of penalty or reject the appeal or review petition.
- (e) The appellate authority can remand the inquiry to the inquiry officer through the competent authority where it is satisfied that the proceedings by the competent authority or the inquiry officer have not been conducted in accordance with the provisions of the PEEDA Act 2006.
- (f) In case of enhancement of penalty by the appellate authority, issuance of show cause and provide opportunity of personal hearing to the accused are mandatory pre-requisites.
- (g) In case of upholding the order of penalty and rejecting the appeal or review petition, opportunity of personal hearing to the accused may not be afforded.
- (h) In case of setting-aside the order of penalty and exoneration the accused or modifying the order and reducing the penalty, opportunity of personal hearing to the accused may not be afforded.

(xvii) Revision

- (a) The powers of revision under section 17 of the PEEDA Act 2006 can be exercised within one year of the order of the penalty or exoneration.
- (b) The competent authority while deciding the inquiry or imposing the penalty, may inform the concerned appellate authority about its decision and accused cannot claim or file revision under section 17 of the PEEDA Act 2006 to any authority.
- (c) Section 17 of the PEEDA Act 2006 does not provide any provision to reduce the penalty by the appellate authority or other authority

(xviii) Appeal before the Punjab Services Tribunal

- (a) As per section 19 of the PEEDA Act 2006, only civil servants can file appeal in the Punjab Service Tribunal against the order of penalty, hence, in case no decision is made by the appellate authority within 90 days, the accused may file appeal to the Punjab Service Tribunal.

- (b) As per amendment made in section 19 of the Act vide notification No. SORI(S&GAD) 1-04/2011 dated 26.08.2014 (**Annex-XI**), the employees of autonomous bodies have been excluded to file appeal in the Punjab Service Tribunal against the penalty awarded by the competent authority or appellate authority. However, they have right to approach any other relevant forum for remedy.

(xix) Inquiry against retired employees

- (a) As per section 21 of the PEEDA Act 2006, a retired employee can be proceeded against under PEEDA Act 2006 within one year of his retirement, provided that inquiry has already been initiated during his service under PEEDA Act 2006 and it should be finalized within two years of his retirement.
- (b) On retirement, only the penalties provided in clause (c) of subsection (1) of section 4 of the PEEDA Act 2006 can be imposed upon the accused i.e. withholding of pension, withdrawing of pension and recovery etc.
- (c) on completion of two years from the date of retirement, the proceedings under the PEEDA Act, 2006 abate and no penalty can be imposed under PEEDA Act 2006.
- (d) Penalty of withholding of increments may, as per instructions bearing No.SORI(S&GAD)1-50/2003(P-III) dated 24-02-2007 (**Annex-XII**), be imposed by the competent authority after considering all aspects of the case.
- (e) As sometimes penalty of withholding of increment is imposed when the employee is drawing pay at the maximum of his pay scale. Moreover, an employee may be at the fag end of his career and imposition of penalty of withholding of increments may cause undue hardship and eventually it may have a bearing upon his pension case.
- (f) As per instruction bearing No.SORI(S&GAD)1-50/2003(P-III) dated 10-12-2010 (**Annex-XIII**) provided that only one increment is earned in a calendar year, therefore, withholding of one increment may be awarded for a period of one year.
- (g) In case more than one increment are to be withheld then the same should correspond to the number of years. For example penalty of two increments may be awarded as under:
"withholding of annual increments for a period of two years."
- (h) As per instructions bearing No.SORI(S&GAD)1-111/2005 dated 10-07-2006 (**Annex-XIV**) in order to circumvent the delays by re-nominating inquiry or hearing officers, the competent authorities may resort to nominations of inquiry or hearing officers by designation rather than by name.
- (i) As per instructions bearing No.SORI(S&GAD)1-3/90 dated 20-07-1991 (**Annex-XV**) there is no bar for taking proceedings under the Efficiency and Discipline Rules (Now PEEDA Act 2006) against a Government servant who is also facing trial in any Court. This is for the reason that the jurisdiction of the inquiry officer and that of the Anti-Corruption Judge is mutually exclusive and that result of the findings in the disciplinary proceedings and in the criminal case could be different.

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