
UNIT-19 DISCIPLINE AND GRIEVANCES

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19.0 LEARNING OUTCOME

After going through this unit, you should be able to;

- Gain understanding positive and negative concepts of discipline;
- Know the details of disciplinary procedure; and;
- Understand Civil Service Conduct Rules.

19.1 INTRODUCTION

Promotion and maintenance of employee discipline is vital for smooth functioning of an organisation. The fundamental purpose of discipline is to establish harmonious relationship between the employers and employees. Other incidental purposes are, willing acceptance of the rules, regulations and procedure of the 'system' (society, organisation),

on the part of workers, securing responsible behaviour on the part of employees, developing a sense of equanimity and spirit of tolerance and adjustment among superiors and subordinates, improving overall effectiveness of the organisation by emphasising *organisational culture*.

Discipline, in a more inclusive sense, refers to the state of employee self-control and effectiveness at work. It indicates the development of genuine team work and proper appreciation of the hierarchical superior-subordinate relationship. Behaviour of employees is also governed by informal norms. Such informal rules and norms that support and legitimise organisational practice are based on the *conventions and culture* of the organisation.

Discipline may be *corrective* or *pre-emptive*, depending on whether it comes into effect pre or post-occurrence of alleged aberrant behaviour. Disciplinary action acts as a deterrent or potentially thwarts future undesired behaviour or corrects aberrant behaviour on the part of an employee. In its *negative aspect*, disciplinary action implies punishment. Satisfactory results cannot be obtained however, if discipline is perceived only in terms of control and punishment.

Discipline in its *positive aspect* implies training of the mind that leads to self-control, character, orderliness and thereby efficiency at work. It indicates the development of genuine teamwork and proper appreciation of the hierarchical superior- subordinate relationship.

19.1.1 Aspects of Discipline

The positive concept of discipline assumes a certain degree of self-discipline. The concept of discipline is related to the idea of 'self – actualisation' (Maslow, 1954) at work which represents higher order need satisfaction of employees. Such discipline is achieved when management applies the principles of positive motivation along with appropriate leadership. Positive discipline is also known as '*co-operative discipline*' or '*determinative discipline*.'

Behaviour of employees is also governed by informal norms besides formal. Such informal rules and norms that support and legitimise organisational practice are based on the conventions and culture of the organisation. It would be pertinent here to discuss the major aspects of discipline.

Peter Senge's (1990) idea of personal mastery, systems thinking and mental models is applicable here. 'Systems thinking is 'concerned with a shift of mind from seeing parts to seeing the whole, from seeing people as helpless reactors to seeing them as active participants in shaping their reality, from reacting to the present to creating the future.'

Personal mastery entails developing the self with commitment to truth. *Mental models* are our perception of the world. Directing energy towards positive pursuits in organisations involves fostering openness in organisational climate. It also involves seeking to distribute responsibly, far more widely, while retaining coordination and control. "Learning organisations are localised organisations that believe in decentralisation and delegation. Workers are encouraged to take up responsibility and are

relied upon to produce expected results.” (Senge, 1990). Senge discusses these concepts in the context of organisations as *learning systems*. Adoption of innovative ways is an imminent aspect of discipline, by the modern inclusive understanding of the concept.

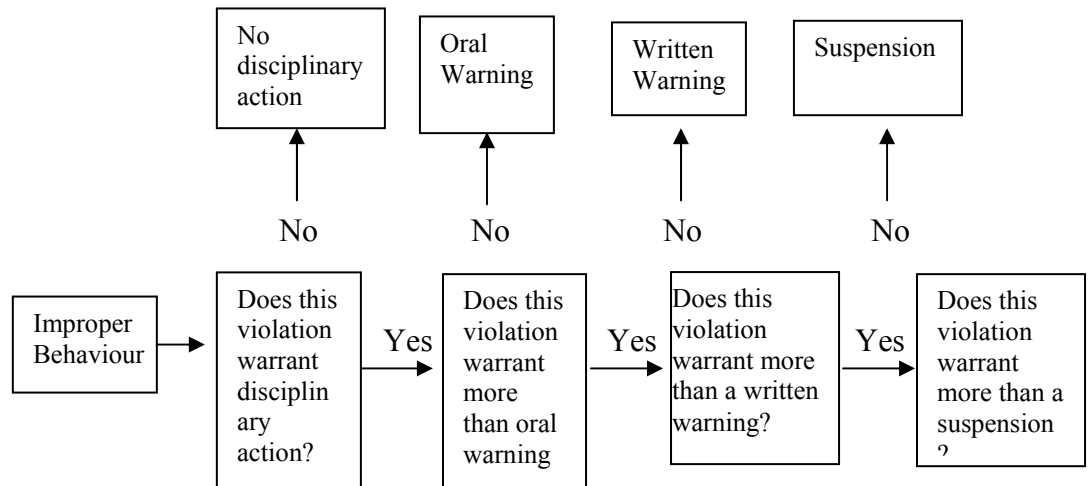
Positive discipline requires certain pre-requisites to be effective. The same are recounted as follows:

- (a) The aim is to help and not harm employees;
- (b) Communication of requirements of job and rules to the employees are necessary to secure better compliance;
- (c) Performance standards should be fair and consistent throughout the organisation;
- (d) Superior should create a climate of responsibility and observe self-discipline, to lead by example. The principle is ‘example is better than precept’;
- (e) Individual differences among men are recognised and methods applied take the specifics of each case into account; and;
- (f) Employee gains a sense of security with the knowledge of scope of actions, particularly limitations thereof, which help him conform better to organisational stipulations (concerning formal and informal norms of work behaviour).

19.1.2 Progressive Discipline

Progressive discipline is liberal in nature and ideally progresses sequentially and systematically through a prescribed series of steps to be effective. These steps are as follows: *oral reprimand*, *written reprimand*, *second written warning*, *temporary suspension* and finally, *dismissal or discharge*. Observance of the sequence ensures compliance with the principle of ‘natural justice’, represented diagrammatically (Wayne and Noe, 1985):

Fig.1 Progressive Discipline Steps



In view of above facts, the idea is endorsed that it is important to have self-discipline for healthy organisational behaviour.

19.1.3. Requirements of Effective Discipline

Requirements of effective discipline are different in the present climate of '*knowledge era*,' where employees are better educated and do not acquiesce unquestioningly to autocratic behaviour. Unions also exert considerable influence on disciplinary matters. For effective discipline the following principles need to be considered: -

1. Discipline should be constructive, in that, emphasis should be on work efficiency and not mere compliance with rules and regulations.
2. Disciplinary action should not be initiated unless there is imperative need for it and no other means is expected to be effective.
3. Discipline is not to be administered unthinkingly. Each case should be treated keeping the specifics in view.
4. All facts regarding a case should be collected to gain proper appreciation of the case.
5. Employee should be given a fair chance to explain his side of the story.
6. Attempt should be made to know the worker's perception. It helps better appreciation of the situation. Also, admission of mistake on the part of the offending party should be encouraged.

7. Employee should not be disciplined in the presence of his colleagues or subordinates.
8. Right timing of action is important. Action should be taken as soon as possible after the occurrence of questionable behaviour
9. Corrective measure should be adequately served in order to be effective.
10. Consistency in disciplinary action is important.
11. Once disciplinary action is taken, normal attitude should be resumed towards the offending employee.
12. Occasions of 'disciplining' should be reduced to the minimum by showing constant and sincere interest in each worker's welfare on and off the job.
13. Admission of mistake should be encouraged on the part of the offending party.
14. Every action taken requires auditing in due course to judge its efficacy, specifically in terms of;
 - (a) The extent to which the situation was corrected.
 - (b) Extent to which the employee realised his mistake.
 - (c) Impact on organisational climate.

19.2 APPROACH OF NEGATIVE DISCIPLINE

Employees are forced to obey orders and compliance is exacted as per rules by use of coercive means such as penalties, threat, fear or force. Such discipline is known as *punitive, corrective or autocratic* discipline. This approach to discipline inhibits behaviour and ensures only a minimum standard of performance on the part of employees. The approach of negative discipline entails: -

- (a) 'Big shock', rule-through 'fear' or 'be tough' line;
- (b) Punishment is to be deterrent i.e., make one an example for others;
- (c) There is no emphasis on 'why' regarding punishment;
- (d) No fact is essential to explain it; and
- (e) Dealing with misconduct is important

19.2.1 Reasons of Indiscipline

Indiscipline implies, unabashed nonconformity to formal and informal stipulates of work behaviour of the organisation, which has the effect of disrupting organisational practice. Environmental (socio-economic and socio-cultural) and behavioural factors contribute to expressed impunity on the part of workers. It has been found, that many cases of indiscipline in an organisation arise out of managerial actions and decisions. Such actions and decisions are recounted below:

- (i) Lack of proper communication
- (ii) Ineffective leadership
- (iii) Unfair labour practices
- (iv) Inadequate wages and salary system
- (v) Unreasonable declaration of payment of bonus or non payment
- (vi) Ineffective grievance procedure
- (vii) Victimisation by the management, without assigning reasons for actions
- (viii) Inappropriate placement policy, leading to employee resentment.
- (ix) Undesirable derogatory behaviour of senior officials
- (x) Error of judgement of the management leading to gross impropriety
- (xi) Unfavourable physical working conditions and social working relations
- (xii) Divide and rule' policy of the management.

Other incidental causes with wider systemic implications are:

- (i) Illiteracy and low intellectual level of workers
- (ii) Social background of workers, such as drinking habit, oppressive family structure, caste discrimination, etc.
- (iii) Natural reaction of workers towards rigidities and multiplicity of rules
- (iv) Employee's personal problems and subjective fears
- (v) Incurable tendency to flout organisational rules and instructions in some cases

Some other manifestations of disorderly behaviour displayed during work hours at the establishment include:

- Sleeping while on job

- Disobedience, smoking in a prohibited area
- Failure to obey safety rules
- Concealing defective work
- Unauthorised collection of funds, and
- Allowing unauthorised persons to operate machines, etc.

In a nutshell, indiscipline is the result of inter-related and underlying general, socio economic, or particular organisational factors, for which the management and the employees, both are responsible. Control requires effective leadership. Leadership function should not be construed as a management prerogative alone. Employees are expected to exhibit an equal measure of responsibility for maintenance of organisational discipline.

Indiscipline if allowed to grow creates an environment of non-cooperation in the organisation, whereby strikes, go slow tactics, and unauthorised absenteeism and loss of production are potentially possible.

Clause 14 of the model standing orders provided in the Industrial Employment (Standing Orders) Act (1946) give an illustrative list of omissions and commissions which are regarded as constituting misconduct, and refers to disciplinary action that needs to be taken in case of misconduct. Indiscipline is categorised into two broad groups: (i) minor or moderate offences (ii) serious offences. It is difficult to give an exhaustive account of all behaviours constituting indiscipline. Examination of facts relating to indiscipline would however be desirable.

Categories of Offences

A. Minor or Moderate Offences

Minor or moderate offences include:

- unauthorised absence on one or more scheduled work days
- leaving job or work area without proper authorisation
- wandering around to the general disquiet, and ,
- fighting

B. Serious Offences

Serious offences involve malicious damage or wilful destruction to organisational property, gross insubordination, deliberate negligence of duty, stealing and fraud, carrying dangerous weapons inside organisational premises, promotion of gambling, frequent repetition of offensive act (s), striking work, tempering with official records, misappropriation of funds etc.

Disciplinary Action

The disciplinary action process is dynamic and on-going but there is no hard and fast rule to deal with it. Discipline involves behaviour-management skills, which may be subjectively determined. Several concepts regarding administration of disciplinary rules have been developed. Counselling and educating employees can be effectively and positively applied to check indiscipline. One view regarding disciplinary action is commonly referred to as the 'Hot Stove Rule'.

According to this approach, disciplinary action should follow precepts such as: -

1. *Burns Immediately* - Disciplinary action should be taken immediately for maximum impact.
2. *Provides Warning* - It is also important to provide advance warning to errant employee to deter future occurrence of unacceptable behaviour. The analogy offered to express the situation is; punishment grows in succeeding stages, as one 'feels the heat' as one moves closer to a stove and is likely to be burnt on touching it;
3. *Gives Consistent Punishment* - Disciplinary action should be consistent. As with a hot stove, each should be affected (burnt) in equal measure (to an equivalent degree) by it (on touching it); and;
4. *Burns Impersonally*- Disciplinary action should be impersonal.

In order to maintain the motivation and morale of employees at a desirable level, it is relevant to adopt a formal system for dealing with indiscipline. Informal approach to managing discipline is not recommended as it creates bitterness, is mostly based on hear say, and also lacks effectiveness. The formal system mainly refers to the *judicial approach*.

19.2.2. Judicial Approach to Discipline

In order to ensure security of jobs, the government has assured a measure of protection to industrial workers from apprehended misuse of managerial power of hire and fire.

Industrial Employment (Standing Orders) Act, 1946, defined the conditions of recruitment, discharge, disciplinary action, holidays, leave, etc. This act is applicable to industrial establishments where hundred or more workmen have been employed. Under this act, every establishment is required to submit standing orders for approval of the Labour Commissioners of the respective areas. A copy of this draft is forwarded to the trade union of workmen or to individual workmen requiring them to submit their objections within fifteen days from the receipt of the draft.

If modifications or additions have been made by the parties, the Commissioner sends a copy of the certified standing orders to the employer. Any party aggrieved by the orders of the commissioner can appeal to the appellate authority. The order of the appellate authority is final. The standing orders come into force at the expiry of thirty days from the date on which the copies are sent by the certifying officer.

Acts amounting to Misconduct:

1. Wilful insubordination or disobedience;
2. Theft, fraud or dishonesty in connection with employer's business
3. Refusal to accept any order or notice or charge sheet communicated in writing;
4. Wilful damage to work in progress or property of the employer ;
5. Non-observance of safety precautions or rules;
6. Taking or giving bribe or any other form of illegal gratification;
7. Late attendance and absence without leave on more than four occasions within a month;
8. Habitual absence without permission for more than ten consecutive days or overstaying the sanctioned leave without sufficient grounds or any satisfactory explanation;
9. Absenting without express permission;
10. Assault, abuse or threat to any officers or colleagues ;
11. Drunkenness or reporting to duty under the influence of alcohol;
12. Smoking or spitting in prohibited areas;
13. Sleeping while on duty;
14. Unlawful interference in the work of other employees;
15. Habitual neglect ;
16. Malingering or pursuing slow down tactic;
17. Preaching or inciting violence;
18. Striking work without tendering fourteen day's notice ;
19. Conviction in any court of law for any criminal offence;
20. Unauthorised communication of official documents;
21. Collecting money or canvassing for any purpose during work hours without permission of the management;

22. Organising meetings in company premises without the consent of the management;
23. Money lending or carrying on any private business activity within the premises of the organisation;
24. Giving false information about personal particulars, name, age, father's name, qualification, previous experience, etc., at the time of employment;
25. Spreading rumours or giving false information or making defamatory statements, which bring the management or officers into disrepute;
26. Speculation in any commodity;
27. Abetment or commission of any act of misconduct;
28. Breach of any rule applicable to the establishment.

From the above recount, it is clear that the model standing orders specify the terms and conditions of employment and define day-to-day employer-employee relationship. The Manager has the right to take disciplinary action against subordinates for misconduct but has to observe the principles of natural justice in the process. The subordinate should be given 'reasonable opportunity' of being heard.

Domestic Enquiry

There is no statutory regulation of disciplinary action. However, case law has been developed by the Supreme Court, the High Courts and Labour Courts and Industrial Tribunals in India. Awards of courts have indicated detailed procedure for disciplinary action and made it compulsory on the part of the management to hold domestic enquiry before a worker is punished for misconduct.

The principle behind domestic enquiry is to do justice to the accused. No employee should be punished unless proven guilty. The rules of 'natural justice' require that a party should be afforded the opportunity of providing relevant evidence and that the evidence of the opponent should be taken in his presence and that he should be given the opportunity of cross examining the witnesses who were examined in support of the charges and no materials should be relied upon against him without availing an opportunity of explaining.

The purpose of an enquiry is to ascertain facts with respect to a case. This has to be done through oral evidence given witnesses or documents produced by the official counsel in support of arguments.

In cases where an employee has been punished, it has to be established that action taken was in conformity with legal requirements, and, even

otherwise, manifestly just. In this context certain legal aspects which managers might come across when dealing with a delinquent employee need to be discussed.

- (a) When there is reported misconduct on the part of an employee, the manager should immediately arrange for a preliminary investigation. Disciplinary action should be instituted only if there is a *prima facie* case against the employee and that too, if the management is convinced that corrective action like oral reprimand or warning would not be sufficient to meet the situation.
- (b) If the management decides that the misconduct alleged against the employee is grave enough to warrant issue of a charge sheet and institution of further proceedings, certain simple guidelines should be followed to ensure that no unjust action is taken against the employee.

These principles have been discussed by the Highest Court of the country and form the corner stone of legal requirements of disciplinary proceedings. The same are: -

- (i) Action taken should be in good faith;
- (ii) There should not be victimisation or any unfair labour practice;
- (iii) Proceedings should be free from basic errors and principles of natural justice should always be observed; and;
- (iv) Case against an employee should be based on the material facts presented during the proceedings.

The management has full power to regulate internal administration but any action taken by the management opposed to above principles is bound to be resisted by workmen and quashed by the courts on grounds of victimisation.

Victimisation implies punishment of an innocent employee in an arbitrary manner, and, also, illegally, because he has in some way displeased the employer. An active member of union is given punishment quite out of proportion to the gravity of the offence simply because he has incurred the displeasure of the employer.

If findings at the enquiry are based on extraneous considerations or the employee is held guilty and punished for an act not mentioned in the charge sheet, the enquiry officer is held guilty of basic error.

Procedure of Domestic Enquiry

From the above analysis, it is clear that disciplinary proceedings (including holding an enquiry) cannot be deemed to have been properly instituted, unless the following requirements have been met: -

- (a) The employee concerned has been informed of the charges levelled against him. Sufficient notice has to be given to the employee to enable him to prepare his defence and ready all documentary evidence;
- (b) Enquiry officer should be unbiased and independent. He may be a senior officer of the organisation or an outsider or a lawyer, as mentioned in the standing orders of the organisation;
- (c) Witnesses are to be examined in the presence of the employee, in respect of the charge or charges levelled against him;
- (d) Employee is to be given a fair opportunity to cross-examine the witnesses;
- (e) Employee are to be given a fair opportunity to produce his witnesses, including him self in his defence; and ;
- (f) Enquiry officer is required to record his findings with reasons for the same in his report.

Apart from the principles of natural justice, the other two requirements are:

- (1) Unbiased enquiry proceedings; and ;
- (2) Opportunity to the other party to be heard in good faith.

The Supreme Court has set out the duties of a Labour Court in terms of its role in domestic enquiry. First step is to determine the validity of a domestic enquiry. If no enquiry or a defective enquiry was held, the labour court can quash the proceedings and conduct a fresh enquiry on its own. Both the management and employee are allowed to produce witnesses and adduce evidence in their support. Based on the principles discussed above a domestic enquiry consists of the following stages: -

Issue of Charge Sheet: - The charge sheet should be carefully drafted and should be based on a written complaint or report. It must contain, in clear terms, full particulars of information regarding date, time, place, description etc., relating to alleged offence. The relevant standing orders should also be cited. The charge sheet should be duly served to the employee.

Reply to the Charge Sheet: - A specific time period should be allowed to the employee to submit his explanation in reply to the charge sheet. If reply to the charge sheet is found satisfactory, there is no question of any enquiry and the employee is exonerated of the charge. If satisfactory, the employee should be intimated and asked to attend the enquiry.

Enquiry: - The enquiry officer should not have any personal knowledge of the incident, nor should have any personal interest in the case. Enquiry officer should also not be a likely witness in the case.

Examination of Witnesses: - The charge sheet should be read over and explained to the employee concerned who should again attest to

understanding it. The complainant and his witnesses should be examined before the charge-sheeted employee. The employee can be asked to make any statement regarding the incident on which he stands charged. The underlying principle is that the complainant should prove the commission of offence and the employee concerned is not to be required to disprove the charges levelled against him.

Admission of Guilt: - If the charge-sheeted employee admits to guilt, it does not necessarily follow that the enquiry is to be dispensed with. To ensure that any punishment awarded has been justly meted out, it is suggested that even when the employee admits guilt, a formal enquiry should be held to have his admission confirmed.

Findings: - On the material available to the enquiry officer in the course of the enquiry, should be considered the evidence on record and he state his own conclusions. The object of holding an enquiry is to enable an independent person to arrive at a just decision as to charge. The conclusion should be recorded precisely and clearly indicating the reasons for arriving at the same. No extraneous information should be relied on and the totality of the evidence should be considered. On receipt of enquiry report, appropriate authority examines the proceedings, evidence, documents and the findings of the enquiry officer. In case the appropriate authority agrees with the findings of the enquiry officer and decides to impose punishment on the basis of conclusions arrived at, the second stage of enquiry begins because it is the right of the delinquent employee to make a presentation against such findings in the report which is the demand of the reasonable opportunity as has been laid down by the Supreme Court in *MD, ECIL vs. K Karunakaran*(1993). Denial of the right to a copy of the enquiry report amounts to denial of 'reasonable opportunity' and violation of Articles 14 and 21 of the Constitution of India and principles of 'natural justice'. Accordingly, a copy of the enquiry officer's report is supplied by the disciplinary authority to the delinquent employee, for him to submit his explanation against the findings of the enquiry officer against. In response, the delinquent employee has a right to question the fairness and findings of the enquiry officer and the employee submits his explanation or representation against the report. The explanation so submitted by the employee is to be considered by the disciplinary authority the seriousness of the charges proven against the employee. Punishment order is passed in accordance by the disciplinary authority. Punishment should be based on the findings of the enquiry and should be in proportion to proven misconduct and considering the past record of the employee.

Punishments for Misconduct

- (i) Workmen who are adjudged guilty of a major misconduct are liable to any of the following punishments: -
 - (a) Withholding increment (s)
 - (b) Demotion to a lower post in the same cadre or to a lower cadre
 - (c) Suspension; or;
 - (d) Dismissal

- (ii) The employer may award the following punishments for minor misconduct: -
 - (a) Fine
 - (b) Warning
 - (c) Censure

Imposition of Fine: - A fine shall be imposed in accordance with the provisions of the Payment of Wages Act, 1936, by the officer authorised to impose fines. The proceeds of all the fines realised are to be remitted to the Welfare Commissioners under U.P. Welfare Funds Act, 1965 as per the rules made there under.

Punishment should be only awarded after affording reasonable opportunity of being heard to the workmen in accordance with the principles of natural justice.

19.3 DISCIPLINE IN CIVIL SERVICE

Government servants have to comply with strict norms of behaviour relating to prevention of corruption and personal and professional ethical conduct. Enquiries are instituted against government employees in case of breach of stated provisions in accordance with Article 311 of the Constitution of India. It reads as under:

Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a state

- (1) No person who is a member of a civil service of the Union or an all India service or holds a civil post under the Union or a state shall be dismissed or removed by an authority subordinate to that by which he was appointed.
- (2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.
- (3) Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of being of making representation on the penalty proposed.
- (4) Provided further that this clause shall not apply-
 - a. where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

- b. where an authority empowered to dismiss or remove a person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause 2, the decision thereon of an authority empowered to dismiss or remove such person or reduce him in rank shall be final.

The distinction between '*dismissal*' and '*removal*' lies in the consequences of the respective orders. In the former case, the person is ineligible for reemployment in government service, while in the latter case he is eligible. To constitute 'reduction' in rank within the meaning of clause (2), there should be reduction relating to classification as a government servant, and such reduction or demotion must be by way of a *penalty*. The decision should cast entail 'stigma' on the employee and entail of penal consequences to imply dismissal, reduction in rank or dismissal within the meaning of Article 312. Punishment may not be handed down to a civil servant by any authority subordinate to that by which he was appointed. The term 'subordinate' refers to subordination in rank and not in respect of 'function.' The power under article 311 cannot be delegated. But the power to inquire to the charges against the employee and report may be delegated to a subordinate authority or to an independent individual or a tribunal provided the final consideration and dismissal is by the appointing authority. The advice of the union public service commission is taken in every case where it is necessary to consult the commission before making an order imposing penalty (Hidaytullah, 1986). Members of defence services or those who hold an any post connected with defence like civilians in defence establishments are not governed by the clause. It has also been held that employees of a government company or of statutory corporation being juristic entities apart from the state cannot be said to hold civil posts within the meaning of the clause.

As per Central Civil Services (Classification, Control and Appeal) Rules, 1965, Part IV , Suspension (Rule 10), "The appointing authority or any authority to which it is subordinate or the disciplinary authority empowered in that behalf by the President, by general or special order, may place a Government servant under suspension:-

- a. Where a disciplinary proceedings against him is contemplated or pending; or; where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the state; or
- b. where a case against him in respect of any criminal offence is under investigation, inquiry or trial:

Provided that, except in case of an order of suspension made by the Comptroller and Auditor-General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing

authority the circumstances in which the order was made.” (R. Kannan)

Penalties classified as per Rule, 11 are as follows:

A. Minor Penalties-

- i. censure;
- ii. withholding of his promotion;
- iii. recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
- iv. withholding of increments of pay;

B. Major Penalties

- v. reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;
- vi. reduction to lower time-scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post, or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or Service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or Service;
- vii. Compulsory retirement;
- viii. removal from service which shall not be a disqualification for future employment under the Government;
- ix. dismissal from service which shall ordinarily be a disqualification for future employment under the Government

The President may impose any of the penalties specified in Rule 11 on any Government servant (Rule 12)

The President or any other authority empowered by him by general or special order (Rule 13) may:

- a. institute disciplinary proceedings against any Government servant;
- b. direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 11.

A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (v) to (ix) of Rule 11 may institute disciplinary proceedings against any Government servant for the imposition of the penalties specified in clauses (v) to (ix) of Rule 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties. (*ibid.*)

19.3.1 Issue with Discipline

It is felt that discipline in government is based on 'archaic' rules governing civil service *neutrality* and *anonymity*. Particularly, the Weberian construct of the ideal type bureaucracy is held unsuitable for development administration by a leading group of scholars. While specific merits of the arguments may be discussed separately, it would be in order for the purpose of this discussion to glance at conduct rules for civil servants in India to take sides in the raging controversy about strict construction of the rules. The same has to be appreciated in the context of 'good governance' that forms the informing ideal to administration in general and development administration in particular. It is opined that bureaucracy needs to be multi skilled, horizontally integrated with other organisations, both government and non- government and more expressive and articulate with respect to responsiveness and better accountability of personnel in order to be people friendly and truly effective. Present rules 'gag' the service and make it unresponsive to peoples' aspirations. Some select provisions of All India Civil Service Conduct rules could now be studied, as mentioned in the following text.

19.3.2 All India Civil Service Conduct Rules 1968

Rule 3(1) states the requirement and desirability of every member of the service maintaining *absolute integrity and devotion to duty* and refrain from acts unbecoming of a member of the service. Implications of the rule are as follows:

Every member shall:

- Ensure integrity and devotion to duty of those under his control and authority;
- Shall be courteous;
- Shall not employ time wasting tactics; and
- Shall act in his own best judgment except when acting under the explicit order of the superior. He cannot evade responsibility by seeking instructions or approvals when not necessary.

{Note 1-Oral orders, if absolutely necessary, should be put down in writing as soon as possible.

Note2- A candidate who regularly falls short of deadlines and quality targets should be deemed lacking in devotion to duty within the meaning of rule 3(1)

Note 3-Engagement in proselytising activities are a just ground for initiating disciplinary action against a civil servant under rule 3.}

Rule 4: Employment of near relatives in companies or firms.

No member shall use his position to secure employment for members of his family in private undertakings (rule 4. cl.1) Employment of a near relative or a member of family with a private undertaking having official dealings with the government requires previous sanction (rule 4-cl.2a) or communication forthwith (rule 4-cl. 2b) to the government.

In case of employment of a family member (s) with a private undertaking, or interest in the affairs of the firm, directly or indirectly, concerned member shall refrain from any dealing relating to awards of contracts to the undertaking. If such eventuality arises, the direction of the superior should be taken. As per rule 13 (3), every member of the service shall, if any member of his family is engaged in a trade or business, or owns or manages an insurance agency or commission agency, report that fact to the government.

Rule 5: Taking part in politics and elections.- As per rule 5, no member of the service can in any way be associated with the activities (fund raising or active association) of any political party or organisation with political overtones or support any political movement or activity ideologically or financially (rule 5-cl.1). As per rule 13 (2), a member of the service may, without the previous sanction of the government,-

- (a) undertake honorary work of a social or charitable nature, or
- (b) undertake occasional work of a literary, artistic or scientific character, or
- (c) participate in sports activities as an amateur, or
- (d) take part in the registration, promotion or management (not involving the holding of an elective office) of a literary, scientific or charitable society, or of a club, or similar organisation, the aims or objectives of which relate to promotion of sports, cultural, or recreation activities, registered under the societies registration act, 1860 (21 of 1860), or any other law for the time being in force; or
- (e) take part in the registration, promotion or management (not involving the holding of an elective office) of a co-operative society substantially for the benefit of the members of the service or government servants registered under the co-operative societies act, 1912 (2 of 1912), or any other law for the time being in force in any state:

Provided that:

- (i) he shall discontinue taking part in such activities, if so directed by the government; and

(ii) in a case falling under clause (d), or clause (e) of this sub-rule, his official duties shall not suffer thereby and he shall, within a period of one month of his taking part in such activity, report to the government giving details of the nature of his participation.

The restriction extends to members of his family, in case of organisations involved or suspected to be involved in activities subversive of the government. In case of such eventuality, a report shall immediately be made to the superior (rule5-cl.2)

In case of ambiguity regarding application of the rule, question shall be referred to the government for decision (rule5-cl.3).

No member of the service shall bring to bear, his influence, on the political process in any way, such as canvassing for a political party in elections or interfering in any other way (5-4) for example, propagating political ideology, giving indication of voting preferences, display of electoral symbols on vehicle etc.(explanation to rule 5).

Rule 6: Connection with press or radio: - Previous sanction of the government shall not be required when the member of the service, in the bonafide discharge of his duties or otherwise, publishes a book or contributes to or participates in a public media (rule13-cl.f) provided that he shall observe the provisions of the rules and at all times make it clear that the views expressed are of his own and not that of the government. Participate in, or associate himself in any manner, in the making of:-

- (i) a sponsored media (including radio, television programme, or
- (ii) a media programme commissioned by Government media, but produced by an outside agency, or
- (iii) a privately produced radio or television or other media programme including a video magazine; provided that no previous permission shall be necessary in the case a member of the service participates in a programme produced by the 'Doordarshan' on a subject dealt with by him in his official capacity.

Provided that he shall observe the provisions of rules and at all times make it clear that the views expressed, are of his own and not those of the government.

Rule 7: Criticism of government policy:

As per rule 7, members of service are prohibited from:

- Publicly criticising government policy through publications or announcements (does not include bona fide discharge of duty); and
- Affecting relations between the central and state governments or the Government of India with foreign states

Rule 9: Unauthorised communication of information:

Rule 9 prohibits unauthorised communication of information (except in accordance with general or specific order to that effect from the government or in the course of performance of official duties assigned 'in good faith') on the part of members of the service (right to information) Quoting from documents not authorised to have access to, is deemed unauthorised communication within the meaning of the rule (explanation to rule 9)

No member of the service may subscribe to fund raising activity, for any object whatsoever, except with the previous sanction of the government (rule 10).

Rule 13: Previous sanction of the government is needed to:

- (a) Engage directly or indirectly in any trade or business, or
- (b) Negotiated for or undertake, any other employment, or
- (c) Hold an elective office, or canvass for a candidate or candidates for an elective office, in any body, whether incorporated or not, or
- (d) Canvass in support of any business of insurance agency, commission agency etc. owned or managed by any member of his family, or
- (e) Take part, except in the discharge of his official duties, in the registration, promotion or management of any bank or other company registered or required to be registered under the Companies Act, 1956, or any other law for the time being in force, or of any co-operative society for commercial purposes.

Rule 14- Investment, lending and borrowing: As per rule 14 (1), No member of the Service shall speculate in any stock, share or other investments but this provision will not apply to occasional investment made through Stock-brokers or other persons duly authorised on licence under the relevant law.

As per rule 14 (2), No member of the service shall make or permit any member of his family or any person acting on his behalf to make any investment, which is likely to embarrass or influence him in the discharge of his official duties.

As mentioned in Rule 14 (3), if any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule (2) it shall be referred to the government for its decision.

According to 14 (4) (i), No member of the service shall save in the ordinary course of business with a bank or a public limited company, himself or through any member of his family or any person acting on his behalf.

(a) Lend or borrow or deposit money as a principle or agent, to, or from, or with, any person or firm or private limited company within the local limits of his authority or with whom he is likely to have official dealings or otherwise place himself under pecuniary obligation to such person or firm; or

(b) Lend money to any person at interest or in manner whereby return in money or kind is charged or paid;

As per rule 14 (4) (ii) When a member of the Service is appointed or transferred to a post of such nature as would involve him in the breach of any of the provisions of sub-rule (2) or sub-rule (4), he shall, forthwith report the circumstances to the Government and shall thereafter act in accordance with such order as may be made by the Government.

Rule 16 deals with movable, immovable and valuable property: As per rule 16 (1) every member of the service, on his first appointment to the service, submit a return of his assets and liabilities in such form as prescribed by the government giving full particulars.

As per rule 16 (2), every member of the service shall submit an annual return giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person.

In accordance with Rule 16(3), No member of the service shall, except with the previous knowledge of the government:

(a) Acquire any immovable property by lease, mortgage, purchase, gift or otherwise, either in his own name or in the name of any member of his family; or

(b) Dispose of by lease, mortgage, sale gift or otherwise any immovable property owned by him or held by him either in his own name or in the name of any member of his family:

As per rule 16 (4) every member of the service shall intimate the government in respect of each transaction, whose value exceeds Rs.15,000/- within a month of the completion of such transaction.

Previous sanction of the government shall be necessary in case of transaction with a person having official dealings with the member of the service.

As per rule 16 (5), a member of the service is required to furnish a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family

Rule 17 reads that for vindication of official act, recourse to the court or press might be had after obtaining previous sanction of the government. If within twelve weeks such sanction is not granted the same is taken as accepted.

Members of the service are obligated to observe cultural norms in personal and official capacity. The same are enumerated under rule 17 A:

- (i) Observe strictly, the existing policies regarding age of marriage, preservation of the Environment, Wild Life and Cultural heritage:
- (ii) Observe the existing policies regarding crime against women and
- (iii) Observe the two children family norms.

Rule 18, makes canvassing for political or other influence to bear upon superior authority is deemed undesirable conduct on the part of a service member.

Personal ethical conduct is stipulated for public servants. Rule 19(1) prohibits a member of service from entering into or contract a marriage with a person having a spouse living unless the government sees that such marriage is permissible under the personal law applicable to such member and the prospective spouse or on other grounds and permits such a marriage. Also, a member of the service who has or proposes to marry a foreign national shall intimate the government of such marriage/intent.

20. Consumption of intoxicating drinks and drugs-A member of the service shall:

Strictly abide by any law relating in intoxicating drinks or drugs in force in any area in which he may happen to be for the time being20. (a);

Not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug20. (b);

Not consume any intoxicating drink or drug in a public place20. (bb);

not appear in a public place in a state of intoxication 20 (c);

not use such drinks or drugs to excess 20 (d).

Above rules have to be studied in the context of ethics in governance. As has been seen government servants are expected to be model employees in that both their personal and professional conduct is expected to be exemplary. Their behaviour is expected to approximate the 'ideal'. It corroborates the idea that it is indeed people who make an organisation and individual discipline constitutes organisational discipline. (Ministry of Personnel Pension and Pensioners' Grievances: Official Release, 2005)

19.4 CONCLUSION

An attempt has been made in the text of this Unit to clarify the meaning and importance of discipline and conduct rules towards effective working of an organisation. Special focus has been on explanation of discipline in empowerment organisations and relevant rules from All India Civil Service Conduct Rules have been highlighted.

19.5 KEY CONCEPTS

Enquiry: The legal process of inquiring into a dispute is termed an enquiry. Rules of natural justice deem that punishment should follow proper judicial procedure. It should not be arbitrary in any manner. Each party should have a reasonable opportunity of being heard and judgment should be handed down in a fair and impartial manner.

Indiscipline: Non conformity with rules and regulations of an organisation constitute indiscipline. Indiscipline could result from express violation of some rule on the part of the employee which constitutes indiscipline in the legal sense or simply unethical or unacceptable behaviour on the part of the offending employee.

Victimisation: Punishment of an innocent employee. Victimisation implies harassment. Victimisation is matter of legal interpretation. The court decides what constitutes a general disciplinary action and when an action could be interpreted as an instance of victimisation.

19.6 REFERENCES AND FURTHER READING

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19.7 ACTIVITIES

- 1) Discuss the negative and positive concepts of discipline. Analyse the extent to which positive discipline is practicable.
- 2) Why is indiscipline caused? Who bears the responsibility? Bring your own ideas on the subject.
- 3) Discuss All India Service Conduct Rules in the specific context of discipline.