

Government of Odisha
General Administration & Public Grievance Department

No. 695 /Gen., Bhubaneswar, Dated 07/01 / 2023

GAD-SC-DMS-0001-2023

To

All Departments of Government,
All HoDs,
All Collectors.

Sub: Taking Disciplinary action and Criminal action simultaneously against Government Servants on the same set of facts and consideration of adhoc promotion due to inordinate delay in conclusion of the Disciplinary Proceedings- Clarification regarding.

Elaborate instructions/guidelines have been issued by the Government in the matter of taking Departmental Action concurrently with the Criminal Case on the same set of facts which are quoted below for immediate reference :-

1. P & S (A.T.) Department No. 298 A.T., Dated 28.08.1962 stipulates detail principles to the effect that " in the absence of any legal bar, a departmental enquiry can be started or continued when a criminal case is sub judice, on the same set of facts, provided no scope is allowed, to cause any embarrassment to the Court trying the criminal case, as a result of the departmental proceedings".
2. GA & PG Department Circular No. 22937, dated 28.08.1997 stipulates that in order to ensure timely action on the proposals sent by the Vigilance for taking Departmental action, the Departments/HoDs/ PSUs/ Sub-ordinate offices should ensure that all proposals for sanction of prosecution should be cleared by them within two months. During this period any clarification required from the Vigilance should be obtained and there should in no case be a plea to delay the matter. Similarly, the proposal or Departmental action should be cleared within 6 months positively and the Disciplinary Authorities should take care to see that the inquiries are properly held before passing their final orders.
3. GA & PG Department Circular No. 14596, dated 03.05.2001 clarifies that acquittal of Delinquent employees in a Criminal Case does not *ipso facto* put a stop to any Disciplinary Proceedings initiated against the Government Servant. An officer acquitted in a Criminal Case may be found guilty in a Departmental inquiry as in the latter; a less rigorous standard of evidence is insisted upon.
4. GA & PG Department OM No. 3928/Gen., dated 18.02.1994 r/w OM No. 29699/Gen., dated 01.11.1997 stipulates that, where Disciplinary Proceedings are pending, the sealed cover procedure shall be adopted after the charge-sheet in the DP has been

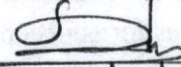
served on the Delinquent Government Servant and the Circular No. 11962, dated 28.05.2012 stipulates that the sealed cover procedure shall be adopted in all Criminal case where cognizance has been taken by the Court.

5. GA & PG Department OM No. 15643/Gen., dated 17.06.2021 prescribes the modalities for consideration of adhoc promotion of Govt. Servants against whom Disciplinary Proceedings are pending, but could not be finalized for a long period of time.

In spite of the above stated clear cut provisions, different Departments of Government are endorsing cases on conclusion of Disciplinary Proceedings during pendency of Criminal/ Vigilance Case and even though the same PS Cases are under investigation stages as a routine matter soliciting considered views of the GA & PG Department without examining the individual cases as per the principles referred to above. Besides, consideration of adhoc promotion of Government Servants not falling within the ambit of GA & PG Department OM No. 15643/Gen., dated 17.06.2021 have also been submitted to this Department without examining the said cases as per the extant principles.

It is therefore requested to refrain from making references to this Department on the above matters in a routine manner and to dispose of the same by relying on the above cited instructions/guidelines issued by this department.

Yours faithfully,



Additional Secretary to Govt.