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HINDUSTAN COPPER LIMITED

Schedule "A" CPSE under Ministry of Mines, Govt. of India

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TRAINING WORKSHOP ON

DISCIPLINARY PROCEEDINGS

ORGANISED BY

HINDUSTAN COPPER LIMITED

20th June, 2025

Kolkata

OUTLINE

TRAINING WORKSHOP ON

‘DISCIPLINARY PROCEEDINGS’

ORGANIZED BY

HINDUSTAN COPPER LIMITED

ABOUT THE PROGRAM

HindustanCopper Limited organized workshop on 'Disciplinary Proceedings' in Kolkata on 20th June, 2025, with a overwhelming participation of 18 central government organizations based in Kolkata, namely Coal India, DVC, GSI, MSTC, GRSE, KOPT, AY, B&R, BBJ, E Railway, SE Railway, NIPER, ISI, UCO Bank and NIC.

The Chairman and Managing Director, HCL and Director Operations, HCL graced the occasion and welcomed the esteemed speakers - Shri Ghansham Bansal (DG/DMRC Academy & Ex-CVO/DMRC) and Shri Rajiv Verma (Advisor-CVC) along with all the guests and participants including CVOs, Ex-CVO, Vigilance & HR officers, and HODs of HCL.

With an overview of Administrative Vigilance and Disciplinary Proceedings by Chief Vigilance Officer, HCL, the session commenced with the deliberations of Shri Rajiv Verma on “Administrative Vigilance Setup, CVC’s Guidelines on timely Completion of Inquiry Proceedings & Technical Aspects in Conduct of Inquiries”, followed by Shri Ghansham Bansal, who elaborated on the Workshop topic, with real-life examples and unique situations relating to various “Nuances of Disciplinary Proceedings” – in an extremely value-adding interactive session.

The audience was enthralled by the enlightening training imparted by the esteemed speakers, making the programme a remarkable event.

Memories with a summary of the learnings of the Training Workshop held on 20th June, 2025 are captured in this Compendium.

RENDITION OF NATIONAL ANTHEM & INAUGARAL LAMP LIGHTING CEREMONY

WELCOME ADDRESS & PRESENTATION ON VIGILANCE ADMINISTRATION & BRIEF OF DISCIPLINARY PROCEEDINGS BY SHRI HARSIMRAN SINGH, CVO, HCL

WELCOME ADDRESS BY SHRI HARSIMRAN SINGH, CVO, HCL

CVO, HCL, Shri Harsimran Singh extended a warm welcome to all distinguished guests, speakers and participants in the Training Workshop on “Disciplinary Proceedings” and emphasised on the requirement of understanding of Disciplinary Proceedings, being very dynamic and at the same time very pertinent topic in today’s fast changing world.

He mentioned how Disciplinary Proceedings have come a long way – with new cases every year – from formal processes to rules and regulations to address employee’s misconduct or violations of organization policy. While they aim to correct inappropriate behaviour, they also maintain workplace standards, and uphold organizational integrity. And that’s the reason why, not only Vigilance Officers, but dealing officers from other related disciplines like HR also have a big role to play.

And since these proceedings can range from informal counselling to formal investigations and potential disciplinary actions, including termination, Shri Singh stressed on the importance to have of a comprehensive and thorough knowledge about the processes, analysis and consequences.

It was heartening to see the enthusiasm in the audience spanning across 19 central organizations including CVOs, DyCVOs, Vos and HR officials from the participating organizations and all HODs and Vigilance and HR officials from HCL.

Elucidating his views, he presented an introductory brief overview of Administrative Vigilance and Disciplinary Proceedings.

PRESENTATION BY SHRI HARSIMRAN SINGH, CVO, HCL

BRIEF OVERVIEW OF ADMINISTRATIVE VIGILANCE AND DISCIPLINARY PROCEEDINGS

20.06.2025

HARSIMRAN SINGH
CVO, HINDUSTAN COPPER LTD

ADMINISTRATIVE VIGILANCE

- Administrative vigilance in India involves a system of monitoring and enforcing ethical standards and accountability within government departments and organizations.
- Central Vigilance Commission (CVC) is the apex body for maintaining probity in public life. Each department and organization also has a vigilance wing, typically headed by a Chief Vigilance Officer (CVO), who works alongwith the CVC to prevent and detect corruption and misconduct.

VIGILANCE ADMINISTRATION

The Central Vigilance Commission (CVC) provides necessary guidelines for effectively carrying out vigilance administration in all departments and organisations including autonomous bodies through various circulars/ directives.

VIGILANCE TYPES

1. **Preventive**
2. **Punitive**
3. **Surveillance & Detection**

Vigilance activities focus on both proactive measures to prevent corruption and reactive measures to address and punish wrongdoing.

PREVENTIVE VIGILANCE

Preventive vigilance involves studying the organization, its policies and its people; and implementing effective measures so that these do not become vulnerable to corruption.

It includes following actions:

To checks points and causes of delay, devise measures to avoid arbitrary use of discretion, review regulations whether these are at all needed, educate citizens about procedures, identify areas prone to corruption, ensure availability of clear guidelines and required manuals, ensure observance of Conduct rules, Advising the Disciplinary and appellate authorities in Vigilalnce cases, preparing secret lists.

PUNITIVE VIGILANCE

Punitive vigilance is a type of vigilance focused on responding to and punishing misconduct or corruption after it has occurred.

Aims to deter future misconduct by ensuring that those who engage in corrupt practices are held accountable and penalized.

Actions include:

- Receiving and scrutinizing complaints.
- Investigating allegations of misconduct.
- Processing investigation reports and obtaining necessary approvals.
- To ensure timely and proper disciplinary proceedings.
- Coordination with CBI and CVC .

SURVEILLANCE & DETECTION

This type of Vigilance includes:

- Regular & Surprise inspections in sensitive areas
- Intensive examinations of the projects/works
- Scrutiny of the annual property returns & intimations
- To gather intelligence about misconducts/malpractices

KEY ASPECTS OF DISCIPLINARY PROCEEDINGS

Purpose: To address misconduct or performance issues, uphold standards of conduct, and potentially impose penalties.

Process:

- Involves a structured procedure, typically starting with an initial investigation and potentially progressing through various stages, including warnings, meetings, and formal inquiries.
- Principles of natural justice are essential to ensure due process.

Penalties: Penalties can range from verbal warnings to suspension, demotion, or even termination, depending on the severity of the misconduct.

Rules and Procedures: Governed by specific rules and regulations, including those outlined in the Central Civil Services (Classification, Control and Appeal) Rules, 1965. PSUs have their own CDA rules more or less aligned to the CCS(CCA) Rules.

Appeal Rights: Employees have the right to appeal decisions made in disciplinary proceedings.

ISSUANCE OF CHARGESHEET

- In some cases, based on the fact-finding investigation, charge sheet is issued to the delinquent official. Whereas, in some cases, before any disciplinary proceedings are initiated, a memo calling for explanation is issued by the DA to the delinquent official.
- The delinquent official may or may not reply to the memo within the stipulated time. Subsequently the DA may issues a charge sheet in the absence of the reply to the memo or due to unsatisfactory reply to the memo.
- Upon receipt of Chargesheet, the employee is supposed to reply (called statement of defence).

(a) On receipt of the written statement of defence, the DA may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint an Inquiring Authority for the purpose.

(b) If no written statement of defence is submitted by the Government servant, DA may itself inquire into the articles of charge, or may, if it considers it necessary to do so, appoint an Inquiring Authority for the purpose.

DOCUMENTS GIVEN TO IO & PO

- DA shall forward to the IO & PO

i. Copy of the Chargesheet alongwith various annexures

ii. Copy of the **written statement of the defence**, submitted by the Government servant;
   - If reply not submitted, then prrof of receipt of chargesheet by CO.

iii. Copy of the **statements of witnesses**, if any,

iv. Evidence proving the delivery of the documents to the Government servant; and

v. a copy of the order appointing the "**Inquiry Officer & Presenting Officer**".

CONDUCT OF INQUIRY

Conduct of inquiry comprises the following main stages:

a) **Pre-hearing stage:** From the appointment of IO and PO till the commencement of hearing. During this stage, the IO and PO examine the documents received by them and ensure their correctness. Besides, the PO prepares for the presentation of the case.

b) **Preliminary Hearing Stage:** Parties Appear before the IO. CO is asked as to whether the charges are admitted, inspection of documents take place, CO presents the list of documents and oral witnesses required for the purpose of defense.

c) **Regular hearing stage:** Evidence is produced by the parties.

d) **Post hearing stage:** PO and CO submit their written briefs to the IO and the IO submits his/her report to the Disciplinary Authority.

ROLE AND FUNCTIONS OF IO

Basic responsibility of the Inquiry Officer is to inquire into the truth of the imputations of misconduct or misbehavior against a Government Servant.

The IO has to document, to analyze and to recommend whether the charges are proved or not.

ROLE AND FUNCTIONS OF PO

PO is required to lead the evidence of the Disciplinary Authority and satisfactorily answer the contentions raised by the Charged Officer(CO). Thus, the explicit functions of PO are:

a) Presenting the documentary evidence
b) Leading the oral evidence on behalf of the disciplinary authority
c) Cross examining the defence witness and examination – chief and re-examination of State/Management Witnesses
d) Preparation and presentation of the written brief

SUBMISSION OF INQUIRY REPORT

- IO to submit report within period of 6 months to Disciplinary Authority

- Where it is not possible to adhere the time limit, extension can be sought for maximum 6 months at a time from disciplinary authority

ACTION ON INQUIRY REPORT

- DA, for reasons to be recorded in writing remit the case to the same or another Inquiry Authority
- DA shall provide a copy of Inquiry Report to the charged officer along with his own observations thereon, if any. CO is given opportunity to reply which will be perused by DA.
- In case any of the penalties to be imposed, DA will make an Order imposing such penalty.
- If DA is of the opinion that no penalty is called for, it may pass an order exonerating the employee concerned.

APPEAL

- An employee may appeal against a order imposing upon him any of the penalties or against order of suspension to AA
- An appeal **shall be preferred within one month** from the date of communication of order

- Appeal **shall be addressed to the AA and shall be submitted to DA** which will be **forwarded to the AA together with DA's comments within 15 days**
- **AA may pass orders** confirming, enhancing, reducing or setting aside the penalty or remit the case to authority which imposed penalty
- **In case penalty is to be enhanced, show cause notice** to be issued to CO

REVIEW

Reviewing authority may call for the record of any case **within six months** of the date of final order, pass such orders thereon as it may deem fit.

WELCOME ADDRESS BY DIRECTOR OPERATIONS, HCL

WELCOME ADDRESS BY DIRECTOR OPERATIONS, HCL

Expressing gratitude to be a part of the program and having an opportunity to share his views on Disciplinary proceedings, Dr. Sanjeev Kumar Sinha, D(Op) expressed that Disciplinary proceedings are not merely formalities, but instrument of justice ensuring accountability, fairness maintained within an organization – whether it is a public organization or it is a private sector or educational institute.

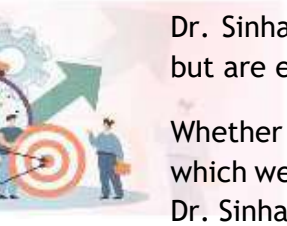
He further explained that these proceedings protect both the integrity of the system and the rights of the individual. In India, the conduct of disciplinary proceedings, especially in government services are guided by constitutional principles, statutory rules and natural justice. For government servants, Articles 311 of the Constitution of India and Civil Central Civil Services Rules 1965. In case of departmental proceedings, rules should be followed and no one should be judge in his own case.

Dr. Sinha went on to examine the topic from the other perspective, stating that these principles not only ensure that the proceedings are fair and unbiased, but also deliver justice to the person.

He elaborated that these step-by-step proceedings - which include preliminary inquiry, issue of charge sheet, submission of written statement, appointment of inquiry officer, conduct of inquiry, inquiry report, show cause notice, final order, appeal and review – were to be further deliberated by the esteemed speakers and that these are also the procedures which are followed in Hindustan Copper Limited.

Dr. Sinha also indicated about certain challenges and concerns in departmental proceedings, which include delaying initiating and conclusion of inquiry, bias of inquiry officers, political or external pressure, lack of adequate legal representation, non-compliance of the procedural safeguards. He pointed out that in some instances, the delay itself becomes a form of punishment which should be avoided.

He advocated for certain reforms, required in the departmental proceedings, which included introducing time bound disposal of the cases, training of inquiry officers and presenting officers, promoting the use of technology and digitization in inquiries, ensuring better legal aid for the charged officers, strengthening whistleblower protection, and such other initiatives.



Dr. Sinha concluded saying that disciplinary proceedings are not merely bureaucratic rituals, but are expression of our collective commitment to integrity, fairness and due process.

Whether it is a government, judiciary, corporate offices, educational institutes, the manner in which we conduct these proceedings is a direct reflection of our values and democratic society. Dr. Sinha encouraged all to ensure that our systems are not only just designed, but are adopted in practice – and quoted the saying, *"justice must not only be done, it must also be seen to be done"*.

WELCOME ADDRESS BY CHAIRMAN & MANAGING DIRECTOR, HCL

WELCOME ADDRESS BY CHAIRMAN & MANAGING DIRECTOR, HCL

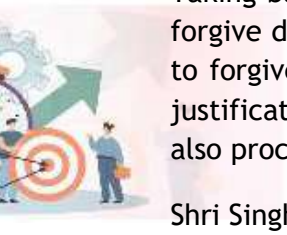
CMD, HCL, Shri Sanjiv Singh, appreciated the initiative to organize such training programs, especially on a topic so very realistic and very relevant, particularly for Government departments and PSUs. He extended a hearty welcome to all participants at the Training Workshop on “Disciplinary Proceedings” and encouraged them to make the most out of this session.

He explained further saying, as all PSUs and organizations at large deal with public money, one has to be extra cautious ensuring the best for the organization and its stakeholders. However, while working, there can be scope of errors.

Taking the reference of the common idiom: "To err is human…" he explained that it is natural for humans to make mistakes. The phrase emphasizes that errors are a normal part of the human experience and not something to be ashamed of. However, if the mistakes/deviations are such that they are severe in nature, hurting public interests, recurrent, committed with deliberate / malafide intention, there needs to be a mechanism to check the malpractices.

And that is the reason that, he suggested, all who work in Government/Public Sector, need to have a good understanding of Disciplinary Proceedings – what are the formal actions to be taken to address alleged misconduct, negligence, or inefficiency, especially against employees or members of a group. It is often quasi-judicial in nature, and involves structured processes, about how to investigate, review, and potentially impose sanctions for violations of rules or standards. Although it appears to be punitive in nature, contrarily, the goal is to actually enforce discipline, determine guilt or innocence, and ensure accountability.

He mentioned about HCL’s achievement for the last couple of years, and about the significant milestone during FY 2024-25 with the highest Ever PAT of ₹ 469 Cr, Highest Ever PBT of ₹ 634 Cr, Highest Ever Dividend Declared (₹141 Cr), Highest Ever Production from Malanjkhand Mine for 27.25 Lakh Tonne Ore and Highest ever Revenue from Operations of ₹2071 Cr. He correlated these accomplishments as a result of hard work, perseverance, consistency, high morale, integrity, ethical values and discipline amongst our employees.



Taking back to the referred phrase, often attributed to Alexander Pope, "To err is human, to forgive divine", Shri Singh said, it implied that while mistakes are inevitable, but the capacity to forgive is a higher, more admirable quality. If errors, slip-ups, deviations are with proper justification or are reasonable enough to be genuine cause / with bonafide intention, there are also procedures to absolve and address concerns and learn from the cases.

Shri Singh expressed his enthusiasm to listen to the two eminent speakers, notable orators and experts in this specialised field of knowledge to learn about various aspects of “Disciplinary Proceedings” in the Training Workshop on 20th June, 2025.

BOOK: “PUBLIC SERVANTS COMPANION”

“Public Servants Companion”

Gifting of Book to CMD/HCL

by Shri Ghansham Bansal

A SHORT SESSION: YOGA AT WORKPLACE

“Commemorating International Yoga Day”

a short session on yoga was organized for the participants

PRESENTATION BY SHRI RAJIV VERMA, EX-DIRECTOR & CONSULTANT, CVC

Shri Rajiv Verma during the session on “Administrative Vigilance Setup, CVC’s Guidelines on timely Completion of Inquiry Proceedings & Technical Aspects in Conduct of Inquiries”

PRESENTATION BY SHRI GHANSHAM BANSAL, DG, DMRCA

Shri Ghansham Bansal, DG/DMRC Academy & Ex- CVO/DMRC conducting the session on “Nuances of Disciplinary Proceedings”

PRESENTATION BY SHRI GHANSHAM BANSAL, DG, DMRCA

What are Relevant Codes ?

1. Indian Penal Code (IPC) : Bharatiya Nyaya Sanhita
2. Criminal Procedure Code (Cr.PC) : Bharatiya Nagarik Suraksha Sanhita
3. Indian Evidence Act : Bharatiya Sakshya Adhiniyam
4. Prevention of Corruption Act

IPC : It is equivalent to Service Conduct Rules

Cr.PC : It is equivalent to Disciplinary & Appeal Rule

Standard of Proof

Standard or Level of proof refers to the quality of evidence produced to establish a fact.

Generally following levels of proof are referred :

(a) Preponderance of probability for departmental proceedings

(b) Proof beyond reasonable doubt for criminal proceedings

Preponderance of probability means "more likely to have happened than otherwise"

Delay in Inquiry

Timely finalization of departmental proceedings is necessary for Natural Justice. (CVC dated 09-03-2010)

(CVC 23.05.2000, DoPT 14.10.2013, 14.12.2020, 08.10.2021)

Time Line for CVC cases :

(1) From 1st stage advice to appointment of IO and PO - 2 months

(2) Submission of IO report - 6 months

Sometimes Charged Officer take the advantage of procedural flaws.

(DoPT has now issued simplified flow chart of procedures)

(Aid to processing of departmental proceedings under the CCS (CCA) Rules, 1965- Simplification regarding: DoP&T OM dated 08.11.2021)

Steps for holding the Major Penalty proceeding

1

When the Disciplinary Authority (DA) decides to hold major penalty proceeding. [Rule 14(2)]

Approval of Charge sheet:
DA has to approve the charge sheet [Rule 14(3)]
Signature on the charge sheet:
a) If the President is the DA – An officer authorized under Article 77(2) of the Constitution to authenticate the order on behalf of President.
b) In cases where the DA other than the President – DA itself to sign the charge sheet.

[Charge Sheet]
DA shall deliver a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article or charges is proposed to be sustained. [Rule 14(4)(a)]

[Written Statement of Defence (WSD)]
On receipt of article of charge, the Govt Servant (GS) shall submit his WSD within a period of 15 days, extendable for a period of 15 days at a time by the DA but shall not exceed 45 days from the date of receipt of article of charge. [Rule 14(4)(b)]

If all the articles of charges have been admitted

DA records its findings and shall act in manner laid down in Rule 15 [Rule 14(5)(a)]

Either does not admit the charge or does not submit the WSD.

If the charges have not been admitted by GS and DA accepted the reply.

Drop the charges

DA may itself inquire into any article of charge or appoint an Inquiring Authority (IA) and Presenting Officer (PO) [Rule 14(5)(c)]

GS shall appear before the IA within 10 days as specified by the IA or within such further time, not exceeding 10 days, as the IA may allow. [Rule 14(7)]

[Defence Assistant]
GS may take the assistance of any other Govt. Servant or Legal Petitioner (Only if Presenting Officer a Legal Petitioner) or allowed by the DA. [Rule 14(8)]

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2

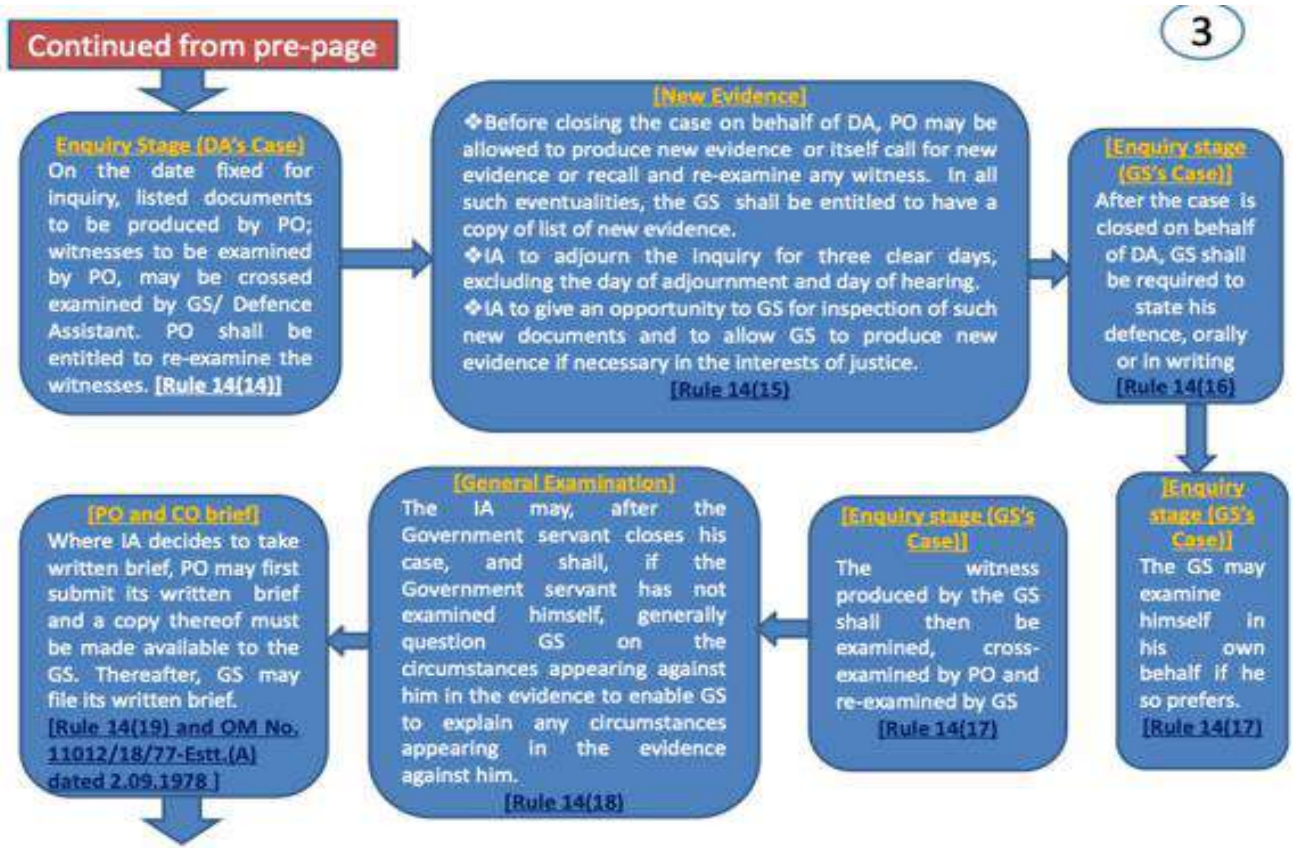
[Proceedings before the IA]
IA shall ask GS whether he is guilty or has any defence to make. If he pleads guilty to any of the articles of charge, the IA shall record the plea, sign the record & obtain the signature of GS thereon. Thereafter, the IA to return a finding of guilt in respect of admitted charge(s). [Rule 14(9) & 14(10)]

if the GS fails to appear within the specified time or refused or omits to plead, IA Shall require the PO to produce the evidence by which he proses to prove the articles of charge.

The IA shall adjourn the case to a later date, not exceeding 30 days, after recording an order that the GS may :-
(i) inspect the document (s) within 5 days of the order , extendable to not more than 5 days by the IA, attached with the Charge-Sheet ;
(ii) submit a list of witnesses to be examined on behalf of GS ; and
(iii) give a notice within 10 days of the order or within such further time not exceeding 10 days as the IA may allow, for discovery or production of any documents which are in possession of the Government but not mentioned in the charge sheet. [Rule 14(11)]

[Requisition of Documents]
Request of GS for production of document shall be forwarded to concerned authority in whose custody the documents are kept. IA may, however, refuse, for the reasons to be recorded in writing, to requisition documents if in its opinion such documents not relevant to the case.
Authority shall produce the documents by the due date or issue a non-availability certificate before the IA within 1 month [Rule 14(12) & 14(13)]

Production of documents
Authority, having the custody of requisitioned documents, may inform the IA that production of document(s) would be against public interest or security of State.
IA shall thereafter communicate this to GS and withdraw the requisition made by it for production of document (s).
[Proviso to Rule 14(13)]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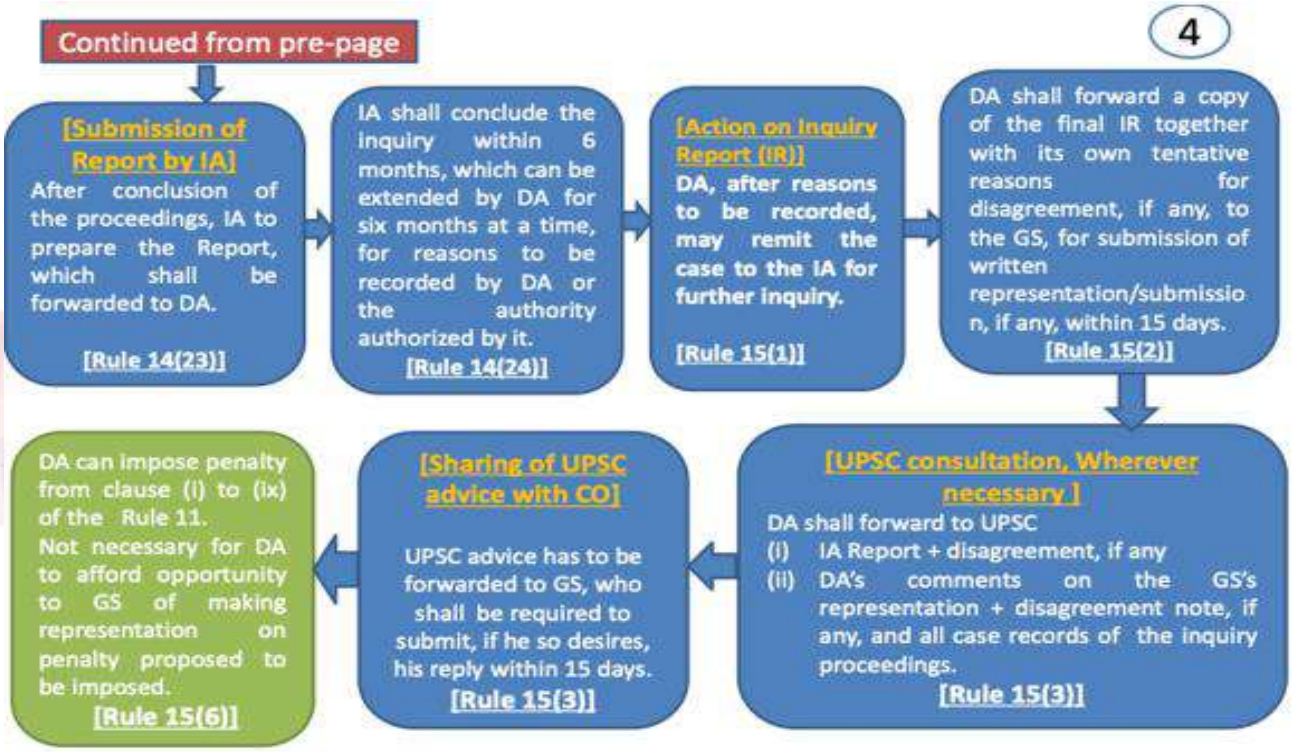
3
Enquiry Stage (DA's Case)
On the date fixed for inquiry, listed documents to be produced by PO; witnesses to be examined by PO, may be crossed examined by GS/ Defence Assistant. PO shall be entitled to re-examine the witnesses. [Rule 14(14)]
[New Evidence]
❖Before closing the case on behalf of DA, PO may be allowed to produce new evidence or itself call for new evidence or recall and re-examine any witness. In all such eventualities, the GS shall be entitled to have a copy of list of new evidence.
❖IA to adjourn the inquiry for three clear days, excluding the day of adjournment and day of hearing.
❖IA to give an opportunity to GS for inspection of such new documents and to allow GS to produce new evidence if necessary in the interests of justice.
[Rule 14(15)
[Enquiry stage (GS's Case)]
After the case is closed on behalf of DA, GS shall be required to state his defence, orally or in writing
[Rule 14(16)
[Enquiry stage (GS's Case)]
The GS may examine himself in his own behalf if he so prefers.
[Rule 14(17)
[Enquiry stage (GS's Case)]
The witness produced by the GS shall then be examined, cross-examined by PO and re-examined by GS
[Rule 14(17)
[General Examination]
The IA may, after the Government servant closes his case, and shall, if the Government servant has not examined himself, generally question GS on the circumstances appearing against him in the evidence to enable GS to explain any circumstances appearing in the evidence against him.
[Rule 14(18)
[PO and CO brief]
Where IA decides to take written brief, PO may first submit its written brief and a copy thereof must be made available to the GS. Thereafter, GS may file its written brief.
[Rule 14(19) and OM No. 11012/18/77-Estt.(A) dated 2.09.1978]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4
[Submission of Report by IA]
After conclusion of the proceedings, IA to prepare the Report, which shall be forwarded to DA.
[Rule 14(23)]
IA shall conclude the inquiry within 6 months, which can be extended by DA for six months at a time, for reasons to be recorded by DA or the authority authorized by it.
[Rule 14(24)]
[Action on Inquiry Report (IR)]
DA, after reasons to be recorded, may remit the case to the IA for further inquiry.
[Rule 15(1)]
DA shall forward a copy of the final IR together with its own tentative reasons for disagreement, if any, to the GS, for submission of written representation/submission, if any, within 15 days.
[Rule 15(2)]
[UPSC consultation, Wherever necessary]
DA shall forward to UPSC
(i) IA Report + disagreement, if any
(ii) DA's comments on the GS's representation + disagreement note, if any, and all case records of the inquiry proceedings.
[Rule 15(3)]
[Sharing of UPSC advice with CO]
UPSC advice has to be forwarded to GS, who shall be required to submit, if he so desires, his reply within 15 days.
[Rule 15(3)]
DA can impose penalty from clause (i) to (ix) of the Rule 11.
Not necessary for DA to afford opportunity to GS of making representation on penalty proposed to be imposed.
[Rule 15(6)]

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Important Notes

❖ **Bias petition of CO** [OM No. 39/40/70-Estt.(A) dated 9.11.1972]

Whenever an application is moved by a Government servant against whom disciplinary proceedings are initiated under CCS (CCA) Rules, 1965 against the Inquiry Authority on ground of bias, the proceeding should be stayed and the application referred alongwith the relevant material, to the appropriate authority for considering the application and passing of appropriate order thereon.

❖ **Ex parte inquiry** [Rule 14 (20) of the CCS (CCA) Rules, 1965].

Ex-parte inquiry can be resorted to only when the following conditions are satisfied:

a) Articles of charge should have been delivered
b) The charged officer had failed to submit the written statement of defence on or before the specified date or
c) Does not appear in person before the Inquiring Authority or
d) Fails or refuses to comply with the provisions of the CCS(CCA) Rules.

❖ **Daily Order Sheet:**

Daily Order Sheet is the record of the progress of the case handled by the IA during a day. It is prepared and maintained by the IA. It needs to be appreciated that Daily Order Sheet will be the most authentic record for ascertaining as to what happened in the course of inquiry because it is signed by all present.

❖ **Abbreviations used in the flow chart**.

a) DA – Disciplinary Authority
b) IA – Inquiring Authority is a Inquiry officer appointed by DA to inquire into the charges.
c) GS – Government Servant against whom disciplinary proceedings are initiated
d) PO – Presenting Officer

Charge Memorandum

- It is a Show Cause Notice to CO before proceeding against him for alleged lapses.
- Each word of memorandum is loaded with implications, so select them carefully.
- Every charge has to be substantiated with documentary or oral evidences.
- Link the RUDs with the lapses. Others, not supported by any document or witness, should be deleted.

Evidence in Charge Memorandum

- A 'Charge' is described as the proven essence of an allegation such as negligence, inefficiency or violation of rule.
- An effective charge-sheet should have co-relation of charge, fact and evidence.
- The 'Charge' should emerge from 'Facts', facts should rest on 'Evidences'.

- Evidences in Departmental Proceedings can be Oral or Documentary.

Inquiry Proceedings

Stages in inquiry

(1) Pre-Hearing stage:

From appointment of IO & PO to start of hearing.

During this, IO and PO examine documents received by them and ensure correctness.

(2) Preliminary Hearing Stage:

From parties start appearing before IO, till start of presentation of evidence.

Here CO is again asked if he admits charges.

Inspection of documents take place,

CO gives list of defence documents & witnesses.

Stages in inquiry

(3) Regular Hearing stage:

Evidences are produced by both the parties.

(4) Post hearing stage:

PO and CO submit their written briefs to IO and

IO submits report to Disciplinary Authority.

Daily Order sheet (DOS) should always be prepared when there is a progress whether hearing take place or not.

The first DOS is made when IO received his appointment order as under:

Daily Order Sheet No. 1

Dated 99. Aaa.9999
Parties present: None

Received Order No. ..... dated ..... from ..... appointing me as the Inquiry Authority to look into charges framed against ..... vide Memorandum No. ..... dated .....

The following papers were also received along with the Charge Sheet:

(a) Copy of the charge sheet
(b) Copy of the written statement of defence
(c) Copy of order No. .... dated .... appointing Shri .... as Presenting Officer in the case.

An acknowledgement was sent to the Disciplinary Authority.

Sd/-
Name
Designation

Importance of DOS

It is the most authentic record of proceedings to know what had happened during inquiry, as it is signed by all the present.

Thus, IO should be careful about accuracy in recording the proceedings.

All opportunities granted to CO, should specifically be recorded without fail.

It will help in countering the allegation of inadequate opportunity or bias raised by CO at later stage.

Role of IO and PO during various stages

Role of Presenting Officer

The PO leads the evidence of the DA and answer the contentions by the CO.

His main roles are :

a. Presenting the documentary evidence

b. Leading oral evidence on behalf of DA

c. Cross examining the defence witness

d. Preparation written PO brief

Role of PO during Preliminary Hearing

a) Collection of original documents

b) Finalizing schedule and conducting inspection of listed documents and then handing over to the IO.

c) Collection of additional documents required by CO

Additional Documents

Often, IO request the PO to collect these documents required by CO.

This practice may vitiate the inquiry and thus strictly avoided. Collection of documents by PO may result in allegation of tampering by him.

These documents must reach IO direct from custodian.

The PO should politely apprise the IO this problem.

But, there is no objection if PO transits these in sealed covers from custodian to the IO.

Role of PO during Regular Hearing

1. Contacting and briefing his witnesses before hearing.

It is considered unethical to influence witness in any manner.

2. Arranging attendance of above witnesses

3. Conducting examination-in-chief and re-examination of own witnesses where necessary.

PO should observe likely confusions created during cross-examination.

Functions of IO during Preliminary Hearing

(a) Ensure smooth conduct of hearing

(b) Fixing dates for Inspection of original documents

(c) Asking additional documents by CO

(d) Finalizing admissible documents and witnesses

(e) Taking action for collecting additional documents

(f) Settling issue of disputed documents and taking documents on record

(g) Issue certificates of attendance to the parties.

(h) Deciding on requests for adjournment

IO during Regular Hearing

a) Prepare DOS regularly

b) Summoning and examination of witnesses

c) Recording statements of witnesses

d) Deciding objections about questions raised during examination

e) Deciding requests for additional witnesses

f) Putting mandatory questions on conclusion of the case

g) Giving directions for written briefs by PO & CO.

Denial of Documents to CO

Documents can be denied only on two grounds to otherwise it is violation of reasonable opportunity as per Article 311 (2).

Firstly, the document is not considered by IO relevant to the case and pass a reasoned order.

Secondly, authority in possession of documents deny, for recorded reasons, if it is against public interest.

Similarly, IO can deny a defence witness only on the ground of relevance.

Sequence of Witnesses

1. First the PO will lead prosecution witnesses in such a order that the case is built gradually.
2. Then, CO is asked to lead his defence witnesses.

Each witness is examined as under :

(a) Examined by own side : Examination-in-chief

(b) Examined by opposite side : Cross-examination

If required, witness may be examined again his own witness : Re-examination (with IO's permission)

Then defence side entitled for : Re Cross-examination

Purpose of these Examinations

1. Examination-in-chief : It should be such that own witness understands what answers are to be given;

But leading questions which indirectly reveals the expected answer, are not permitted.

Therefore, question putting words into the mouth of witness is not permitted.

2. Cross examination : The opposite side interrogates the witness such that he does not know what answer is to be given. He will apply own mind.

Leading question can be asked in Cross Examination.

RE - Examination

After cross-examination, PO may re-examine the witness on any point on which he had been cross-examined.

But he can't examine on any new point unless specifically allowed by the IO.

In that case, the CO would also have a right to cross-examine the witness.

CO offers himself as own Witness

The CO can offer himself as his own witness.

In such situation, he may allow himself to be examined first by his Defense Assistant and cross-examined by the PO.

If there is no Defense Assistant, then CO will make a suo-moto statement, and then the PO will cross-examine him.

Hostile Witness

Hostile Witness: If some witness has been declared hostile, the PO, with permission of IO, may cross-examine him.

This is called cross-examining his own witness.

This has come from Section 154 of the Indian Evidence Act, when a hostile witness can be cross-examined by his own party with the permission of the court.

If a Govt servant, changes his stand during evidence in Inquiry, and if it without justification or for favouring some party, his conduct is violation of Conduct Rules.

(CVC Order No. 73/12/2005, dated 15.12.2005.

Mandatory Question by IO to CO after his case is closed

When CO has not offered himself as a witness, the IO SHALL question him generally for enabling him to explain any circumstances appearing against him.

It is called ‘Mandatory’ questions mainly because the word ‘shall’ has been used for general examination of CO by IO.

CO acquitted without any defence ?

Yes. He can be acquitted if the prosecution fail to establish the charges by leading evidence.

Charged officer is not expected to prove his innocence.

Principle is that Prosecution has to stand on its own legs.

It can’t take advantage of weak defence by the CO.

Right to remain Silent

Article 20 (3) gives an accused 'Right to remain silent' in criminal cases.

'No person accused in any offence shall be compelled to be a witness against himself'

So he can't be tortured to make a confession.

The scientific methods like Narco-analysis tests, polygraph analysis were initially considered against Article 20 (3), but now have been allowed in extraordinary circumstances only.

Legality of Narco Analysis

In case of Rojo George Vs. Deputy SP, while allowing narco test, Court held that in now criminals are using sophisticated techniques for crime.

So there is need to use new techniques such as polygraph, brain mapping and narco analysis.

On the whole Indian judiciary has now consented conditional use of these tests in presence of experts.

First used in India in 2002 in Godhra Case.

Then in Abdul Karim Telgi case in Dec 2003. Huge information was yielded.

Used in Nithari case also.

Inquiry Officers' Report

Precaution in IO Report

(a) The IO should confine to stating as to whether the charges are proved or otherwise. The quantum of penalty should not be mentioned. It is the exclusive jurisdiction of the DA.

(b) All the findings and conclusions must be based on evidence produced during inquiry.

(c) The material made available to CO and opportunity provided to him should be relied upon for conclusion.

(d) IO should ensure not to import its personal knowledge in preparing the report.

Consideration of IO Report by DA

The DA on receipt of IO Report to examine as under:

(a) Whether inquiry has been conducted in accordance with statutory provisions

(b) Whether findings are acceptable

But findings are not binding on the DA. He can disagree with any portion of it by recording reasons.

Action on Inquiry Report

1. If the DA notices any infirmity in report, remit back to IO for further Inquiry from that stage.

2. The DA himself can recall and examine, cross-examine and re-examine the witnesses in presence of CO and PO.

3. If DA doesn't agrees with the IO report, detailed reasons for disagreement be recorded for representation of CO.

5. The DA can consult any authority, but the views become his own.

6. The final order should be signed by DA and should indicate channel of appeal and the time limit.

Other Charge being established in Inquiry

As per Rule 14(23) of CCA Rules: 'If in the opinion of IO, any article of charge different from charges in the C/S is established, it may record its findings also'.

But there are Conditions attached to it :

(a) The findings shall not be recorded unless the CO has either admitted the facts on which such charge is based

(b) He had been given a reasonable opportunity of defence.

Technical Issues during Proceedings

Allegation of Bias against IO

(1) If CO alleges bias against, IO should keep proceedings in abeyance and report to the DA.

(2) He will resume only when DA advises him.

(3) The representation of CO is sent to DA along with relevant material. The DA sends it to appropriate Authority who is normally Appellate Authority.

(4) Such representation against IO should normally be made just after his appointed, and not after the proceedings have reached an advance stage.

Ex-Parte Inquiry

An ex-parte inquiry can be resorted to, as per Rule 14(20) of CCA Rules, when conditions are satisfied:

(1) Articles of charge have been delivered

(2) The CO failed to submit written statement of defence on or before specified date or

(3) CO does not appear in person before IO or

(4) He fails or refuses to comply with the provisions of the CCA Rules.

Procedure for Ex Parte

During ex-parte proceedings, PO should be directed to lead evidence and establish charge.

As CO is not there, cross-examination of witnesses not possible.

IO may put questions as it thinks fit, under Rule 14(14) of the CCA Rules, yet IO should ensure that the questions are not such as to establish charge.

Though, CO is not attending Inquiry, IO should send copies of all relevant documents to CO i.e. DOS, statements of witnesses, PO brief etc.

The IO should submit its report to the DA together with all other documents as done in normal inquiry.

CO want to re-join Ex-Parte

Ex-parte inquiry, once commenced, does not close the doors for the CO.

This is just a provision to continue with the inquiry despite non-co-operation by the CO.

The CO should not be put to a disadvantage.

The CO who could not or intentionally did not attend a few hearings does not lose his right of reasonable opportunity of defence.

Accordingly, the CO cannot be prevented from participating in the inquiry at a later stage.

Common Proceedings

It is process of simultaneously disciplinary proceedings against two or more Govt servants for misconduct in a single transaction.

It is as per Rule 18 of CCA Rules.

In this situation it may be advantageous to initiate a common proceedings instead of individual.

Common Proceedings

Circumstances of Common proceedings :

1. All the employees must be amenable to same Rules.

2. The misconduct must be based on a single transaction.

3. It would be advantageous if all employee are under disciplinary powers of same authority.

4. It may be initiated either by President or the authority that can impose penalty of dismissal on all the employees.

Advantages of Common Proceedings

(a) It facilitate speedy inquiry as witnesses depose only once. But cross-examination has to be done individually.

(b) Common Proceedings help to avoid contradictory findings by different IOs.

(c) It enables the DA and IO to have an overview of entire transaction and correct perspective of case

(d) Penalties can be imposed equitably.

Limitation of Common Proceedings

1. As many employees are there, it is possible that one or the other may seek adjournment or absenting.

2. Ex-parte inquiry not possible when only one CO is absent. Thus, common proceedings may be delayed.

3. When two employees complain against each other, common proceedings should be avoided.

Partly heard Inquiry

(1) Whenever the IO is changed for any reason, the new IO has discretion to proceed from stage left by his predecessor or conducting the inquiry de-novo.

(2) He may consider the evidence recorded by his predecessor.

(3) The new IO may recall any witness for examination, cross-examination, and re-examination if he considers that a fresh examination of any witness is necessary in the interest of justice.

Review under 56 (j) of FR

As per Sec 56 (j) - Periodic review of performance is done 6 months before attaining age of 50 or 55 years.

Review under Sec 48 of CCS Pension Rule-1972 –also done on completion of 30 years of qualifying service

Both are not punishment, it is part of mutual agreement. It is just a process of bidding god bye to undesirable employee.
Therefore, no 'Show Cause Notice' is issued.

Apex Court stated in one of the case while deciding the case of review of service under FR 56(j)

“Efficiency is a bundle of sticks of personal assets, thickest of which is the stick of Integrity.

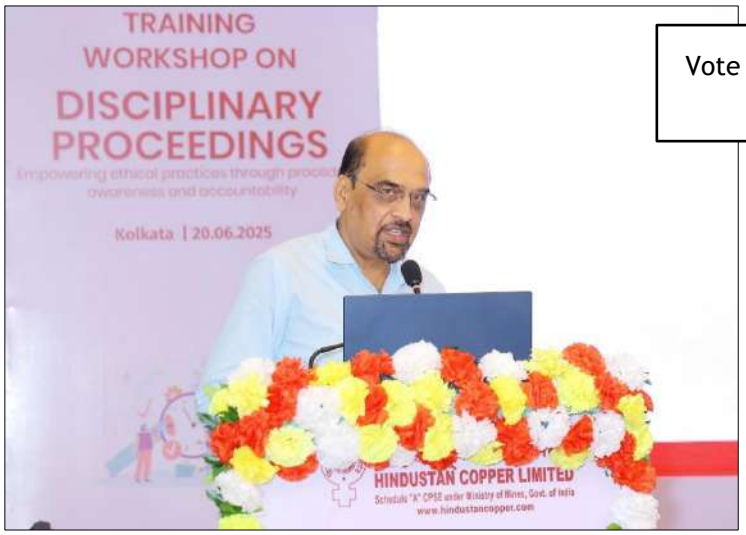
If this is missing the whole bundle would disperse.”

INTERACTIVE SESSIONS

The sessions were followed by an enriching interactive session where enthusiastic participants clarified their doubts and explored solutions for unique cases as well as some common issues.

INTERACTIVE SESSIONS

VOTE OF THANKS AND CONCLUSION



Vote of Thanks by Shri Sanjay K. Sengar, Dy. CVO/HCL

REMINISCENCES OF THE DAY : WELCOMING GUESTS & DIGNITARIES

At the Registration Desk

WELCOME OF DIGNITARIES

Shri Sanjiv Kumar Singh, CMD, HCL, Chief Guest of the programme

Dr. Sanjeev Kumar Sinha, Director (Operations), HCL

Shri Harsimran Singh, CVO, HCL

WELCOME OF DIGNITARIES

Shri Ghansham Bansal, DG/DMRC Academy & Ex-CVO, DMRC

Shri Rajiv Verma, Advisor/CVC

WELCOME OF DIGNITARIES

Shri Subrata Sarkar,
Ex-CVO, HCL

Shri Brajesh Kumar Tripathy,
CVO, Coal India Limited

Shri Satish Kumar,
CVO, MSTC & Mecon

Shri Sudipta Acharjee,
CVO, DVC

WELCOME OF DIGNITARIES

Shri Manoj Kumar Maurya,
CVO, GSI

Shri Devidatta Satapathy,
CVO, KoPT

Shri Abhishek Ranjan,
CVO, GRSE

Shri Subramanian Natesan
CVO, NIPER

WELCOME OF DIGNITARIES

Professor Preeti Parashar,
CVO, ISI

Shri Deepak Nigam,
CVO & SDGM. ER

SOME NEWS CLIPPINGS

'अनुशासनात्मक कार्यवाही' पर कार्यशाला

कोलकाता: महानगर में शुक्रवार को 'अनुशासनात्मक कार्यवाही' पर कार्यशाला का आयोजन किया गया। इस दौरान अंतर्राष्ट्रीय योग दिवस की पूर्व संध्या पर समारोह के सिलसिले में कार्यक्रम के दौरान 15 मिनट का योग सत्र भी आयोजित किया गया। उक्त जानकारी हरसिमरन सिंह, आईआरएसई, सीवीओ हिन्दुस्तान कॉपर लि. ने दी। इसमें कोलकाता स्थित केंद्रीय संगठनों - कोल इंडिया, डीवीसी, जीएसआई, एमएसटीसी, जीआरएसई, केओपीटी, एवाई, बीएंडआर, बीबीजे, पूरे, दपूरे, एनआईपीईआर, आईएसआई, यूको बैंक और एनआईसी ने पूरे जोश के साथ भाग लिया। सीएमडी/एचसीएल और डीओ/एचसीएल ने इस अवसर पर उपस्थित होकर सम्मानित वक्ताओं घनश्याम बंसल (डीजी/डीएमआरसी अकादमी और पूर्व सीवीओ/डीएमआरसी) और राजीव वर्मा (सलाहकार-सीवीसी) के साथ-साथ सीवीओ, पूर्व सीवीओ, सतर्कता और मानव संसाधन अधिकारी और एचसीएल के एचओडी सहित सभी अतिथियों और प्रतिभागियों का स्वागत किया। सम्मानित वक्ताओं द्वारा दिए गए ज्ञानवर्धक प्रशिक्षण से दर्शक मंत्रमुग्ध हो गए जिससे कार्यक्रम एक उल्लेखनीय कार्यक्रम बन गया।

हिंदुस्तान कापर लिमिटेड ने उत्साह के साथ मनाया योग दिवस

जासं, कोलकाता : सार्वजनिक क्षेत्र की कंपनी हिंदुस्तान कापर लिमिटेड (एचसीएल) की सभी इकाइयों और कार्यालयों में शनिवार को उत्साह के साथ 11वां अंतरराष्ट्रीय योग दिवस मनाया गया। कोलकाता स्थित कंपनी के मुख्यालय में आयोजित योग सत्र में एचसीएल के अध्यक्ष और प्रबंध निदेशक (सीएमडी) संजीव कुमार सिंह, निदेशक (संचालन) और निदेशक (खनन) डा संजीव कुमार सिन्हा, मुख्य सतर्कता अधिकारी हरसिमरन सिंह सहित अन्य वरिष्ठ अधिकारियों और एचसीएल परिवार के सदस्यों व अन्य हितधारकों ने योग सत्र में भाग लिया। कोलकाता के अलकेंदु बोध निकेतन आवासीय के दिव्यांग बच्चों के साथ इन अधिकारियों ने योगाभ्यास किया। योग दिवस की पूर्व संध्या पर 20 जून को एचसीएल द्वारा योग पर एक कार्यशाला का भी आयोजन किया गया, जिसमें कोल इंडिया, डीवीसी, जीएसआइ, एमएसटीसी, पूर्व रेलवे, दक्षिण-पूर्व रेलवे आदि केंद्रीय संगठनों की भागीदारी थी।

हिन्दुस्तान कॉपर लिमिटेड

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