



Frequently Asked Questions (FAQ) on UCO Bank Officer Employees' (Conduct, Discipline & Appeal) Regulations 1976, as amended

1. What constitutes Misconduct?

Ans: Violation of any Regulation from 3 to 23 & 24(A) of **UCO Bank Officer Employees' (Conduct) Regulations 1976, as amended** constitutes Misconduct for an officer.

2. Whether lack of efficiency, failure to attain highest standard of administrative ability will constitute misconduct?

Ans: No. As per decision of Supreme Court in the case of Union of India VsJ Ahmed 1979 II LLJ 14, "lack of efficiency, failure to attain the highest standard of administrative ability while holding a high post would not themselves constitute misconduct. If it is so, every officer rated average would be guilty of misconduct. Charges in this case as stated earlier clearly indicate lack of efficiency, lack of foresight and indecisiveness as serious lapses on the part of the respondent. These deficiencies in personal character or personal ability would not constitute misconduct for the purpose of disciplinary proceedings."

2(a); what are the conducts unbecoming of a Bank Officer as per Conduct Regulation 3(1)

Ans: In spite of criticism of Apex Court that the term "conduct unbecoming of a Bank Officer" is vague and is of a general nature, our Regulation did not elaborate the term anywhere. However, some of the acts of omission & commission, as the case may be, which constitute Conduct unbecoming of a Government servant, as per Govt notifications are i) failure to intimate the concerned authority about his conviction and related circumstances ii) failure to look after maintenance of one's family iii) discourteous behaviours or adopting dilatory tactics in dealing with MP/MLA iv) making baseless allegation against superiors v) dishonesty in private life etc.

3. When Disciplinary action is initiated?

Ans: Commission of misconduct attracts Disciplinary action. However, from the source like Regular Inspection Report, Audit Report, complaint, unusual transactions, property Returns disclosing prima facie irregularities on the part of an officer, the Disciplinary Authority is to decide whether disciplinary action is to be initiated against the officer, who had allegedly committed misconduct.

4. Whether Disciplinary action is stated to be initiated with the issuance of a Show cause letter?

Ans: No. Disciplinary action is stated to be initiated with the issuance of Chargesheet / Statement of Imputations or lapses by the Disciplinary Authority

5. Whether issuance of a show cause is a pre-condition for issuance of a charge sheet

Ans: No. Charge sheet can be issued straightway without issuance of a show cause letter beforehand.

6. Whether show cause is to be issued by the Disciplinary Authority(DA)

Ans: No. Manager or any other authority, under whom the Officer is working may issue such letter. If show cause letter is issued by the higher authority in the capacity of Disciplinary Authority, the same can be protested for the reason that the DA is having a preconceived mind to initiate Disciplinary action.

6(a) What is the purpose for issuance of a show cause and time for its disposal?

Show cause is issued to ascertain whether a prima facie case exists which warrants disciplinary action against the officer for the alleged misconduct. The reply to show cause submitted by the officer is placed before the DA for his decision as to whether the show cause is to be converted to Charge sheet, or be dropped with caution. In terms of Circular No. CHO/PMG/25/97 dated 24-12-1997 a show cause is to be disposed of within 45 days of its issuance irrespective of the reply received or not from the officer.

NB: Since a show cause memo is a warning signal , a spark which may grow wild and may burn the entire house , it is suggested to contact the State Association immediately as a pre-emptive approach for sharing and discussing the problem , so that the Association may guide with all its expertise to come out of the problem and to write a suitable reply.

7. What is the difference between Charge Sheet and Statement of Imputations or lapses?

Ans: When Major Penalty proceeding is initiated against an officer regular Charge sheet is issued. However, in case of Minor Penalty Proceeding a Statement of Imputations or lapses is issued.

8. What is Major Penalty Proceeding?

Ans: In case of Major Penalty Proceeding, Disciplinary action is initiated with intent to hold detailed enquiry to find out the truth in the alleged misconduct as well as to impose Major Penalty on the Charge Sheeted Officer.(Regulation 6 of DAR)

9. What is Minor Penalty Proceeding?

Ans: In case of Minor Penalty Proceeding, Disciplinary action is initiated generally for procedural lapses with intent to impose Minor Penalty for alleged Misconduct & in such proceeding normally no enquiry is held. (Regulation 8 of DAR)

10. What are the Minor Penalties?

Ans: Censure, withholding of increments with or without cumulative effect , withholding of promotion, full or part Recovery of pecuniary loss caused to the Bank by negligence or breach of order, reduction of Basic pay by certain stages not exceeding three years without cumulative effect and not affecting officer's pension.[Regulation 4 (a) to (e) of DAR]

* However as per judgment of Apex Court, the penalty of Withholding of increments with cumulative effect is a major penalty & cannot be imposed without conducting detailed enquiry.

11. What are the Major Penalties?

Ans: Reduction of Basic pay by certain stages with cumulative effect for a specified period, reduction to a lower grade or post, Compulsory retirement, Removal from service, Dismissal which shall ordinarily be a disqualification for future employment.[Regulation 4 (f) to (j)]

12. Whether Minor penalty can be imposed even if Major Penalty Proceeding is initiated?

Ans: Yes. But Major penalty cannot be imposed when Minor Penalty Proceeding is initiated.

13. What is the difference in form & content of a Charge sheet vis a vis Statement of Imputations or lapses?

Ans: A regular Charge sheet contains memorandum, Statement of Allegations, Articles of Charge together with list of documents by which and the list of witness, by whom the charges are intended to be proved. All such documents are signed by the Disciplinary Authority.

A Statement of Imputations or lapses, on the other hand, contains Memorandum and a Statement of misconduct, allegedly committed by the officer asking for a written statement of defence within a specified period. Disciplinary Authority is the signatory of such documents.

14. Who is/ are the Authority(s) to institute Disciplinary Proceedings?

Ans: Disciplinary Authority (DA) as per Schedule of Discipline & Appeal Regulations may institute Disciplinary proceedings. However CMD/ED, or any other authority, empowered by either of them by way of general or special order, may institute or direct the DA to institute Disciplinary Proceedings against an officer.(Regulation 5 of DAR)

15. What is vigilance angle?

Ans: Briefly speaking, existence of vigilance angle is perceived in cases characterized by

- i) commission of criminal offence, demand/acceptance of illegal gratification, cheating, forgery, abuse of official position to render pecuniary gain to self or others
- ii) irregularities reflecting adversely on honesty and integrity of the officer
- iii) gross /willful negligence, recklessness, causing undue loss or concomitant gain to individual/ parties, flagrant violation of systems and procedure.(Special Chapter on Vigilance Management in PSB, published by CVC)

16. What are the misconducts to be categorized as Non- vigilance cases?

Ans: The cases of unauthorized absence, irregular attendance, disobedience and insubordination, riotous or disorderly behavior, manhandling, shouting with abusive language, causing loss by damaging/destroying Bank's properties, may be categorized as Non vigilance cases.(Circular No. CHO/PMG/6/95 dated 10-02-19995)

17. When Penalty can be imposed on an officer?

Ans: Generally, Management can not punish any employee/officer for alleged act of misconduct unless it is proved in the Disciplinary proceedings conducted complying with the principles of Natural justice affording reasonable opportunity to the charged employee/ officer .. However, in case of officer, penalty can be imposed on an officer for any act of misconduct, or **for any other good and sufficient reasons**.(Regulation 4 of DAR)

* Causing misappropriation of fund in a Co Operative society, outside the scope of employment, is considered as good and sufficient reason for imposing punishment.

18. Who can impose Penalty?

Ans: Disciplinary Authority or any Authority, higher than DA may impose penalty on an officer. [Regulation 5(3) of DAR]

19. What is the procedure for initiating and conducting Major penalty proceeding

Ans: The procedure is detailed in Regulations 6(1) to 6(21) and 7 of Discipline & Appeal Regulations. In brief, an enquiry named departmental/domestic enquiry, is required to be held to find out the truth in the alleged misconduct observing the Principles of Natural justice, giving reasonable opportunity to the Charge sheeted officer to defend his case. Burden of proving the charges are on the Management. The Management should not only led evidence first but must also prove affirmatively that the officer was guilty of the charges framed. However, enquiry is required to be held for the charges/ allegations not admitted by the Charged Officer in the written statement of defence, in reply to the Charge sheet.

20. Who will be the Enquiring Authority?

Ans: The DA himself may act as an Enquiry Officer (EO) or he may appoint any other person, who is or has been a Public servant to act as an Enquiry Officer. Similarly the DA appoints a Public servant to act as Presenting Officer to present the case in the enquiry on behalf of the Bank in support of the Articles of Charges.[Regulation 6 (2) & (6) of DAR] Accordingly, a retired Executive of the Bank (Scale IV & above) may be appointed as EO. However, the EO should be higher in rank to the Charged Officer and should act impartially. If the EO belongs to a member of rival union, allegation of biasness should be raised at the commencement of enquiry from the defence side.

21. Whether the Charge sheeted Officer, himself can defend his case as a defence counsel

Ans: Yes, he himself can defend his case in the enquiry or he may engage a serving officer to act as his defence counsel, subject to consent of such serving officer. [Regulation 6 (7) of DAR] However, it is suggested to contact State Association immediately on receipt of a charge sheet, for engagement of a competent Defence counsel to defend the case not only in the enquiry but also for writing reply to Charge sheet etc since the Charge sheeted officer will be emotionally depressed and it may not be possible for him to concentrate in the matter with analytical eye and logical mind. Keeping this objective in view, the Federation has been imparting training from time to time in different locations of the country for forming a pool of able Defence Counsel in various States. However, the Regulation does not provide for engaging a retired officer to act as defence counsel, despite repeated communication from Federation as well as recommendation from Expert Committee formed(ARC) by GOI.

22. Whether Charge sheeted officer can engage a lawyer as defence counsel.

Ans: Normally, he is not allowed to engage a lawyer to act as his defence counsel, unless the PO appointed by the Management is a legal practitioner or the DA having regard to the circumstances of the case, so permits. [Regulation 6 (7) of DAR]

23. Whether Charge sheeted officer can offer himself to be a defence witness?

Ans: Yes, the Charge sheeted officer may be his defence witness also in the enquiry. But it is better for the officer not to offer himself as defence witness, since he will be subjected to cross

examination by the PO, when there is every possibility to depose anything, which may go against his own interest.

24. Whether defence counsel is eligible for TA/DA and special leave for attending enquiry ?

Ans: Yes, provided he belongs to the same state in which the Charge sheeted officer is employed. Please refer Bank's Circular No. CHO/PMG/19/2011-12 dated 18-07-2011

25..After completion of oral enquiry , How the PO & Defence counsel will file their respective oral/written brief of arguments.

Ans: After completion of production of evidences from both sides, the EO may hear the brief of arguments from PO and defence counsel or may permit them to file their respective written briefs within stipulated dates. In the first instance the PO has to file his written brief. The Defence counsel is entitled to have a copy of the PO's brief to submit his written brief thereafter, within the date stipulated by EO. [Clause 12.3.5 (x) of Special chapter on Vigilance Management in PSB]

26. Whether it is obligatory on the part of Management to provide a copy of the Enquiry Report to the Charge sheeted officer advising him to submit representation on the enquiry findings before awarding penalty?

Ans: Yes , as per Supreme Court judgment in the case of Union of India Vs Md Ramzan Khan & others , AIR 1991 SC471, where the Enquiry Officer is not the DA and all or any of the charges has been held as proved , it is obligatory for the DA to send a copy of the Report to the Charged officer asking his representation within a specified date ,on enquiry findings. However, the DA has the power to disagree with the findings of the EO in respect of any/ all the charges held as ' not proved' by the DA. But in such situation the DA has to communicate the rationale/ reasons for his disagreement to the charged officer asking his comments.

27. Whether DA can order for a re-enquiry:

Ans: Yes, the DA can remit the case for further enquiry , if he considers that there are grave lacune or procedural defects which vitiates the enquiry.[Regulation 7 (1) & (2) of DAR] However, the fact that the enquiry has gone in favour of the Charged officer or the evidence led in the enquiry has gaps , should not be a reason for remitting the case for further enquiry(Dwarka ChandVs State of Rajasthan AIR 1959 Raj 38)

28 Whether the charged officer is entitled to get a show cause and personal hearing before the DA on proposed penalty.

Ans: No, unlike award staff, there is no provision to issue second show cause to the charged officer asking his representation on proposed penalty or to give him an opportunity of personal hearing on proposed penalty.

29.What is the Final order:

Ans: The order issued by the DA in disposal of the disciplinary action is called the Final order. It should be a speaking order with reasoned findings on each allegation and charges and the charge wise penalty awarded by him. However, if the DA having regard to his findings on all or any of the articles of charge , is of the opinion that , no penalty is called for, it may pass an order exonerating the officer employee concerned [Regulation 7(4) of DAR]. In case officer

submits an appeal against Final order of the DA, and the Appellate Authority passes an order in disposal of the appeal, the Order of the Appellate Authority is treated as Final order.

30. What is the time limit for initiation of Disciplinary action after the date of committing alleged misconduct by an officer.

Ans: It is four years from the date of the event or completion of two Regular inspection Report, whichever is earlier except the case involving fraud, criminal offence mala fide etc. (CHO/PMG/15/2010-11 dated 21-06-2011)

31. What is the time limit for disposal of a disciplinary action case

Ans: As per extant guidelines, time limit for disposal of Vigilance RDA (Regular Departmental Action) case is 6 months from the date of issuance of Charge sheet and four months for Non-vigilance RDA case. (Circular No. HOCL/PMG/2011-12/01 dated 13-05-2011)

32. Whether prosecution and departmental action may proceed simultaneously against an officer.

Ans: Unlike Staff under Award, both RDA and prosecution case may be proceeded simultaneously against an officer, provided in the Bank's charge sheet the officer is charged for violation of Conduct Regulation and in the Police/CBI case the Charge indicates criminal misconduct i.e. offence under IPC or PC Act. In case of self same charges, the defence may raise protest in view of double jeopardy.

33. If an officer is acquitted in criminal proceeding, whether the Bank can initiate disciplinary action?

Ans: Yes, especially when the acquittal is due to the result of giving benefit of doubt to the officer by the Hon'ble Court.

34. What will be the consequences, if an officer is convicted by a criminal court for an offence involving moral turpitude?

Ans: Section 10(1)(b)(i) of the Banking Regulation Act 1949 prohibits the Bank to retain employment of a Bank employee if he is convicted for an offence involving moral turpitude. In such a situation the Employer issues a show cause notice to such officer asking his explanation as to why he will not be terminated from Bank's service. The Employer should also give him a personal hearing before issuance of the termination order. However, conviction outside India of a Bank Employee cannot be taken notice for suspending / imposing any punishment on him. (Union of India Vs S K Mukherjee 1977 II LLJ460)

35. What is moral turpitude?

Ans: Briefly, moral turpitude means anything done contrary to justice, honesty, modesty or good morals.

36. Whether the charged officer has the right to make an appeal against the final order of the DA awarding penalty

Ans: Yes, the appeal is to be made within 45 days from the date of receipt of the order. The appeal is to be addressed to the Appellate Authority, but to be submitted to the authority against whose order the appeal is made. The Appellate Authority has the power to retain, reduce or enhance the penalty imposed by the DA. However, in case of enhancement of penalty, the Appellate Authority is required to issue show cause to the officer for his representation on proposed enhanced penalty and is required to give him an opportunity of personal hearing. (Regulation 17 of DAR)

Keeping in view the judgments of Supreme Court in the matter of R P Bhatt Vs Union of India, 1985 3SLR SC 745 an appeal should highlight the violation, if any, of disciplinary procedure in the entire course of disciplinary action, the erroneous findings, if any, of the EO & DA which are not based on evidences produced in the enquiry and whether the punishment is commensurate with the gravity of misconduct proved.

The Appellate Authority has to dispose of the appeal within 90 days from the date of receipt of the appeal excepting vigilance cases and where RDA has been initiated as per recommendation of CBI/CVC. However, he has to record the reason for non disposal of the appeal after 90 days.

37. Whether an officer being aggrieved with the order of the Appellate Authority may submit a Review petition to the Reviewing Authority

Ans: Yes, but the Reviewing Authority has the power to review the Final order either on his own motion or otherwise, within six months from the date of the Final order, **provided any new material or evidence which could not be produced or was not available at the time of passing the Final order and which has the effect of changing the nature of the case, has come or has been brought to his notice.** (Regulation 18 of DAR)

The Reviewing authority has the power to retain, enhance or reduce the penalty imposed by the DA or Appellate Authority. However, in case of enhancement of penalty, the Reviewing Authority is required to issue show cause to the officer for his representation on proposed enhanced penalty and is required to give the officer an opportunity of personal hearing.

37 (a) : If Bank Officers are public servant, whether they can approach to Industrial/National Tribunal for remedy against disproportionate penalty imposed on them?

Ans: Although, as per section 21 of IPC, the Bank Officers are Public servant, they are not covered under Industrial Disputes Act 1947 and therefore any officer, being aggrieved by any disciplinary action against him can approach only the appropriate High Court under Article 226 of the Constitution for issue of a writ for quashing the order in terms of which action is taken. In normal circumstances, the Court will not entertain any writ petition unless the officer exhausted all the remedies of appeal & review, available in the disciplinary procedure.

38.. When an officer may be placed under suspension

Ans: Under following circumstances, an officer may be placed under suspension by the Competent Authority (Regulation 12 of DAR)

- i) Contemplation/ pendency of Disciplinary action
- ii) A case against the officer in respect of criminal offence is under investigation/inquiry/trial

39. What is deemed suspension?

Ans: An officer shall be deemed to have been placed under suspension [Regulation 12(2) of DAR]

- i) With effect from the date of his detention , if he is remanded in custody more than 48 hours
- ii) from the date of his conviction for an offence for which he is sentenced to a term of Imprisonment exceeding 48 hours
- iii) Where a penalty of dismissal/removal/compulsory retirement awarded to a suspended officer is set aside by the order of Appellate/ Reviewing Authority /Hon'ble Court , from the date of original order of dismissal /Removal/ Compulsory retirement

40. Whether suspension is a punishment?

Ans: Suspension is not a penalty, but an administrative action. However, often it turns punitive due to Un- mindful suspension of the officer by the Management and its continuance without review, although GOI directed for review of each suspension case at least once in six months.

41. What is the subsistence Allowance and how it is calculated?

Ans: As the officer does not get salary and allowances for the period he remains under suspension, therefore for his sustenance, the subsistence allowance is paid. The rate of subsistence allowance is as under:

- i) First three months one third of Basic pay & proportionate allowance, the officer was drawing prior to the date of suspension.
- ii) Next three months & thereafter half of the Basic pay and proportionate allowance , if the enquiry is held departmentally by the Bank [Regulation14 (1) (a)(i) & (a) (ii) (1) of DAR]
- iii) First six months one third of Basic pay & proportionate allowance and thereafter half of the Basic pay & proportionate allowance, if the enquiry is conducted by outside agency (Police/CBI) (Circular No. CHO/POS/20/2000 dated 10-11-2000)

42.. What are the facilities available / not available to suspended officer?

Ans:

- i) Suspended officers are entitled to Medical aid , Hospitalization expenses and may continue to avail Bank's accommodation subject to recovery of 10 to 12.5% of either subsistence allowance or Basic pay, prior to the date of suspension, whichever is lower.
- ii) They are not entitled to Leave, increment & PF contribution during the period of suspension.
- iii) Statutory deductions like Income Tax/ profession tax has to be made from Subsistence Allowance
- iv) Loan installments due to Bank are to be recovered, but quantum may be reduced at the discretion of the Competent Authority. (Manual on Disciplinary action & related matters and Circular No.CHO/PMG/32/2003 dated 19-11-2003)

43. Whether there is scope of making appeal against the order of suspension?

Ans: Yes, within 45 days of receipt of suspension order, the officer can submit appeal for revocation of suspension. The appeal is to be addressed to the Appellate Authority, but to be submitted to the Competent Authority, against whose order the appeal is made. (Regulation 17 of DAR)

44. How various kinds of Penalty can be interpreted?

Ans: Please refer Bank's Circular No. CHO/POS/19/2008-09 dated 29-12-2008. In brief, when the Basic pay of an officer is reduced by certain stage on account of major penalty with cumulative effect, the same is to be restored to the stage wherefrom it was brought down after expiry of punishment period.

45. Whether Disciplinary action can be continued even after the date of superannuation of an officer ?

Ans: Yes, by invocation of Regulation 20(3)(iii) of OSR 1979, the service of the officer is extended for the limited purpose of completion of departmental enquiry. For this extended period the Officer is not entitled to any salary & allowances except his own contribution to PF and Provisional pension till the Final order is issued by the DA. Although the Bank issued Circular No. CHO/POS/2011-12/15 dated 18-07-2011, advising completion of Disciplinary action well before the date of retirement of an officer as well as making the Disciplinary Authority/ Controlling Authority accountable on their failure to do so for any irregularity surfaced before 6 months of the date of retirement of the concerned officer, all these guidelines remain in paper despite repeated protest from Federation.

46. Whether disciplinary action/Suspension can be continued even after death of an officer?

Ans: Disciplinary action is abetted on the death of an officer. The liability being personal in nature ends with his death and does not pass on to his legal heirs of the deceased. Consequently, the charges remain unproved and the employee is deemed to have been found not guilty of any misconduct. Similarly on the death of a suspended employee, he shall be deemed to have been never placed under suspension and will be entitled to pay and allowances for the period of suspension.

47. Whether consultation with Central Vigilance Commission (CVC) is necessary for disciplinary cases against Bank Officers?

Yes, in terms of Regulation 19 of DAR, for the vigilance disciplinary cases involving officers of SMGS V & above, two stages consultation with CVC for nature of penalty proceeding and quantum of penalty are necessary. This is applicable for junior officers also in composite cases where the senior most officer(s) involved is/ are in SMGS V & above. Further, Bank has issued Circular No. CHO/VIG/01/2004-05 dated 15-07-2004 to obtain first stage and second stage advice of CVO for the nature of penalty proceedings and quantum of penalty in respect of Officers upto SMGS IV in relation to Vigilance RDA cases, against which the Federation lodged strong protest, since it is outside the scope of Regulation and an attempt to influence the decision of the DA, who is supposed to exercise his quasi judicial power independently.

DA- Disciplinary Authority, EO- Enquiry Officer, PO- Presenting Officer
DAR- Discipline & Appeal Regulations 1976, as amended.