

Pakistan Ordnance Factories Board
Wah Cantt
No. POF/07/CH
27 August 2009

To:

All Board Members/MDs/Head of Deptt

Subject: **COURT OF ENQUIRY**

It has been observed that Court of Enquires are neither finished on time nor possess the right degree of inputs. The whole purpose of this sub standard work is to intentionally delay or disregard justice. Under law and morality both are serious breaches of discipline, an intentional breach of trust.

Quality of enquiry which fails to bring out correct identification of causes, responsibility and effects speaks of the member's own quality of professionalism and moral courage/self discipline.

Over last three months. I have noticed an intentional over sight in the contents of enquires and lack of responsibility in the conduct and intentional delays in processing of important legal cases/aspects. I expect highest standards of discipline and moral strength from officers of POF. In future C of I and legal works must be done with fairness /firmness and on time.

-- Sd --
Lt Gen
Chairman POF Board
(SHUJAAT ZAMIR DAR)

PAKISTAN ORDNANCE FACTORIES BOARD

(Administration Department)

Subject:- **ENQUIRES.**

Factories management encounters various situations, requiring investigations on disciplinary matters, public loss of money and procedural irregularities. Such investigations are required to conform to the prescribed official procedures in order that their legality is not challenged. To facilitate the Managers and Controlling Heads of Factories in convening such enquires, an abridged document has been prepared, outlining the mode and type of enquires, their application and legal requirements, which is enclosed for information and guidance of all concerned.

Enclo: (03)

All MDs/Controlling Heads.

Sd.x.x.x.x.
(A. G. BAIG)
Chief Administrative Officer
24-2-1991.

No. 3600/68-B/R&R

Copy to:-

S. O. C.

INQUIRIES

There can be following situations wherein investigation could be required through convening different types of Inquiries for correct decision making:-

- A) Whenever any problematic situation arise, where the causes are required to be determined or responsibility is to be fixed initiating any action, then **PRELIMINARY OR DEPARTMENT INQUIRY** is convened. The examples of problematic situation could be as follows:-
- i) Whenever two or more persons have quarreled and the real culprit is not known.
 - ii) Whenever there is any dispute between different section and it is not clear that who is right.
 - iii) Whenever there is any allegation against any employee, which requires verification.
 - iv) Whenever any malpractice not involving loss of public money or of stores takes place and the name of accused person or extent of his involvement/offence is not known/clear.
 - v) When loss of store is not due to theft, fraud or neglect, irrespective of the amount involved.
 - vi) When loss of store takes place on account of theft, fraud or neglect, but the amount does not exceed Rs. 5000/-
- B) Whenever there is loss of public money, then **COURT OF INQUIRY** is essential, irrespective of the amount involved or irrespective of the fact whether it is due to theft, fraud or neglect or not.
- C) Whenever there is loss of store exceeding Rs. 5000/- on account of fraud, theft or neglect, **COURT OF INQUIRY** is essential.
- D) When charge sheet is given under E&D Rules, 1973, then **INQUIRY UNDER E&D RULES** is compulsory, whereas, in case of RE's the Inquiry is optional under RE's Disciplinary Rules of 1956. However on the basis of experience of Courts/Services, it is felt that whenever major punishment is to be awarded to workman or RE's Staff, then Inquiry after **CHARGE SHEET** must be essentially convened.
2. Detailed instructions about these inquiries are as follows:
PRELIMINARY OR DEPARTMENTAL INQUIRY
- a) It is an optional inquiry and has no legal bindings.
 - b) It could be convened under verbal or written orders.
 - c) It could be conducted by one or more persons.
 - d) The recording of statement is not essential.
 - e) The inquiry report must contain definite recommendations.
 - f) In case of disciplinary matters, this inquiry is meant to facilitate pin-pointing the accuses and to frame charges against him. Under no circumstances it can be quoted in charge sheet or its copy provided to accuse.
 - g) This inquiry can be convened by any officer.
 - h) The recommendations of this inquiry are not binding and the convening officer may accept them or reject those.

(ContdP/2)

COURT OF INQUIRY

- a) It is legal Inquiry for write-off losses.
- b) It is not required for purely disciplinary matters.
- c) Chairman POFs Board is competent to convene it. However, CAO and various MDs have also been authorized to issue convening orders on behalf of Chairman POFs Board within their respective factories/groups in order to fulfill the natural demand of justice. Similarly in all cases, where the amount of loss exceeds Rs. 100,000/- or where two or more departmental/factories are involved, then CAO will convene the Court of Enquiry even if the amount involved is less than Rs. 100,000/-
- d) The Court may comprise of two or more officers and the senior most acts as President. In selecting personnel it is essential to keep in view the status, knowledge, qualification and competence of its members vis-à-vis the subject of investigation. The Court can also co-opt professionally competent officers for advice, but such officers should not be directly connected with the case.
- e) The Court is given terms of reference and reasonable period for submission of proceedings.
- f) The Court may call the persons for recording their statements or get the requisite information through questionnaire.
- g) Wherever any enquiry affects the characters or reputation of person, full opportunity is afforded to him to remain present throughout the enquiry and to cross-examine the witnesses.
- h) The Court can ask any related document to be produced.
- i) No witness is sworn.
- j) The Proceedings are compiled on Form AFA-2 as follows:-

PREAMABLE	:	Brief introduction of why the enquiry has been convened and what are the terms of reference?
EVIDENCE	:	Details of persons/documents examined. The statements recorded and copies of essential documents are included in Appendix.
FINDINGS/CONCLUSION	:	The detailed analysis and factual deduction from the evidence available.
OPINION	:	Causes and fixing of responsibility.
RECOMMENDATIONS	:	Outline measures considered necessary to prevent similar occurrence in future. The recommendation for initiating disciplinary action can be given, but no specific punishment can be recommended.

ENQUIRY UNDER DISCIPLINARY RULES

- a. These enquires have legal bindings and challengeable in Court of LAW/Services Tribunal. There is need for extreme care in conducting these enquiries, because the Court/Tribunal set aside the punishments the punishments if there is any flaw in these enquiries.
- b. The 'Authorized Officer' is competent to order these enquires under E&D Rules, while GM can order in case of RTEs.
- c. One or more officers can be nominated to conduct the enquiry.
- d. In case of E&D Rules, the Enquiry Officer or Team has the powers of a Civil Procedure, 1908 (Art. V of 1908) in respect of following matters:-
 - i) Summoning and enforcing the attendance of any person and examining him on oath.
 - ii) Requiring the discovery and production of documents.
 - iii) Issuing commissions for the examination of witnesses or documents.
- e. The proceedings of Enquiry under E&D Rules are deemed to be judicial proceedings within the meanings of section 193 & 228 PPC (Act. XLW) of 1960).
- f. The accused remains present throughout the enquiry and allowed to cross-examine the witnesses produced against him. He is also afforded opportunity to produce witnesses in his defense.
- g. The case is heard from say to day and no adjournment is given except for reasons to be recorded in writing, which should be reported too the 'Authorized Officer'. No adjournment should exceed one week.
- h. It is essential that Prosecution side prove the charges against the accused. Some departmental Rep. Should, therefore, record his statement to prove the charges given in charge sheet and the Enquiry Officer should not merely rely on documentary evidence.
- i. The terms of reference for the Enquiry Officer is the Charge Sheet. No charges other than those given in charge sheet can ne investigated.
- j. The Enquiry Officer has to carefully examine the available evidence and to give his verdict whether the charges have been proved or not. No recommendation can be given by him.
- k. The Enquiry Report is normally required to be submitted within 10 days of the conclusion of proceedings or such longer periods as may be allowed Authorized Officer.
- l. The Authorized Officer may accept or reject the findings of Enquiry Officer and can also order fresh Enquiry y nominating new Enquiry Officer.

PAKISTAN ORDNANCE FACTORIES BOARD
(Administration Department)

Subject: **ENQUIRIES**

Ref'nce: CAO's Note No. 3600-68-B/R&R, dated 24.02.1991.

I has come to the notice that Courts of Enquiry constituted by CAO, MDs and Controlling Officer submit the proceedings by fixing responsibilities on officers / officials without ascertaining their date of retirement / date of expiry which results in subsequent legal complications.

2. With a view to eliminate chances of legal complications, the Courts of Enquiry while fixing responsibility on the officer / officials must add to the proceedings the service particulars of the affected officer / officials as per prescribed statement enclosed herewith.

All Concerned

Sd. Xxxxx
(NAYYAR AZHAR)
Supdt./Administration
For Chief Admin Officer
03-09-1995

3600/68-B/Misc/R&R

STATEMENT SHOWING SERVICE PARTICULARS OF THE OFFICERS / OFFICIALS HELD RESPONSIBLE FOR IRREGULARITIES FOUND OUT BY THE COURT OF ENQUIRY.

1. Name of the Officer/Official held responsible.
2. Pl. No.
3. Designation at the time of committing irregularities.
4. Designation of the post on which the officer/official is working on the date of submission of proceedings.
5. Date of birth of the officer/official.
6. Date of joining POFs with the name of the post.
7. Date of completion of 25 years service.
8. Date of superannuation.
9. Whether the officer has applied for voluntar⁷ retirement on completion of 25 years service. If so, provide details and the date on which the officer/official desires to retire from service.
10. Whither the officer is on duty on the date of submission of proceedings. In case he has been hospitalized or has expired, please furnish detailed report.
11. Any other misc. information in respect of the officer/official required for the purpose of finalizing the disciplinary proceedings against him.

POF BOARD

(Adm Dept)

Subject: **INORDINATE DELAY IN FINALIZATION OF COURT OF INQUIRIES/**

Reasonable time is given for completion of the inquiry proceedings depending upon the type of inquiry varying from simple to complicated cases. Normally one month time is given for completion of the assigned task. Further extension in submission time is given on the cogent reason.

2. It has been observed that Court of Inquiries are not completed timely. Moreover in various cases, neither the inquiry officers give correct identification of causes leading to occurrence of the incidents nor fix the responsibility on the persons at fault, which negates the basic objective of the Court of Inquiry.

3. This tendency has been viewed seriously by the Chairman POF Board. All controlling officers are required to instruct officers working under their administrative control to finalize the Court of Inquiry whenever assigned, covering all aspects of the inquiry especially within time frame specified in the convening order, failing which inquiry officers will be issued warning / displeasure which will be placed in their service records.

(All MDs/Controlling Officers)

Sd.x.x.x.x.x
Brig
Dir Adm
(**SAMI AKHTAR**)
17-5-2012

No. 3600-68-B-Misc Inq-R&R

Copy to:

- | | | |
|-----------------------|---|-------------------------|
| 1. <u>S. O. C.</u> | } | For information please. |
| 2. <u>D. I. C. R.</u> | | |
| 3. <u>M. P. C.</u> | | |

* **N.B.** = The form being applicable to any Board of Officers or Committee or Court of Inquiry, this blank to be filled in accordingly.

The signature of each officer composing the Board etc, should be attached at the end of the proceedings.

When this form is used for Medical Board, a statement of case by the medical officer, who being the patient before the Board will be prepared on the third page of this form.

The attention of the Court is directed to R.P. 125 A. (B) and I.A.A. Rule 185 (F) which directs the presence throughout a Court of Inquiry of any officer or soldier, whose character military reputation may be affected.

S.A.A. Board will certify on the form in manuscript that they:

- (a) Have examined P.A.F.O 1444-A and that the entries therein are correct.
- (b) Have examined Squadron/Company B 293's.
- (c) Have counted the ammunition in the Regimental magazine and certify that the numbers found agree with the total shown charge in P.A.F.O. 1444 A after deducting the numbers shown on Squadron/Company B-293's on (date)
- (d) Have examined the B 293 of (one) Squadron / Company and certify that the number of rounds counted in the Squadron/ Company agree with the number shown on B-293.

PROCEEDINGS OF a* _____

Assembled at _____

On the _____

By order of _____

For the purpose of _____

PRESIDENT

MEMBERS

MEMBERS

MEMBERS

Rep of LAO(A)

APPROVED

The

Having assembled pursuant to order proceed to