

CIRCULAR NO. 79 /2020

DATE : 19.05.2020

**TO,
ALL MEMBERS**

DISCIPLINARY PROCEEDINGS
PRINCIPLES OF NATURAL JUSTICE
APPEALS TO APPELLATE AUTHORITY

We reproduce hereunder the text of the AISBOF circular No. 79 dated 19.05.2020 , the contents of which are self-explicit.

With warm greetings

(Ajit Kumar Mishra)
GENERAL SECRETARY

OUR UNITY : ZINDABAD-ZINDABAD
S.B.I.O.A : ZINDABAD-ZINDABAD

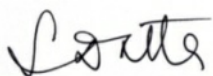
TEXT

DISCIPLINARY PROCEEDINGS
PRINCIPLES OF NATURAL JUSTICE
APPEALS TO APPELLATE AUTHORITY

We have sent a communication to the Dy. Managing Director (HR) & Corporate Development Officer, State Bank of India, on the captioned subject.

A copy is enclosed for information.

Yours comradely,



(Soumya Datta)
General Secretary

No: 7151/39/20

Date: 19.05.2020

The Deputy Managing Director (HR) & CDO,
State Bank of India,
Corporate Centre,
Madame Cama Road,
Mumbai – 400 021.

Dear Sir,

DISCIPLINARY PROCEEDINGS
PRINCIPLES OF NATURAL JUSTICE
APPEALS TO APPELLATE AUTHORITY

You are aware that under Rule no. 69 (1) of SBIOSR an opportunity is given to an officer to prefer an appeal to the Appellate Authority within 45 days from the date of receipt of the order imposing upon him any of the penalties specified in rule 67 or against the order of suspension referred to in rule 68A. This privilege is given to the officer in consonance with the provision under Articles 14 and 21 of the Indian Constitution. Rule no.69 (2) of SBIOSR stipulates that the appeal shall be addressed to the Appellate Authority and submitted to the authority against whose order appeal is preferred for his remarks.

2. The said Appeal is processed at the LHO by the Appeals & Review Cell (DGM & CDO department) and submitted to the same Disciplinary Authority/ Appointing Authority who has awarded the penalty, for their remarks / comments. The Appeal along with the remarks / comments of the Disciplinary Authority/Appointing Authority together with the relevant records is forwarded to the Appellate Authority at Circle/Corporate Centre for further consideration.

3. The Disciplinary Authority/Appointing Authority at times may not be willing to consider the submissions of the Appellant favourably, though they are valid submissions, since the charges/lapses were held as "Proved or Partly Proved" as the case may be by the Disciplinary Authority/Appointing Authority themselves. Personal likings and disliking may be at play. In such case, the officer is bound to lose a reasonable and genuine opportunity in complete violation of principles of Natural Justice as it loses its original fervour associated with the very term, "Appeal" which originally is a prayer from the aggrieved employee to the higher management.

4. It is an established practice in the legal system that the same judge cannot be a part of the reviewing authority while reviewing the judgment in a given situation. This channel of appeal in domestic inquiries also goes with the principals of Natural Justice as a matter of opportunity to the aggrieved employee against the decision of the disciplinary authority. To instil confidence in the system, justice should not merely be done; justice should manifestly be seen to be done. If this is ignored, then the decision would be affected. It is a predisposition to decide for or against one party without proper regard to true merits of the dispute. A decision which is not based on evidence is biased. The Appeal procedure is considered to be a device enabling those who have been denied justice at the lower level. Accordingly, an appeal against the order given by a lower court is not processed through the same lower court but is submitted to the higher court directly.

5. Sir, you are aware that there have been significant changes in the system and procedures in many areas which were in practice for decades to suit the changing dynamics in the 21st century.

6. In the above backdrop, we suggest that the appeal, processed at the LHO by the Appeals & Review Cell (DGM & CDO department) should directly be sent to the Appellate Authority without involving the Disciplinary Authority/Appointing Authority who has awarded the penalty, so as to enable the Appellate Authority to take an independent and unbiased decision. The Appellate Authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders with independent application of mind. Accordingly, the Appellate Authority may pass an order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case. This will instill confidence among the officers that justice has been done and principles of Natural Justice have been upheld.

We, therefore, request you to look into the matter and take a holistic view in the system so that the grievances of the officers are suitably addressed.

“Stay Safe, Stay Healthy”

With regards,

Yours Sincerely,



(Soumya Datta)
General Secretary