

## **DISCIPLINE IN THE CIVIL SERVICE**

### **ONE MAN TRIBUNALS**

#### **Disciplining Public Officers**

The Public Service Commission has jurisdiction to exercise disciplinary control over public officers in the Civil Service, the Prison Service and the Fire Service by virtue of section 121 of the Constitution. The procedure for exercising such disciplinary control is set out in Chapter VIII of the Public Service Commission Regulations. That procedure is normally initiated when a Permanent Secretary or Head of Department receives a report or allegation of misconduct or indiscipline and he/she reports the matter to the Director of Personnel Administration for the information of the Commission and concurrently warns the officer in writing of the allegation. The Permanent Secretary then appoints an investigating officer who would obtain statements from all parties concerned and submit a report to the Commission. The Commission would then lay disciplinary charges if appropriate and would appoint a disciplinary tribunal to hear the evidence and find the facts. The tribunal prepares a report which is submitted for the consideration of the Commission which then determines the matter and imposes such penalty as it considers fit.

This procedure, while appropriate for more serious or complex acts of misconduct or indiscipline, has been found to be inefficient in dealing with minor infractions which can be determined speedily and with less formality. Consequently, on April 16, 1999, the Public Service Commission by Legal Notice No. 60 of 1999 delegated to Permanent Secretaries and Heads of Departments the authority to hear and determine specified acts of misconduct and indiscipline listed below. Permanent Secretaries were thereby empowered to act as “one-man disciplinary tribunals” to hear and determine allegations of misconduct which are relatively minor in nature.

#### **Procedure for the One-man Tribunal**

The procedure for the one-man disciplinary tribunal is outlined in Regulation 85 of the Public Service Commissions Regulations as amended by the Public Service Commission (Amendment) Regulations 1990. The process begins where an officer is alleged to have committed an act of misconduct or indiscipline that has been delegated to the Permanent Secretary or Head of Department. The steps to be followed are as follows:

1. The Permanent Secretary or Head of Department should refer the matter to an officer senior in office to the officer against whom the report or allegation is made.
2. The senior officer will examine the allegations and come to a decision whether the facts alleged are such as to constitute an act or acts of misconduct for which the officer may be charged.

If necessary he may need to make additional enquiries i.e. talk to the parties involved.

3. If the facts warrant that disciplinary charges be laid, the senior officer should formulate the charges and notify the officer in writing, through the Permanent Secretary or Head of Department, of the charges laid against him.
4. The Permanent Secretary or Head of Department should then forward this correspondence to the officer charged together with a letter in which the Permanent Secretary or Head of Department informs the officer charged of the date, time and place of the hearing before a One-man Tribunal.
5. The Permanent Secretary or Head of Department shall act as a Disciplinary Tribunal or appoint, in writing as a Disciplinary Tribunal, an officer in his Ministry or Department, as the Commission directs, holding or performing the duties of an office which is senior to that of the officer charged.
6. The officer will appear before the One-man Tribunal at the appointed day and time.
7. The One-man Tribunal will open proceedings by ensuring that the officer understands exactly what is taking place and he shall ask the officer to state whether the allegations are true or not.
8. An officer in the Ministry will present the case against the officer charged by calling witnesses.
9. The officer charged or his representative will be entitled to cross-examine any of the witnesses called to give evidence against him.
10. The officer charged may then give evidence and call witnesses to testify on his behalf.
11. This will be followed by cross-examination of the persons who gave evidence for the officer charged including the officer himself.
12. Closing statements may then be made by the officer presenting the case for the Ministry and by the officer charged or his representative.
13. The Tribunal will then give his decision and impose a penalty where appropriate.

14. The Permanent Secretary or Head of Department should inform an officer who is found guilty of his right of appeal to the Public Service Appeal Board.
15. A true record of the proceedings at the hearing should be taken and a copy of the record must be made available if the officer desires to appeal.
16. The penalties which may be imposed by a Tribunal in exercising the delegated authority to discipline public officers are limited by Regulation 85(4) to the following:-
  - ❖ reprimand;
  - ❖ fine.
17. The fine imposed by a Permanent Secretary or Head of Department must not exceed an amount calculated on four (4) days pay per month to a maximum of three (3) months:  
Regulation 85(8).
18. A fine imposed by a Disciplinary Tribunal other than the Permanent Secretary or Head of Department must not exceed an amount calculated on four days pay to be deducted from the salary of the officer in no more than two instalments.

Where the Permanent Secretary or Head of Department is the person making the allegation or report, he shall not exercise any power as a disciplinary tribunal but shall refer it to the Commission to determine.

The acts of misconduct or indiscipline which the Permanent Secretary or Head of Department has authority to hear are listed below:

- failure to attend to matters promptly within the scope of office;
- lack of courtesy to a member of the public or other public officer;
- wilful failure to perform duties;
- absence without leave or reasonable excuse;
- failure to report absence from country;
- breach of rules relating to broadcast;
- act of indebtedness to the extent it impairs efficiency;
- failure to notify bankruptcy proceedings;
- failure to perform duties in a proper manner;

- breach of a written law;
- behavior that is prejudicial to, or discredits, the Service;
- disobedience to order;
- neglect of duty;
- unlawful or unnecessary exercise of duty;
- absence without leave from office or habitually irregular in arrival/departure from office;
- unfit for duty through drunkenness or illicit use of drugs.