

Landmark Judgment relating to procedure of disciplinary inquiry:

Chief Engineer, Latur Zone & Competent Officer, Maharashtra State Electricity Distribution Company Limited Vs Nathuram

Writ Petition No. 11616/2018

Hon'ble Judge: R.V. Ghuge

12. I am unable to accept the said contention for the reason that a departmental enquiry has to be normally conducted in the following manner :

a) A charge sheet cum show cause notice has to be served upon the employee, as per the 42nd amendment (Article 311) to the Constitution (refer M.D., ECIL Vs B. Karunkar, MANU/SC/0474/1992: 1992(1) SCC 709

b) After the employee submits his written explanation, the Management has to take a decision as to whether it would initiate a departmental enquiry or not.

c) After the Enquiry Officer is appointed, the onus and burden is upon the Management to lead evidence and support the charges levelled upon a delinquent.

[If the Management does not lead evidence and does not prove the contents of any document, the delinquent has to disprove nothing)

(d) The delinquent has the opportunity of cross-examining the Management witnesses, only if they are examined.

e) The delinquent shall thereafter be permitted to lead oral and documentary evidence.

f) The delinquent and his witness can be cross-examined by the Management representative, in sequence.

g) If the rules permit, both the parties can be granted the liberty to tender oral or written submissions.

h) Thereafter, the Enquiry officer would submit his report.