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DEPARTMENTAL PROCEEDINGS
VS
CRIMINAL PROCEEDINGS

- **INTRODUCTION**
 - **WHAT IS A DEPARTMENTAL PROCEEDING?**
 - **WHAT IS A CRIMINAL PROCEEDING?**
 - **DIFFERENCE BETWEEN CRIMINAL AND DEPARTMENTAL PROCEEDINGS**
 - **PRINCIPLE OF DOUBLE JEOPARDY**
 - **FREQUENTLY ASKED QUESTIONS**
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- Government Servants play a very important role to run the administration of any Country.
 - They are important constituents of the administrative set-up of the nation.
 - They are pillars of the Govt. Departments on whose shoulders the responsibility to implement the Govt. policies lies.
 - They provide public services to the citizens at the grass root level.
 - For the effective execution of their duty government servants has to abide by some rules framed from time to time by the Govt.
 - In almost all such rules reference to departmental proceedings can be seen to punish delinquent servants.
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• **WHAT IS A DEPARTMENTAL PROCEEDING?**

• **Steps followed in a departmental proceeding:**

1. Lodging of a Complaint/Allegation.
 2. Holding of Preliminary Inquiry.
 3. Consideration of the Report of the Preliminary Inquiry by the Disciplinary Authority.
 4. Show-cause Notice to the delinquent official.
 5. Replying of the employee to the Show-cause Notice.
 6. Issuance of Charge-sheet to the delinquent official (if reply is considered unsatisfactory by the Disciplinary Authority).
 7. Appointment of Enquiry Officer and order for regular inquiry.
 8. Nomination of a Presenting Officer (if required).
 9. Commencement of proceedings (reply to the charge framed).
 10. Submission of Inquiry Report by the Enquiry Officer.
 11. Attendance and examination of facts and witnesses.
 12. Consideration of the Report and Final order.
 13. Appeal.
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- **WHAT IS A CRIMINAL PROCEEDING?**

- **Steps followed in a criminal proceeding:**

1. FIR or Complaint
 2. Investigation
 3. Framing of Charge
 4. Inquiry
 5. Proceedings
 6. Verdict
 7. Appeal.
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- **DIFFERENCE BETWEEN CRIMINAL AND DEPARTMENTAL PROCEEDINGS**

- As Regards to Aim

- As Regards to Procedure



- **PRINCIPLE OF DOUBLE JEOPARDY**
 - Article 20(2) of Constitution of India
 - Res Judicata: Section 10 of CPC
 - Nemo Debet Bis Vexari: Section 300 CrPC
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- **FREQUENTLY ASKED QUESTIONS:**

- 1. Whether Simultaneous Proceedings in Respect of Same Matter/Issue can be Instituted?**
 - 2. Whether Successive Proceedings in Respect of Same Matter/Issue can be Instituted?**
 - 3. What is the Impact of Acquittal in a Criminal Trial upon a Departmental Proceeding?**
 - 4. What is the Impact of 'Not Guilty' in a Departmental Proceeding upon a Criminal Trial?**
 - 5. Whether the Assistance of an Advocate can be sought in Departmental Proceedings?**
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- **CAPTAIN PAUL ANTHONY'S CASE: (Captain M. Paul Anthony v. Bharat Gold Mines Ltd. & Anr AIR 1999)**

1. Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

2. If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

3. Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.

4. The factors mentioned at point 1 and 3 above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

5. If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be protected and in case he is found guilty, the administration may get rid of him at the earliest.



Thank You
