

**दक्षिण रेलवे Southern Railway**  
**प्रधान मुख्य कार्मिक अधिकारी कार्यालय**  
**Office of the Principal Chief Personnel Officer**  
**प्रधान कार्यालय, कार्मिक विभाग, चेन्नै-600003**  
**Headquarters, Personnel Department, Chennai-600003**

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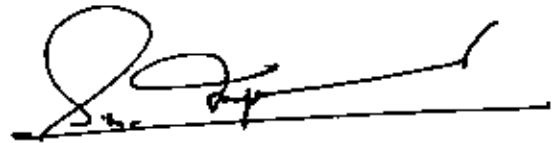
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**विषय/Sub :Important points to be kept in view by the Disciplinary /  
Appellate / Revisionary / Reviewing Authorities and Inquiry  
Officers while handling disciplinary cases – Master Circular –  
67.**

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A copy of Railway Board's letter No. E(D&A)2019 RG6-12 dated 23.12.2019  
on the above subject is enclosed for information guidance and necessary action.

संलग्नक/Encl.284 pages



सहायक कर्मचारी संबंधी अधिकारी/Asst. Personnel Officer / IR & Trg.

कृते प्रमुकाधि/For Principal Chief Personnel Officer

प्रतिलिपि/Copy to: The General Secretary/SRMU

The General Secretary/AISCTREA

The General Secretary/AIOBCREA

The General Secretary/NFIR

IT Section/PB/HQ - to upload in the SR website.



**Government of India (भारत सरकार)  
Ministry of Railways (रेल मंत्रालय)  
Railway Board (रेलवे बोर्ड)**

**रेल सेवक (अनुशासन और अपील) नियम, 1968  
Railway Servants (Discipline & Appeal) Rules,  
1968**

अनुशासनिक/अपीलीय/पुनरीक्षण/पुनर्विलोकन प्राधिकारी एवं जाँच अधिकारी द्वारा  
अनुशासनिक मामलों पर विचार करते समय ध्यान में रखे जाने वाले महत्वपूर्ण मुद्दों

पर

**मास्टर परिपत्र**

**Master Circular**

**On**

**Important points to be kept in view by the  
Disciplinary/Appellate/Revisionary/Reviewing authorities  
and Inquiry Officers while handling disciplinary cases**



Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
Railway Board

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Master Circular No. 67

No, E(D&A) 2019 RG6-12

New Delhi Dated: 23.12.2019

The General Managers,  
Railways and Production Units.

**Sub: Important points to be kept in view by the Disciplinary/Appellate/  
Revisionary/Reviewing Authorities and Inquiry Officers while  
handling disciplinary cases- Master Circular.**

The 2019 version of the Master Circular on important points to be kept in view by the Disciplinary/Appellate/Revisionary/Reviewing Authorities and Inquiry Officers while handling disciplinary cases is in your hands. You are aware that the disciplinary proceeding, being quasi judicial in nature, occupy a place different from the normal administrative processes. For the same reason, they also have to their credit the largest portion of the service law jurisprudence evolved through judicial pronouncements. With Article 311 of the Constitution of India laying down the philosophical contours of the disciplinary proceedings, the Railway Servants (Discipline and Appeal) Rules, 1968 have been framed by the President under the mandate of Article 309 of the Constitution for regulating the matters of disciplinary proceedings in the case of the Railway Servants. Owing to the complex nature of these proceedings and application of the Rules in the individual cases on their given factual matrices springing up questions, circulars have been issued from time to time in order to provide clarifications. Some circulars issued in the past have become redundant owing to amendments carried out in the Rules and also in the light of ever evolving case law.

While a huge number of circulars has been issued by the Ministry in the past, an attempt has been made to present a selective handy compilation of the circulars which deal with frequently asked questions with the hope that it will provide useful guidance in conducting the disciplinary proceedings in a legally sustainable manner.

(Renuka Nair)  
Dy. Director, Estt.(Discipline & Appeal)  
Railway Board.

**Important points to be kept in view by the Disciplinary/Appellate/  
Revisionary/Reviewing authorities and Inquiry Officers  
while handling disciplinary cases**

It is noticed that in many cases, the disciplinary proceedings get vitiated on account of failure to follow the prescribed procedures. Some of the common mistakes which are committed by the Disciplinary/Appellate/Revisionary/Reviewing Authorities and inquiry Officers have been brought out in this brochure for guidance/information of all concerned.

**2. Disciplinary Authority:**

- a) The chargesheet should be issued by the appropriate Disciplinary Authority prescribed in the schedules. It is also essential that the chargesheet is signed by the Disciplinary Authority himself and not by any lower authority on his behalf.
- b) The provisions in Rule 8 have to be kept in view while ascertaining whether the chargesheet has been issued by the correct authority. In respect of non-gazetted delinquent staff, a major penalty chargesheet can be issued only by an authority who is competent as per the schedules, to impose on that Railway servant at least one of the major penalties. However, in respect of delinquent employee of gazetted rank, a major penalty chargesheet can also be issued by an authority who is competent to impose on that delinquent employee at least one of the minor penalties.
- c) Disciplinary Authority would be with reference to the post held by the charged official at the time of initiation of disciplinary action and not with reference to the post held by him at the time the alleged misconduct occurred.

**(Board's letter No. E(D&A)84/RG6-42 dated 08.08.84)**

- d) Disciplinary Authority in the case of Railway Servant officiating in higher post shall be determined with reference to the officiating post held by him at the time of taking action {Rule-7(3) of RS (D&A) Rules, 1968}. The delegation of powers under schedule-III has to be read with the provisions in the main rules as brought above, and not in isolation.

**(Board's letter No. E(D&A) 2005 RG6-19 dated 24.06.2005)**

- e) While (a), (b),(c) and (d) above refer to the level of the Disciplinary Authority, the Authority who actually functions as Disciplinary Authority can be none other than the one under whose administrative control the delinquent employee works. Also there can be only one Disciplinary Authority for an employee, e.g. for an operating staff, who is under the administrative control of Divisional Operating Manager ( DOM), only the DOM can act as Disciplinary Authority, even if the misconduct pertains to violation of commercial rules or safety rules and not Divisional Commercial Manager or Divisional Safety Officer.



**(Board's letters Nos. E(D&A)72RG6-13 dated 16.10.73 & E(D&A)94RG6-69 dated 4.8.97)**

- f) If the Disciplinary Authority of a charged official is also involved in the same case then he should not act as the Disciplinary Authority in the said case. The authority who is next higher in the hierarchy should act as the Disciplinary Authority.

**(Board's letter No. E(D&A)90 RG6- 123 dated 09.11.90)**

- g) The authority looking after the current duties of a post cannot exercise the disciplinary functions assigned to the said post.

**(Board's letter No. F(E) 60 SAI/I dt.4.3.63)**

- h) Authority who has acted as a member or Chairman of a Fact Finding Inquiry or Accident Inquiry should not act as Disciplinary Authority because the Charged employee would apprehend that the officer having expressed earlier an opinion would not, as a Disciplinary Authority, depart from his own earlier finding. He may not thus get justice. However, if the report does not indicate a final opinion but only a view, prima facie, he can act as a Disciplinary Authority. A member or chairman of the Fact Finding Inquiry or Accident Inquiry cannot, however act as an Inquiry Officer in that case since the Inquiry Officer should be an authority who should not have prejudged the guilt, even provisionally at an early stage.

**(Board's letter Nos.E(D&A)63 RG6-16 dt.23.12.68 read with letter dt.23.5.69)**

### **3. Charge Memorandum:**

- a) The charges in a charge memorandum should be drawn up in clear and distinct articles of charges, separate for each alleged act of omission/commission. The charges should be specific and not vague. Where the charges are not entirely separate and distinct, it would be more appropriate to combine the various elements of the charges into a single article of charge but in which the different elements are brought out clearly.
- b) The articles of charges and the statement of imputation in support of the articles of charges should not be identically worded. While the article of charge should be concise, the statement of imputation should contain details, references etc. relating to the charges and should generally give a clearer idea about the facts and circumstances relating to the alleged act of commission or omission. Specific rules/instructions which may have been violated by the charged official should also be mentioned in the statement of imputation.
- c) The list of documents by which and the list of witnesses by whom the charges are proposed to be sustained should be comprehensive and drawn up with due care taking into account the relevance of each document/witness in establishing

the articles of charges, their availability and ease of being produced during the inquiry etc. If it is found after the issue of chargesheet that additional documents/witnesses have to be added to the lists, a suitable corrigendum to the charged memorandum should be issued.

- d) Clause (i), (ii) & (iii) of Rule 3(1) of RS(Conduct) Rules, 1966 have different connotations. While framing charges care should be taken to invoke only the relevant clause of Rule 3(i) of RS(Conduct) Rules, 1966.

**(Para 4 of No. E(D&A) 2008 RG6-41 dated 06.02.2009)**

- e) Where intention is to bring out the gravity of the charge in a particular case due to the fact that punishments in the past have not resulted in better conduct on the part of the charged official, then the previous record should be brought out in the charge sheet itself to enable the charged official to defend himself with reference to these factors also. Otherwise, Disciplinary Authority cannot take into account the previous misconducts while taking a decision in regard to the present case.

**(Board' s letter No. E(D&A)68 RG6-37 dated 23.09.68)**

- f) Preliminary Enquiry Report/Vigilance Investigation Report should not be made a Relied Upon Document while issuing a Charge Memorandum to a Charged Officer. These reports are strictly for the consumption of the competent authority and it is not necessary to give access to these reports to the Charged Officer.

Reference to such reports should be strictly avoided in the statement of allegation; failing which, it shall not be possible to deny access to these reports to the Charged Officer and will not be in public interest.

**(No. E(D&A) 68 RG 6-26 dated 29.06.1968)**

4. a) If a chargesheet found to be faulty due to any reason like if it has not been issued by the appropriate Disciplinary Authority or if the charges require modification/addition or if a major penalty chargesheet needs to be issued instead of a minor penalty chargesheet etc. the correct procedure would be to cancel the chargesheet, indicating the reasons for such cancellation and stating categorically that the cancellation is without prejudice to the right of the administration to issue of a fresh chargesheet.

**(Board's letter No. E(D&A)93 RG6-83 dated 01.12. 93)**

- b) In cases where only minor changes are required to be made in the articles of charges or when Annexures II, III and IV need to be modified, instead of resorting to cancellation and issue of a fresh charge sheet, a corrigendum to the charge sheet should be issued. This aspect has to be specifically kept in view in cases where the employee is due to retire shortly or has retired as, after retirement, a charge sheet can be issued only with President's approval and that too only if the time limit of 4 years prescribed in the pension Rules has not expired. The corrigendum should also be signed by the Disciplinary Authority himself.

5. Copies of documents relied upon should, as far as possible be supplied to the charged official along with the charge memorandum. If the charge official desires to inspect the original documents this should invariably be allowed.
6. The charge memorandum should be served in person on the charged official or sent to his address through-registered post. If the charged official is not traceable or refuses to accept the charge memorandum, a copy of the charge memorandum should be displayed on the notice board of the charged official's last working place and also pasted on the door of his last known residential address in the presence of two witnesses.
7. If there is unqualified admission of the charge(s) by the charged official, no inquiry need be ordered by the Disciplinary Authority, who can straightway pass final orders. If only some of the articles of the charges are admitted, then an inquiry has to be ordered only in respect of those charges as are not admitted.

**(Board's letter No. E(D&A)57RG6-6 dated 26.04.57)**

#### **8. Inquiry**

- a) Decision to remit the charge to inquiry or otherwise, shall be taken only after consideration of the written statement of defence submitted by the Charged Officer against the Charge Memorandum served upon him.

**[Rule 9(9)(a)(i) of RS(D&A)Rules,1968 and Para 2 of Board's letter No. E(D&A) 2008 RG6-41 dated 06.02.2009]**

- b) 10 days' time is to be allowed to the charged official for submitting his written statement of defence. The rule also provides that further time may be allowed by the Disciplinary Authority. However, a reminder sent immediately after the expiry of the time allowed so that even if further time is allowed by the Disciplinary Authority, undue delay does not take place in progressing to the next stage of the proceedings. If even after reminders, no defence reply is received from the charged official, an inquiry should be ordered immediately and an Inquiry Officer appointed, duly informing the charged official. A lot of delay generally takes place at this stage, after the issue of chargesheet and before Inquiry officer is appointed which needs to be minimized. The appointment of the Inquiry Officer is to be done through a formal order in the prescribed format duly signed by the Disciplinary Authority. The same procedures should also be followed whenever there is a change in the Inquiry Officer and a new Inquiry officer is to be appointed.

**(Rule 9(7) of RS(D&A) Rules, 1968)**

9. a) If, on consideration of the reply of the charged official to the major penalty chargesheet, the Disciplinary Authority is of the view that a minor penalty is warranted in the case, the same may be imposed without holding an inquiry (provided Rule 11(2) is not attracted) and without giving any further opportunity to the C.O. for being heard. In case the Disciplinary Authority decides to drop the proceedings after considering the reply of the charged official to the chargesheet,

an order to this effect should be passed and communicate to the charged official. However, in cases arising out of investigation by the CBI, the CBI should be consulted before a decision is taken to drop any of, or all, the charges. CVC should be consulted where the disciplinary proceedings were initiated on their advice and the disciplinary authority proposes to drop the proceeding altogether as distinct from dropping or reviewing or modifying some charges.

**(Board's letter Nos. E(D&A)66RG6-16 dated 06.06.66 & E(D&A)81 RG 6-28 dated 27.06.81)**

- b) If the Disciplinary Authority, after consideration of the written statement of Defence of the Charged Officer against major penalty Charge Memorandum under Rule-9 of RS(D&A) Rules,1968, takes a view that imposition of & major penalty is not called for, and proposes to impose a minor penalty, other than the penalty of 'withholding of increment' attractively sub-rule (2) of Rule 11, a single speaking order for dropping of major penalties proceedings and imposition of a minor penalty may be passed.

**[Rule 9 (9)(a)(iv) of RS(D&A) Rules,1968 and Para 3 of E(D&A) 2008 RG6 -41 dated 06.02.2009]**

10. Appointment of Inquiry Officer is the prerogative of the Disciplinary Authority. In non-CVC Vigilance cases, the Vigilance Organisation will leave the choice of the Inquiry Officer completely with the Disciplinary Authority in most of the cases. In some cases Vigilance may forward panel of Inquiry Officer indicating the number of inquiries pending with each one of them. The Disciplinary Authority in that case may choose one out of the panel and appoint him as Inquiry Officer.

**(Board's letter No. E(D&A) 2000 RG 6-30 dated 16.5.2001)**

- 11.a) The Inquiry Officer should be sufficiently senior in rank to the charged official to ensure that the inquiry commands the confidence it deserves. Even in respect of Board of Enquiry, each member of the Board should be senior in rank to the charged official.

**(Board's letter No. E(D&A)2000 RG 6-24 dt.20.2.2001RBE 37/2001)**

- b) Any person including a retired Railway Servant may be appointed as Inquiry Authority in a departmental disciplinary inquiry. Inquiry Authority is only the delegation Disciplinary Authority whenever Disciplinary Authority itself is not enquiring into the matter.
- c) The question of his exercising or not exercising administrative control over a person or persons involved in the departmental disciplinary inquiry therefore, is not relevant. His appointment by the disciplinary authority automatically enables him to exercise powers required to conduct the inquiry.

**(Board's letter No. E(D&A) 2006 RG6-38 dated 16.10.2008)**

- d) However, the above stipulation does not apply to inquiries conducted by Commissioner of Departmental inquiries of Central Vigilance Commission as they belong to a department different from the one to which the charged official



belongs and cannot, therefore be suspected of bias. (Rule 9(3) of RS(D&A) Rules).  
(Board's letter Nos. E(D&A)71 RG 6-4 dated 27.2.71 and E(D&A)2000 RG 6-24 dated 20.2.2001 RBE 36/2001)

12. Due notice par provision in Rule 9(11) may be given before the conduct of preliminary hearing and a time bound programme for inspection of documents, submission of list of defence documents, & defence written etc. be laid down for facilitation of speedy facilitation of regular enquiry.

[Para 5 of E(D&A) 2008 RG6-41 dated 06.02.2009]

13. Departmental proceedings should, as far as possible, be entrusted to the regular Inquiry Officers holding the posts created specifically for conducting such inquiries.

Where enquiries are entrusted to officers other than regular Inquiry Officers, it should be ensured that they are of appropriate ranks and are fully conversant with the Disciplinary procedure.

While there are no provisions under these rules for filing an appeal against the order of appointing an Inquiry Officer, whenever an application is made by the Charged Officer against the Inquiry Officer, on ground of bias, the departmental proceeding should be stayed & the application of the Charged Officer should be forwarded to the appropriate reviewing authority specified in Rule 25 of RS(D&A) Rules, 1968, for consideration & passing of appropriate orders.

(Board's letter No. E(D&A) 70 RG6-14 (I) dated 19.06.1974.)

14. **Transfer of Charged Official during pendency of disciplinary/criminal case:**

- a) Non-gazetted staff against whom a disciplinary/criminal case is pending or is about to start, should not normally be transferred from one Railway/Division to another Railway/Division till after finalization of the disciplinary/criminal case.

(Board's letter No. E(D&A)65 RG6-6 dated 25.3.67)

- b) In case the Charged Official is transferred after initiation of disciplinary proceedings, the disciplinary authority will be with reference to his new post and under whose administrative control he is working. The new disciplinary authority can continue the proceedings from that stage onwards and pass the orders.

(Board's letter No. E(D&A)69 RG6-12 dated.18.6 .69)

- c) Disciplinary proceedings should be initiated by the competent authority under whose administrative control the concerned railway employee is working in the Railway/Division at the time of initiation of the disciplinary proceedings.

Limited consultation may be made with the Railway/Division, where the offence was committed, to the extent of obtaining relevant information/document required for processing the disciplinary proceedings.

Rule 15 & 16 of RS(D&A) Rules, 1968 respectively provide for action to be taken in respect of Railway employees who are on deputation to Central/State/Local Government/any other authority or employee from other Central/State/Local Government on deputation to the Railways. Provisions contained in their Rules should be kept in view while initiating disciplinary proceedings on deputationists.

**(Board's letter No. E(D&A)2005 RG6-23 dated 18.07.2005)**

**15. Points to be kept in view by Inquiry Officers:**

a) A preliminary hearing should invariably be held first after giving due notice, as specified in Rule 9(11). Formal notices have to be sent to all concerned for all the regular hearings too. During the preliminary hearing, the charged official should be asked by the Inquiry Officer whether he has received the charge sheet, understood the charges against him and whether he accepts those charges. The charged official should also be asked if he has inspected the documents listed in the chargesheet, whether he wants some additional documents and whether he wishes to produce some defence documents/witnesses. If any of the defence witnesses are not found to be relevant, the Inquiry Officer may disallow their evidence and advise the charged official accordingly. The relevance of any witness may be considered by the Inquiry officer from the charged official's point of view.

**(Board's letter No. E(D&A)70RG6-5 dated 08.12.70)**

- b) If the Charged Officer, requests for production of additional documents during the inquiry and if in the opinion of the Inquiry Officer, some or all of the documents are not relevant to the case, then the Inquiry Officer has to record in writing his reasons for refusal to requisition for production of such documents as provided in Rule 9(15) of RS (D&A) Rules and advise the charged official about the decision.
- c) The Inquiry Officer has to maintain a Daily Order Sheet which is the record of all the business transacted by him on day to day basis of the conduct of the inquiry. The facts relating to notices sent, taking on record the documents, requests/representations made by either party and the decisions of the Inquiry Officer thereon, and the examination/cross-examination undertaken should find a mention in the daily order sheet. The daily order sheets should be dated and signed by the Inquiry Officer and serially numbered. The Daily Order Sheet indicates whether reasonable opportunity has been given to the charged official, whether the procedure prescribed in the rules has been adhered to, etc.

- d) In addition to the Daily Order Sheet, the Inquiry Officer has to maintain the record of the inquiry proceedings in detail. It should contain the date of the proceedings, the officials present, the examination/cross-examination of the witnesses in the form of questions and answers reproduced verbatim and any decision taken by the Inquiry Officer during the proceedings regarding dropping of a witness, allowing/rejecting the requests of the C.O. for production of additional documents, witnesses etc. These should be signed by all present during the hearing. Copy of proceedings should be given to the delinquent employee at the end of each day's proceedings.

The record of proceedings can either be in Hindi or English. Principles of natural justice require that the delinquent officer must have reasonable opportunity to defend himself. The Inquiry Officer should explain the proceedings to the Charged Official in a language known to him and it should be ensured that he understands and accepts the same before his signature is obtained.

**(Board's letter No. E(D&A) 66 RG6-7 dated 30.12.68).**

- e) During the inquiry, the evidence on behalf of the Disciplinary authority has to be produced first. It would be incorrect to examine the charged official first, as this would be against the principles of natural justice. All the documents listed in the charge memorandum have to be taken on record and clearly marked as Exhibit No.---- and signed by the Inquiry Officer. All the witnesses listed in the charge memorandum have then to be examined one by one in the presence of the charged official. After examination of each prosecution witness, the charged official has to be given the opportunity to cross-examine the witness. After cross-examination of the prosecution witness, the Inquiry Officer may put such questions to the witness as he thinks fit. If any of the witnesses had earlier given any statement during investigation, fact finding inquiry etc., he should be asked during the inquiry to confirm the said statement before it is taken on record as evidence. If the statement is quite comprehensive, a mere confirmation of the statement by the witness should suffice during the inquiry instead of de novo examination of the witness. The Presenting officer can also re-examine the prosecution witness after the cross-examination, on any point on which the witness was cross-examined but if the reexamination by the presenting Officer is on a new point, by the then the permission of the Inquiry Officer has to be obtained for the same. If re-examination by the Presenting Officer is allowed on any new matter, then an opportunity should be given for further cross-examination of the witness concerned on such new matter. If any of the prosecution witness is to be dropped due to some reason, this should be done during the proceedings in the presence of the Charged Official and this fact should also be recorded formally by the Inquiry Officer in the inquiry proceedings.

**(Rule 9(20) of RS(D&A) Rules, 1968 & Board's letter Nos. E(D&A)70 RG6-14 dated 15.01.71 and E(D&A)80 RG6-47 dated 25.05.81).**

- f) Copies of oral evidence recorded during the proceedings should be given to the Charged Official in case he asks for it at the end of each day's sitting or even on the conclusion of inquiry proceedings.

**(Board's letter No. E(D&A)65 RG 6-40 dated 30.07.65).**

- g) After the case on behalf of the Disciplinary Authority is closed, the charged official should be given the opportunity to present his defence. The Charged Official, if he so desires, should be allowed to examine himself in his own behalf. The defence documents, if any, would then be taken on record and defence witnesses, if any, would be examined/cross-examined.

It is not obligatory for the Inquiry Officer to send summons to all the defence witnesses cited by the charge official. If the Inquiry Officer is of the view that the evidence purported to be given by a witness will be irrelevant to the charge against the charged Official and failure to secure the attendance of the witness would not prejudice the defence, the Inquiry Officer may reject the request for summoning that witness duly recording the reasons therefor. In the case of outside witnesses cited by the charged Official, the responsibility is on him to ensure his presence during the inquiry. However, all those defence witnesses who have been allowed by the Inquiry Officer and who have come to give the evidence, have to be examined.

**(Board's letter No. E(D&A)70 RG6-5 dated 8.12.70 and Rule 9(2) of RS(D&A)Rules, 1968}**

At the end, the Inquiry Officer may generally question the charged official on the circumstances appearing against him in the evidence produced, to enable him to put forth his explanation. Such questioning of the charged official by the Inquiry Officer would be mandatory if the charged official has not examined himself as a witness and failure on the Inquiry Officer to do this would amount to denial of reasonable opportunity.

**(Rule 9(21) of RS(D&A) Rules, 1968]**

- h) After the production of evidence is completed, the Inquiry Officer may allow the Presenting Officer and the charged official to file written briefs as a final presentation of their respective cases. This again is not mandatory in all cases but if it is allowed, the Presenting Officer's brief should be obtained first and a copy given to the charged official to enable him to present his defence brief. However, if the inquiry has been held ex-parte, there is no need to give an opportunity to the charged official to file a written brief.

**(Board's letter Nos. E(D&A)69 RG6-20 dated 18.6.69 and E(D&A)86 RG6-42 dated 9.5.86).**

- i) If the charged official does not appear before the Inquiry Officer, the inquiry may be held ex-parte. However, a copy of the record of the day-to-day proceedings of the inquiry and notices for the hearings should be sent to the charged official regularly so that he is aware of what has transpired during the proceedings and this also enables him to join the proceedings at any stage, if he so desires. This procedure should be complied with invariably and Inquiry Officer should ensure that full opportunity is provided to the charged official to defend himself.



**(Board's letter No. E(D&A)90 RG6-34 dated 18.4.90).**

- j) The minimum time to be given to the charged official for various purposes like replying to the chargesheet, examination of documents etc., as specified in various sub-rules of Rule 9, should be adhered to strictly.
- k) A model time-schedule of 150 days has been laid down for finalization of a disciplinary case, which also specifies the time within which the different stages in the disciplinary proceedings should be completed. With the introduction of the procedure of furnishing a copy of the Inquiry report to the charged official allowing him to represent against the same before a final decision is taken by the Disciplinary Authority, an additional time of about two months has been added to the model time-schedule. However, the model time schedule is not mandatory but has been prescribed only as a guideline so that disciplinary cases are finalized expeditiously.

**(Board's letter Nos. E(D&A)86 RG6-41 dated 3.4.86 & E(D&A)90 RG6-18 dated 9.2.90).**

- l) While conducting the inquiry, the Inquiry Officer should ensure that the principles of natural justice are not violated and there is no denial of reasonable opportunity to the charged official in defending himself.

**(Board's letters Nos. E(D&A)5 RG6-20 dated 4.2.56)**

- m) If the Inquiry Officer ceases to function as the Inquiring authority in a case after hearing and recording whole or part of the evidence and a new Inquiry Officer is appointed in the case, then the succeeding Inquiry Officer may act on the evidence already recorded by the predecessor, in full or part and also call for further examination as considered necessary. It is not necessary that the successor should hold the inquiry de-novo.

**(Rule 9(24) of RS(D&A) Rules, 1968)**

- n) The inquiry report should be prepared in accordance with Rule 9(25). It should contain a detailed analysis of the evidence taken on record during the inquiry with actual references to the depositions of the witnesses and the charged official and also documentary evidence. The findings in respect of each article of charge should be clear and categorical. If a charge is held as partly proved, the findings should clearly state the extent to which the said charge is established with cogent reasons therefor. It should be ensured that the inquiry report is based on detailed analysis of the evidence and findings in regard to the charge(s) are unambiguous.
- o) The Inquiry Officer should normally complete inquiry within a period of six months from the date of his appointment as such and submit his report. In the preliminary inquiry he should lay down a definite time bound programme for inspection of document etc. The regular hearing, once started, should be conducted on day to day basis. Adjournments should not be granted on frivolous grounds.

**(Board's letters No. E(D&A)85 RG6-21 dated 30.05.1985)**

**16. Action on Inquiry Report**

- a) When the Inquiry Officer submits the Inquiry Report, the Disciplinary Authority should first go through the report and the inquiry proceedings to ascertain if the prescribed procedure has been followed and the inquiry report has been framed in accordance with Rule 9(25). If any irregularity is noticed by the Disciplinary authority, the case needs to be remitted back to the Inquiry Officer for further inquiry from the stage at which the lacuna has been detected or for rewriting the Inquiry Report, as the case may be. The case should however not be remitted to the Inquiry Officer for rewriting the report merely on the grounds that the Disciplinary Authority does not agree with the findings of the Inquiry Officer.
- b) The Disciplinary Authority can also himself recall the witnesses and examine, cross-examine and re-examine them, if it is necessary in the interests of justice. However, where this is done, the examination, etc. of the witnesses should be done in the presence of the Charged Official, who can take the help of his defence helper also. The disciplinary authority can also arrange the presence of Presenting Officer, if any, at such examination to ensure the interests of the prosecution.

**(Board's letter No. E(D&A)70 RG 6-59 dated 21.04.71)**

- c) Once the Disciplinary Authority is satisfied that the inquiry has been held in accordance with the rules and the Inquiry Report has also been prepared properly, he should consider the case and arrive at a tentative decision in regard to establishment of the charges. If he is in agreement with the Inquiry Officer in regard to the findings of the charges, detailed views need not be recorded by the Disciplinary Authority at this stage. However, if the Inquiry Officer has held the charge(s) as not proved and the Disciplinary Authority disagrees with the Inquiry Officer in this regard, then detailed reasons for disagreement have to be recorded by the Disciplinary Authority. In either case, this constitutes only the tentative views of the Disciplinary Authority and not his final views and hence, recording of these views should be worded carefully. Thus, an initial scrutiny of the Inquiry Report by the Disciplinary Authority must invariably be done before the Inquiry Report is sent to the charged official.

Disagreement Memorandum, if any, may also be served to the Charged Officer along with the Inquiry Officer report. 15 days may be allowed to the Charged Officer to submit his representation, if any, against Inquiry Officer report.

**(Rule 10 of RS(D&A) Rules,1968 and Board's letter Nos. E(D&A)87 RG6-15-1 dated 4.4.96 & Para 2 of E(D&A) 2008 RG6-41 dated 06.02.2009 )**

- d) The Disciplinary Authority shall forward or cause to be forwarded to the Charged Officer, a copy of the Inquiry Officer Reports tentative reasons for his disagreement, if any, and the Charged Officer shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority

within 15 days irrespective of whether or not the report is favorable to the Charged Officer.

Communication forwarding the Inquiry Officer, report & the tentative reason for disagreement & seeking his representations should reflect this position. Communication forwarding the Inquiry Officer's report should not contain phrases such as 'Article of charge in fully proved' or 'Article of charge is substantiated' which would be construed to mean that the Disciplinary Authority is biased even before consideration of the representation of the Charged Officer on the Inquiry Officer report.

**(Rule 10 of RS(D&A) Rules, 1968, Board's letter Nos. E(D&A)87 RG6-15 1 dated 4.4.96 & E(D&A) 2012 RG6-5 dated 20.03.2012)**

- e) On receipt of the representation of the charged officer, the Disciplinary Authority should consider the inquiry report, the inquiry proceedings, the representation of the charged official, defence brief and Presenting Officer's brief and then arrive at a final decision in regard to each of the charges and also decide the penalty which would be warranted in that case. In cases where disciplinary proceedings have been initiated on the advice of the Central Vigilance Commission, the Disciplinary Authority should first record only a provisional decision since such cases have to be finalized only in consultation with CVC.
- (i) In non-CVC vigilance cases, if in a case Vigilance has recommended a major penalty and the Disciplinary Authority proposes to exonerate or impose a minor penalty, he should first record his provisional order and then consult Vigilance Organization once. If after such consultation, the Disciplinary Authority is not in agreement with the views of the Vigilance, he is free to pass final orders about the penalty. The Disciplinary Authority should ensure that copy of the Notice Imposing penalty (NIP) is sent to Vigilance promptly. Vigilance Organization may, if they so consider, seek revision of the penalty by the appropriate authority.
- (ii) Likewise, where Disciplinary Authority has imposed a major penalty in agreement with the Vigilance but the Appellate/Revisionary Authority, on consideration of Appeal/Revision or otherwise, proposes to exonerate or reduce the penalty to a minor one, he will consult the Vigilance Organization once. After such consultation, he will be free to take a final decision.
- (Board's letter No. E(D&A) 2000 RG 6-30 dated 16.5.2001).**
- (iii) The procedure laid down in sub-paras (i) and (ii) above should be followed in those cases also where the Vigilance has recommended imposition of a penalty of compulsory retirement/removal/dismissal from service but the Disciplinary/Appellate/Revisionary Authority, as the case may be, wishes to disagree and proposes to impose any of the other major penalties.

**(Board's letter No. E(D&A) 2000 RG 6-30 dated 23.9.2002).**

f) Disciplinary Proceedings should be initiated & concluded in accordance with Railway Servant (Discipline & Appeal) Rules, 1968 based on recommendations of Safety Department.

- i. If the penalty that the Disciplinary Authority proposes to impose in such cases is not in conformity with the advice of the Safety Department, a provisional order may first be recorded and Safety Department be consulted only once, with reasons for disagreement recorded therein; the Disciplinary Authority however is free to impose a penalty thereafter as per his decision. A copy of such penalty should be made available to Safety Department, who may put up such cases to the competent authority for *suo motto* revision of the penalty.
- ii. Simultaneously if the Appellate Authority or Revisionary Authority proposes to revise a penalty which stands imposed by the Disciplinary Authority in agreement with Safety Department, and proposes to exonerate or impose a minor penalty, the Appellate Authority/Revisionary Authority may first record provisional decision and consult Safety Department only once. Reasons for such disagreement should be recorded and communicated to Safety Department free to take a final decision thereafter.
- iii. Where Disciplinary Authority/Appellate Authority/Revisionary Authority in the President, comments of the safety Department be obtained.

**(Board's letter No. E(D&A) 2003 RG6-5 dated 19.02.2003)**

g) If the Disciplinary Authority proposes to impose a specific penalty but is not competent to impose the same, then he should put up the file, with his views, to the appropriate higher authority who is competent to impose the proposed penalty for a suitable decision on the matter.

Penalties of Dismissal/Removal/Compulsory Retirement from service shall be imposed only by the highest of these authorities i.e. either by an authority which actually appointed the Railway Servant to the relevant grade or post or the authority which is empowered to make appointment to the grade/post at the time of imposition of penalty, whichever is the higher authority and not by an authority which has merely issued the offer of appointment or order of promotion with regard to the appointment or promotions ordered by a competent authority higher to that authority.

h) The final views of the Disciplinary Authority/Appellate/Revisionary Authority, once recorded on the file, are to be treated as the final decision and cannot be altered either by him or by his successor. If, after recording the final decision on the file, the Disciplinary or Appellate or Revisionary Authority relinquishes charge of his post before the orders are communicated, then his successor cannot consider the merits of the case afresh and arrive at an independent decision but can only communicate the orders of his predecessor. In such a case, the orders would clearly indicate that he merely communicating the decision already taken by the earlier Disciplinary/Appellate/Revisionary Authority.



**(Board's letter Nos. E(D&A) 88 RG6-12 dated 07.05.1990, E(D&A) 2002 RG 6-36 dated 25.11.2002, E(D&A) 2012 RG6-34 dated 30.09.2015 and No. E(D&A) 97 RG 6-72 dated 28.5.2001).**

- i) Disciplinary Authority/Appellate Authority while exercising Disciplinary powers are performing "*quasi-judicial*" functions and shall therefore pass a "reasoned and speaking orders" which shall be self-contained. The final orders of the Disciplinary/Appellate Authority should cover all the important points relating to the disciplinary case. It should also indicate that the representation of the charged official has been considered and if possible certain points raised in the representation should also be commented upon, in brief. The order of the Disciplinary/Appellate Authority should clearly indicate that the same has been passed with due application of mind and by addressing the contentions raised in the case. The practice of passing Disciplinary/Appellate Order in printed form mitigate the concept of passing "reasoned and speaking order" and should be discontinued wherever in practice

**(Board's letters No. E(D&A)78 RG6-11 dated 3.3.78, E(D&A)86 RG6-4 dated 5.8.88, No.E(D&A)91 RG6-122 dated 21.2.92, No. E(D&A)2002 RG6-27 dated 24.9.2002 and No. E(D&A) RG6-27 dated 24.09.2002)**

- j) There is no provision for sending a notice to the charged official about the proposed penalty before the same is imposed. A provision for a Show Cause Notice at this stage was in force earlier but has been discontinued since 1978. The Disciplinary Authority should therefore record his final views indicating the penalty to be imposed and communicate the same to the charged official immediately thereafter. There is also no provision for giving a personal hearing to the charged official by the Disciplinary Authority.
- k) The Disciplinary Authority is free to consult any other authority before deciding about his findings on the charges. However, once he adopts any views/comments expressed by some other authority, such views become those of the Disciplinary Authority and in the final orders recorded by the Disciplinary Authority there should be no reference to consultation with some other authority including consultation with vigilance, CVC etc., which may give an indication that the Disciplinary Authority has been influenced by some other Authority. However, where the rules provide for consultation with UPSC, the same has to be brought out clearly in the speaking orders of the Disciplinary Authority.
- l) The Disciplinary Authority should not take into account previous bad record, punishment etc. while determining the penalty to be imposed unless the chargesheet mentions the past record also so that the charged official, while defending himself with reference to the charges in the present case, has an opportunity to state his case with regard to the past record also, if he so desires.

**(Board's letter No. E(D&A)68 RG6-37 dated 23.09.68)**

- m) Subject to the provision contained in Rule 26A, the final orders passed in the disciplinary case should be signed by the Disciplinary Authority himself and not on his behalf. The orders should also clearly indicate the channel of appeal available to the charged official, the authority to whom the appeal should be made and the time limit within which the appeal should be made.

- n) Reasoned and speaking order should be passed while exercising disciplinary powers, such orders not only demonstrate that justice is done but also enables charged Officer to appreciate his mistakes and to rectify it for the future.
- o) While imposing penalty of reduction to lower grade or post etc, on a Railway servant for a specified period, the authority imposing the penalty should pass directions regarding the effect of the penalty on the seniority and pay in the higher grade or post, on restoration of the Railway Servant to the higher grade or post after expiry of the penalty. The direction on seniority and pay are two separate ones and have to be passed independent of each other. The two directions should be distinct and unambiguous.

Where no specific directions regarding seniority, pay or both, of the Railway Servant in the higher grade of post have been passed, it will be held that the penalty will have no effect on the seniority or increments or both as the case may be, in the higher grade or post on restoration of the Railway Servant to that higher grade or post.

**(E(D&A) 2001 RG6-58 dated 28.11.2002)**

**p) Review of orders by the authority who passed it originally.**

Utmost care should be exercised while passing final order in Disciplinary Cases. These orders should be self-explanatory, reasoned and speaking. Printed Performa should not be used by Disciplinary Authorities/Revisionary Authority/Appellate Authority while passing final order in disciplinary order.

An order may be reviewed by the same authority which had passed the original order in the case, if the order is found to contain some patent error. Some circumstances in which order can be reviewed and fresh order can be passed are given below.

- (i) Original order was not in conformity with the provisions of Rule-6 of Railway Servant (D&A), Rules, 1968 and thus could not be given effect to.
- (ii) The authority to pass the order was not competent to impose the penalty.
- (iii) There is a patent error in the original order (eg. the date, or reference no. or name & designation) etc. was shown incorrectly in the order.

**(Board's letter No. E(D&A) 2003 RG6-25 dated 27.11.2007)**

**17. Action under Rule 14:**

- a) If an employee is convicted in a court of law, then the Disciplinary Authority can consider the conduct of the employee which led to his conviction and, after giving the Railway Servant an opportunity to make a representation on the penalty proposed, pass necessary orders imposing a suitable penalty, if warranted, in terms of provisions contained in Rule 14(i). If the offence which led to the

conviction is of a grave nature and involves moral turpitude, which is likely to render further retention of the employee in service undesirable, then he should be dismissed/removed/compulsorily retired. In other cases, the competent authority can impose any of the lesser penalties, as warranted by the circumstances of the case. There is no need for holding an inquiry or even independently assessing the evidence produced in the court of law. However, before such orders are passed, the UPSC should be consulted where such consultation is necessary. The orders of the Disciplinary Authority should be passed immediately after receipt of intimation of the conviction and need not wait for disposal of any appeal which the convicted employee may have filed in a higher court of law. If the higher court of law suspends the sentence, it will have no effect on the penalty imposed by the department so long as the conviction remains in force. If however, the conviction is set aside on appeal, the penalty imposed on the basis of the conviction has to be revoked.

**(Board's letters No. E(D&A)63 RG6-49 dated: 11.11.63, E(D&A)76 RG6-4 dated 4.3.76, No. E(D&A)93 RG6-65 dated: 6.6.94)**

- b) If an employee is convicted but is released under section 4 of the Probation of Offenders Act, it is not to be treated as acquittal. Release under the said Act is ordered by Courts on consideration of factors like age, nature of offence, assurance of good conduct etc. but the conviction is not set aside. Hence, action under Rule 14(i) is justified even if the employee is released under the said Act.

**(Board's letter No. E(D&A)50 RG6-6 dated 07.07.52 & file No. E(D&A)85 RG6-58)**

- c) The provision in Rule 14(ii) for dispensing with the inquiry and imposition of the penalty straightway should be used with abundant caution and only where the circumstances are such that it is not reasonably practicable to hold the inquiry. The decision of the Disciplinary Authority in this regard cannot be a subjective decision but should be one based on objective facts supported by independent material. Written and signed statements must invariably be obtained from the witnesses concerned indicating their knowledge of the serious delinquency on the part of the delinquent employee. Before invoking Rule 14(ii), the Disciplinary Authority should make an objective assessment of the situation, collect necessary material in this connection and record in writing detailed reasons as to why it is not possible to hold the inquiry. The circumstances quoted by the Disciplinary Authority should actually subsist at that time and should not be anticipated ones. The recorded decision of the Disciplinary Authority in this respect should withstand judicial scrutiny.

**(Board's letters No. E(D&A)85 RG6-72 dated 06.02.86, 16.05.86, 06.10.88 and 14.10.88, No. E(D&A)86 RG6-74 dated 13.4.87 and No. E(D&A)92 RG6-48 dated: 6.4.92)**

- d) Rule 14(ii) should not be invoked in cases of unauthorized absence. In such cases, inquiry should not be dispensed with but should be held, even ex-parte, if necessary.

(Board's letter No. E(D&A)90 RG6-34 dated 18.04.90)

- e) In case the Disciplinary Authority proposes to invoke Rule 14(ii), he does not have to issue formal Charge Sheet because the departmental inquiry has not to be conducted.

(Board's letter No. E(D&A)85 RG6-72 dated: 16.05.1986)

- f) Whenever Disciplinary/Appellate/Revisionary/Authorities proposes to invoke action under Rule 14(ii) it is imperative that instruction issued in this regard are scrupulously followed, so as to ensure that action is not found wanting in compliance of :
- (i) the mandate under the clause (b) of the second proviso to the Article 311(2) of the Constitution of India,
  - (ii) of the provisions contained in the aforesaid Rule 14(ii), and
  - (iii) of the related subsidiary instructions/clarifications.

(Board's letters No.E(D&A)85 RG6-72 dated 06.02.86, No. E(D&A) 85 RG6-72 dated 06.10.1988, No. E(D&A) 92 RG6-48 dated 06.04.92 and No. E(D&A) 2017 RG6-21 dated 18.09.2017)

#### 18. Departmental proceedings and Criminal Proceedings:

There is no bar to initiation and conclusion of departmental action simultaneous with criminal proceedings on the same/similar charges. The ingredients of misconduct for departmental proceedings would be different from those of the offence with which the person is charged in the criminal proceedings. The standard of proof required and the nature of evidence admitted are also different in the two proceedings. The departmental proceedings should continue independently unless they are stayed by a court of law. Such stay orders can be granted by courts on consideration of an application of the charged official that disclosure of his defence in the departmental proceedings would seriously prejudice his case in the criminal proceedings.

(Ref: Supreme Court's judgements in the case of Jang Bhadur Singh Vs. Baij Nath Tiwari (1969(1)SCR 134), Kusheshwar Dubey Vs Bharat Coking Coal Ltd. (AIR 1988 Sup. Court 2118), orders of a 3 judge bench (1997 (2) SCC 699) and Board's letter No. E(D&A) 71 RG6-36 dated 06.06.74)

However, if the facts, circumstances and the charges in the departmental proceedings are exactly identical to those in the criminal case and the employee is exonerated/acquitted in the criminal case on merits (without benefit of doubt or on technical grounds), then the departmental case may be reviewed if the employee concerned makes a representation in this regard. The review will obviously be done by the authority who passed the orders in the last.

(Board's letter No. E(D&A) 95 RG 6-4 dated.07.06.95)



**19. Appeal:**

- a) An Appeal has to be preferred within 45 days from the date of delivery of the order appealed against. However, the Appellate Authority can condone the delay and entertain an Appeal even after expiry of the time limit if the Authority is satisfied that the Appellant had sufficient cause for not preferring the Appeal in time.

**(Rule 20 of RS(D&A) Rules, 1968)**

- b) The form and contents of an Appeal have been prescribed in Rule 21 of RS(D&A) Rules, in terms of which, it should be complete, contain all the material on which the appellant relies, shall not contain any disrespectful or improper language, etc. If these conditions are not met but the case otherwise has merit, then it would be more appropriate to direct the appellant to submit a proper appeal rather than rejecting it on these grounds alone.

**(Board's letter No. E(D&A)86 RG 6-11 dated 17.04.86).**

- c) Appellate Authorities have been specifically indicated in Schedules-I and III. With regard to Schedule-II, the Appellate Authority would be the authority appearing in the column next to the one which imposes the penalty as clarified in Note-I below Schedule-II. In respect of ADRM and DRM who have concurrent powers in Schedule II and similarly in respect of AGM and GM who also have concurrent powers, DRM and GM cannot act as Appellate Authorities against disciplinary orders passed by ADRM and AGM, respectively. In the case of imposition of a penalty by the Revising Authority or enhancement of the penalty by the Appellate/Revising Authority, the Appellate Authority would be the authority immediately superior to the authority which made the order appealed against.

**(Rule 19(1) of RS(D&A) Rules, 1968 and file No. E(D&A)96 AE10-19)**

- d) The Appellate Authority has to consider three main aspects viz.
- i) Whether the procedure was followed correctly and any non-compliance the laid down procedure has not resulted in violation of any provisions of the Constitution of India or in failure of justice;
  - ii) Whether the Disciplinary Authority's findings are based on the evidence taken on record during the inquiry; and
  - iii) Whether the quantum of penalty imposed is commensurate to the gravity of offence.

After considering the above points the case should, if necessary, be remitted back to the Disciplinary Authority with directions; otherwise the Appellate Authority should pass reasoned, speaking orders, confirming, enhancing, reducing or setting aside the penalty. The orders of the Appellate Authority should be signed by the authority himself and not on his behalf.

(Rule 22(2) of RS(D&A) Rules & Board's letter No. E(D&A) 78 RG6-11 dated 03.03.78)

- e) The Appellate Authority should give high priority to disposal of Appeal and, as far as possible, an Appeal should be disposed of within one month.

(Board's letter No. E(D&A) 71 RG 6-22 dated 11.06.71)

- f) If the Appellate Authority proposes to enhance a penalty, a notice has to be given to the charged employee allowing him to represent against the enhancement and orders should be passed only after considering the representation. Also, in cases where no inquiry had been held before imposition of the penalty by the Disciplinary Authority and if the enhanced penalty is such that holding of an inquiry is compulsory then the Appellate Authority must itself hold the inquiry first or direct that such inquiry be held and thereafter on the basis of that inquiry pass such orders as it may deem fit.

(Proviso under Rule 22(2) of RS(D&A) Rules, 1968)

- g) A non-gazetted Railway servant can seek a personal hearing from the Appellate Authority in cases of certain penalties. In that case the Appellate Authority may grant the same at its discretion. During the personal hearing, the Railway employee can be accompanied by another Railway servant or trade union official subject to conditions specified in that regard to assist him.

(Rule 24(1) of RS(D&A) Rules, 1968)

- h) If the Appellate Authority is of the view that the penalty of dismissal/removal/compulsory retirement imposed on an employee by the Disciplinary Authority should stand but considers re-appointment of the employee as a fresh entrant taking into account extenuating circumstances, if any, then such re-appointment should not be ordered as a part of the appellate order. The appellate order in such cases should merely confirm the penalty imposed. Thereafter, the question of re-appointment of the ex-employee, as a fresh entrant, can be considered separately, as an administrative exercise, in accordance with the extant rules on the subject, contained in Rule 402, Indian Railway Establishment Code, Vol.-I. In all such cases of re-employment of dismissed/removed/compulsorily retired employees, specific approval of the authority next higher than the disciplinary/appellate/revising authority, who had last passed orders on the disciplinary case should be obtained.

(Rule 402-RI and Board's letter No. E(D&A) 99 RG 6-6 dated 03.06.99)

- i) If an employee is transferred to another Railway/Division after the imposition of a penalty, then the Appeal will lie only to the appropriate Appellate Authority on the Railway/Division where the employee was working at the time of imposition of penalty, notwithstanding employee's transfer.

(Board's letter No. E(D&A) 69 RG 6-8 dated.19.6.69)

## 20. Revision/Review

- a) Revision is different from review. Review in terms of Rule 25(A) can be undertaken only by the President and only when some new evidence which could not be produced or was not available at the time of passing the order and which has the effect of changing the nature of the case, is brought to the notice of President. Both revision and review can be undertaken either suo-moto or on submission of a petition by the employee.
- b) Revision can be undertaken by the President, Railway Board, GM or any other authority not below the rank of Dy.HOD. It can be undertaken on consideration of a Revision Petition submitted by the employee or as a sum-moto exercise. If undertaken suo-moto, then the revisionary proceedings should not be started till disposal of the appeal, if already submitted or till the expiry of the limitation period of 45 days for submission of appeal. This, however, does not apply to revision of punishment in case of railway accidents.

(Rule 25 (2) of RS(D&A) Rules, 1968)

- c) Where a revision petition is submitted by the employee, the petition should be dealt with in the same manner as if it were an appeal. Thus, the time limit for submitting the revision petition is also 45 days, which needs to be indicated in the appellate order and the Revising Authority should also consider the case in the same manner as the Appellate Authority is required to do.

(Rule 25(3) of RS(D&A) Rules and Board's letters No. E(D&A) 84 RG6-44 dated 08.01.85 and 02.12.86)

### d) Exercise of Revisionary powers by an Appellate Authority

The revising authority has to be higher in rank than the Appellate Authority where :-

- i) an appeal has been preferred; or
- ii) where the time limit prescribed for 'revision' to be made by Appellate Authority (Rule 25(5) of RS(D&A) Rules, 1968) has expired.

The above stipulation does not apply to the revisions made by President (Rule 25(4) of RS(D&A) Rules, 1968).

Appellate Authority can also exercise revisionary powers where the no appeal has been preferred Rule 25(i) (iv).

An Appellate Authority of the rank of DRM & above can exercise the revisionary power, provided he is otherwise competent to conduct revision in the case. (Rule 25(i)(v) of RS(D&A) Rules 1968).

Revisionary powers can be exercised by the Appellate Authority only for conducting *suo-moto* revision subject to time limit prescribed in Rule 25(5) RS(D&A) Rules 1968).

(E(D&A) 2003 RG6-37 dated 13.02.2004 )

- e) If *suo-moto* revision is undertaken beyond the time limits given below, then it can be done only by the General Manager or Railway Board provided they are above the Appellate Authorities or by the President even if he happens to be the Appellate Authority:-
- i) Beyond 6 months from the date of the order to be revised in case where it is proposed to impose a penalty (where no penalty is in force) or enhance a penalty.
- ii) Beyond one year from the date of the order to be revised in case where it is proposed to cancel the penalty imposed or reduce the penalty.

These time limits are relevant only for *suo-moto* proceedings and not for consideration and disposal of Revision Petitions, which have to be done only by prescribed Revising Authority subject to condonation of delay, if any, in submission of revision petitions.

(Rule 25(5) of RS(D&A) Rules, 1968)

- f) If the Revising Authority proposes to impose a penalty (where no penalty has been imposed) or enhance the penalty, then a show cause notice has to be issued to the Railway servant indicating the proposed penalty, to enable him to represent against the said penalty. If the proposed penalty is such that holding of an inquiry is essential before its imposition and if an inquiry has not already been held in that case, then an inquiry should first be held before the proposed penalty can be imposed by the Revising Authority.

(Proviso (a) and (b) under Rule 25 (1) of RS(D&A) Rules, 1968)

- g) A Group 'D' Railway servant who has been dismissed/removed/compulsorily retired may submit his revision petition directly to the Divisional Railway Manager or where he is not directly under control of any DRM, to the senior most administrative grade officer.

(Rule 24(3) of RS(D&A) Rules, 1968)

- h) Revision is a one-time exercise and there is no provision for a second revision of the case. However, if the revisionary order imposes a penalty where no penalty was earlier imposed or if it enhances the penalty, the rules provide for submission of an appeal against such imposition/enhancement of the penalty, to

the next higher authority. There is no provision for further revision of that appellate order.

**(Board's letters No. E(D&A) 79 RG6-40 dated 18.08.81 and No. E(D&A)94 RG6-11 dated 31.8.94)**

- i) In case of enhancement of the penalty, if the lower penalty has already been undergone by the charged official in whole or in part, then the facts relating to the original penalty can be taken into consideration by the Revising Authority who can impose an additional penalty by way of enhancement of punishment.

**(Board's letters No. E(D&A) 55 RG6-14 dated 29.2.56 and No. E(D&A)71 RG6-18 dated 12.12.72)**

- j) Revision/Review of disciplinary cases already finalized before retirement of the concerned Railway employee cannot be initiated after his retirement with a view to impose a cut in the pensionary benefits. However, in cases where a show cause notice for *suo-moto* revision had been issued before retirement or where a revision petition submitted by the employee was pending at the time of retirement, revisionary proceedings can continue after retirement also.

**(Board's letter No. E(D&A)93 RG6-61 dated 11.1.2000)**

#### **21. Proceedings after Retirement:**

- a) If an employee retires while proceedings are continuing, then the proceedings will be deemed to be continuing under Rule 9 of Railway Services (Pension) Rules 1993. The proceedings should be continued even after retirement in the same manner as if the employee is in service and the Disciplinary Authority should record his decision and instead of imposing a penalty, should give specific recommendations on whether a cut in the pensionary benefits is warranted or not. The Disciplinary Authority need not specify the quantum of cut to be imposed. If, in the opinion of the Disciplinary Authority, a cut in the pensionary benefits is not warranted, then the proceedings can be dropped by him at his level. If, however, a cut in the pensionary benefits is recommended by the Disciplinary Authority, then the approval of the President is required before an order imposing a cut in the pensionary benefits is issued. The specific recommendations of the concerned PHOD and CPO should also be obtained before the case goes for President's consideration. The President is also required to consult the UPSC before he passes such an order. If a person is suspended before his retirement but no chargesheet has been issued till his retirement, even then it would be treated as a case where departmental proceedings have already been instituted before the retirement and such cases should also be dealt with in the same manner as explained above.
- b) If, on the date of retirement of an employee, he is neither suspended nor a chargesheet issued to him, then proceedings against him can be instituted only with President's approval. In such cases, the chargesheet is issued on behalf of the President and it cannot be issued in respect of any offence which had taken place more than 4 years before issue of the charge sheet.

If the employee is under suspension at the time of retirement, for the purpose of continuing the proceedings under Rule 9 of

RS(Pension) Rules, the proceedings shall be deemed to have commenced from the date of suspension. In such a case the charge sheet can be issued by the prescribed disciplinary authority even after retirement of the charged official. However, this fact should be incorporated in the proforma for charge sheet.

**(Board's letter No. E(D&A) 2000 RG6-41 dated 21.11.2000)**

- c) In any departmental proceedings initiated against the CO during his service and continued after his retirement if the pensioner is found guilty of "grave misconduct or negligence", President is vested with the right of withholding/withdrawing of pension/gratuity.

However, 'grave misconduct or negligence' warranting withholding/withdrawing of pension/gratuity cannot be established as a result of minor penalty proceedings.

The minor penalty proceedings should therefore be finalized before the date of superannuation of the Charged Officer.

**(DoP&T's O.M Nos. 110/9/2003-abd-1 dated 13.04.2009, and No.132/10/80-AVD-1 dated 28.02.1987, Board's letters No. E(D&A) 19812 RG6-21 dated 23.07.1981, No. E(D&A) 87 RG6-113 dated 11.11.1987 and E(D&A) 2009 RG6-18 dated 16.06.2009)**

- d) To ensure that disciplinary proceedings do not continue after retirement for long periods, the time schedule given below has to be followed for finalizing the case and sending proposals, if warranted, to the President for imposition of a cut in the pensionary benefits:
- i) In cases where the proceedings were initiated one year or more prior to the date of retirement of the Charged Official, the proposal should be sent within 3 months of the date of retirement of the charged official.
- ii) In cases where the proceedings were initiated within the last year of the service of the Charged Official, the proposal should be sent within 6 months from the date of retirement of the charged official.

**(Board's letter No. E(D&A)97 RG6-Monitoring (I) dated 20.7.98)**

- e) All proposals sent for obtaining President's sanction for imposition of a cut in the pensionary benefits should be accompanied by complete papers and information specified in this connection.

**(Board's letter Nos. E(D&A)97 RG6-Monitoring (I) dated 28.1.2000 and No. E(D&A) 2006 RG6-29 dated 23.12.2014.)**

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Copy

SECRET

Government of India  
Ministry of Railways  
(Railway Board)  
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No. E51NG6-20

New Delhi, dated 17-5-1952.

My dear (All G.M.s and Chairman, R.R.T.)

Rules regulating discipline and appeal  
of non-gazetted railway staff.  
.....

In amplification of the clarificatory instructions contained in para 6 of their Secret letter of even number dated 14-4-52 regarding the procedure to be adopted in dealing with a revision petition preferred by a class III employee, the Board desire to make it clear that where the General Manager consults the Railway Rates Tribunal on a revision application and he finds himself unable to accept the advice of the Tribunal he should not supersede the advice of the Tribunal without obtaining the Railway Board's prior orders.

Yours sincerely,

Sd: P.N.Saxena

To

Srri.....

Government of India  
Ministry of Railways  
(Railway Board)

No. E50RG6-6

New Delhi, the 7 -7-1952.

To

All Indian Railways  
(including C.L.W. Chittaranjan).

Sub - Conviction of railway servants  
in Courts of Law.

It has been represented to the Board that the instructions issued by them regarding the procedure to be followed in cases of dismissal or discharge of Railway servants following conviction by a Criminal Court have not been strictly followed by some railway administrations. The instructions issued by the Board in the matter are those contained in their letter No. E50RG6-6 dated the 4th February, 1950, from which it will be observed that in respect of cases of conviction in a Criminal Court, dismissal in such cases is not to be automatic but that each case should be examined on its merits and orders imposing the appropriate penalty passed after careful examination of the charges against the Railway servant concerned. The Board desire that steps should be taken to circularise these instructions.

*R. Srinivasan*  
(R. Srinivasan)  
Deputy Director, Establishment,  
Railway Board.

D.A. Nil.

'K.L.'  
4/7.

*3/11*





Government of India  
Ministry of Railways  
(Railway Board)

No. E51RG6-20  
New Delhi the 4-2-56

To

The General Managers,  
All Indian Railways.

Sub:- Recommendations of the Railway Corruption Enquiry Committee- Suggested modifications in the procedure to expedite enquiries.

Attention is invited to item 124 of the Summary of Recommendations contained in Chapter XIV of the Report of the Railway Corruption Enquiry Committee, wherein they have made certain suggestions for the modification of the procedure for holding enquiries, with a view to expeditious disposal of cases. The Government have observed that the present delays in taking extreme action is not due to the procedure for holding enquiries being elaborate, and that the procedure suggested by the Railway Corruption Enquiry Committee is in effect being followed.

2. The question as to how far the recommendations of the RCEC in this direction conform to the constitutional provisions of Art. 311 (2) of the Constitution has been examined by the Board in consultation with the Ministry of Law and they are advised that

- (a) A departmental enquiry need not be carried out strictly in accordance with the rules applicable to judicial proceedings but the principles of natural justice should be followed.
- (b) A civil servant should not be condemned on ex-parte evidence and no order of removal or dismissal should be passed against him unless he is given a real and effective opportunity of refuting the charges and the statements on which the notice of such dismissal or removal is based. The opportunity which the law requires should be given to him but if the enquiry officer comes to the conclusion that there is an attempt on the part of the delinquent officer to prolong the hearing by not taking part in the proceeding and his requests to adjourn the hearings on the ground of his inability to attend the proceeding are not bona fide requests, he may proceed with the enquiry ex-parte after recording the reasons in writing.
- (c) The second notice to show cause against the punishment proposed is to be given after the enquiry is over. If the whereabouts of the officer (against whom ex-parte hearing of the enquiry is allowed to proceed) are known, attempts should be made to serve the notice on him to show cause against the punishment proposed. Where the authority concerned is satisfied for the reasons to be recorded in writing that it is not reasonably practicable to give an opportunity of showing cause against the punishment proposed, no notice is required to be served as the case will be covered by Art. 311(2) (b) of the Constitution.

Contd-----2.



3. The Board desire that the detailed procedure for taking disciplinary action as communicated from time to time and as set out above, which in effect covers the recommendations of the Railway Corruption Enquiry Committee should be incorporated in the pamphlets issued by the Railways dealing with the procedure for taking disciplinary action, for the guidance of the Enquiry Committees.

4. The receipt of this letter may please be acknowledged

*W. K. ...*  
Director, Establishment,  
Railway Board.

DA:-N11.

No.E55RG6-20

New Delhi the

4 -2-56

Copy forwarded to:-

- (1) The General Manager, C.L.W.
- (2) The Genl. Manager & Chief Engineer,  
Ganga Bridge Project, Mokameh.
- (3) The Chief Administrative Officer  
Integral Coach Factory, Perambur.
- (4) The Chief Design Engineer- in-Charge,  
C.S.O. for Railways.
- (5) The Railway Liaison Officer,  
New Delhi.
- (6) The Principal, Staff College,  
Baroda.
- (7) The Chairman,  
Railway Service Comms.,  
Allahabad, Calcutta, Bombay and Madras.
- (8) The Director, Rail Movement, Calcutta
- (9) The Deputy Director, Rail Movement,  
Moghalsarai.
- (10) The Director, Railway Research & Testing  
Centre, Lucknow.
- (11) The Tank Wagon Controller, Bombay.
- (12) The Inspector General, Railway Security Force  
Allahabad.
- (13) The Secretary,  
Railway Rates Tribunal, Madras.
- (14) The General Secretary,  
I.R.C.A., New Delhi.

*W. K. ...*  
Director, Establishment, Rly Board

DA:-N11.

\*ML\* 1/2

50 Copies.

Copy to E.II E(C), & E.IV Branches of the Board's Office





No. E55RG6-14.

New Delhi, dated 29 -2-1956.

To

1. The General Managers,  
All Indian Railways, & U.L.W.
2. The Chief Administrative Officer,  
Integral Coach Factory,  
Perambur, Madras.
3. The General Manager and Chief Engineer,  
Ganga Bridge Project,  
Mokanah.
4. The Chief Design Engineer-in-Charge,  
C.S.C. for Railways,  
New Delhi.
5. The Chairman,  
Railway Service Commission,  
Allahabad/Madras/Calcutta/Bombay.
6. The Railway Liaison Officer,  
New Delhi.
7. The Principal,  
Railway Staff College,  
Baroda.
8. The Deputy Director,  
Rail Movement,  
Mysore Road.
9. The Director,  
Rail Movements, Calcutta.
10. The Director,  
Railway Research & Testing Centre,  
Lucknow.
11. The Secretary,  
Railway Rates Tribunal,  
Madras.
12. The Inspector General,  
Railway Security Force,  
Allahabad.
13. The General Secretary,  
Indian Railway Conference Association,  
New Delhi.
14. The Tank Wagon Controller, Bombay.

Sub: Question whether a case, where an employee has already undergone a penalty, can be reopened with a view to enhance the penalty.

In terms of Rules 1721 and 1722(a)-I-I the Railway authority, while considering an appeal preferred to it, has

/the

full discretion to decide whether the penalty imposed by a lower authority is adequate, inadequate or excessive. Such orders on the appeal as it thinks fit. Rule 1722 also empowers authorities specified therein to review punishment passed in any disciplinary case at any time either on their own motion or otherwise, and enhance or reduce the original penalty already imposed on an employee, when it is considered that the seriousness of the offence requires the imposition of a higher penalty, subject to the observance of the procedure indicated in Rules 1722(b) and 1725(a) if the case may be.

2. A point has been raised as to whether in cases where a penalty is awarded and enforced and thereafter it is proposed to impose a higher penalty, it would be in order to do so if the higher penalty is of a nature that does not amount to just enhancement of the previous penalty but amounts to an additional penalty. For example, in a case where an employee may have been punished with the stoppage of privilege passes for three months and may have already undergone the punishment, the competent authority may yet impose a higher penalty, say, removal from service.

3. The Board are advised that Rules 1722(a) and 1725(a)-R-I vest full discretion on the appellate and higher authorities to review a case and pass final orders upholding, reducing or enhancing the original penalty. The enhancement of the penalty need not necessarily be a prolongation of the same penalty but can be a fresh penalty higher to the original one and there is no objection to the infliction of such additional penalty.

4. (This disposes of your No. E/Coml/123/206 of 6-5-55).

( ) General Manager, Northern Railway, only.

*K. Bahadur*

Asstt. Director, Establishment  
Railway Board.

DA: Nil.  
Kalra/28.2.

Copy to E. II, E. IV and Cash Branches.  
Copy with two spare copies to Accounts Branch.

95 copies.

The General Managers,  
All Indian Railways and  
Chittaranjan Locomotive Works.

The General Manager and Chief Engineer,  
Ganga Bridge Project, Mokamoh.

The Chief Administrative Officer,  
Integral Coach Factory, Perambur, Madras.

The Chairman,  
Railway Service Commission,  
Allahabad/Madras/Calcutta/Bombay.

The Principal,  
Railway Staff College, Baroda.

The Director,  
Railway Testing and Research Centre, Lucknow.

The Engineer-in-Chief, Metro Gauge Coach Factory and  
Locomotive Component Works, State Entry Road, New Delhi.

The Chief Design Engineer Incharge,  
Central Standards Office for Railways, New Delhi.

The Railway Liaison Officer, New Delhi.

The Director,  
Rail Movements, Calcutta.

The Deputy Director,  
Rail Movements, Moghalsarai.

The Secretary,  
Railway Rates Tribunal, Madras.

---.---

Subj:- Rules regulating discipline and rights  
of non-gazetted Railway servants -  
Full enquiries in Accident cases.

---.---.---

With reference to the instructions contained in Railway  
Board's letter No. E57RG6-1 dated 15-7-56, the following points have  
been raised for clarification:-

- (i) Whether a departmental enquiry/is necessary in respect  
of a charge/charges which have been accepted by an employee  
without qualification; and
- (ii) whether a second enquiry in the case of accidents need  
be held after receiving the reply to the charge-sheet  
in almost all cases.

As regards (i), an enquiry is not necessary in respect of  
charge/charges which have been accepted by an employee without any  
qualification.

With regard to (ii), in cases where disciplinary action has been initiated as a result of the findings of the accident enquiry, a further enquiry, after the issue of a charge-sheet, will be necessary if the penalty proposed is either dismissal, removal or reduction in rank. In such cases, however, the proceedings relating to the second enquiry alone will be supplied to the accused employee along with the show-cause notice.

(This disposes of General Manager, Southern Railway's letter No.P.227/F dated 8-1-1957).

*P.B. Jain*  
(P.B. Jain)  
Assistant Director, Establishment  
Railway Board.

DA:Nil.

No.E(DCA)57866-6

New Delhi, dated the 26 April 1957

Copy to:

1. The General Secretary, Indian Railways Conference Association, New Delhi, for information.
2. E(R.B.I), E(R.B.II), E(O), E(V), E(AO) and Cash Branches and Security Directorate of the Railway Board's office, for information and guidance.

*P.B. Jain*  
(P.B. Jain)  
Asstt. Director, Estab.  
Railway Board.

DA:Nil.

Copy of Board's letter No. PG-60/G.C.A./1, dated 15.3.61  
the General Managers, etc. etc.

Sub:- Recommendation of the Pay Commission-  
(1957-59) regarding disciplinary pro-  
ceedings.

...

The Pay Commission have made the following recommendations -  
regarding disciplinary proceedings in Chapter II of their report:-

- No.(220) All memorials, etc. as well as appeals which come to the Central Government against imposition of major penalties should be disposed of only in consultation with the Public Service Commission.
- No.(221) The power to withhold appeals, memorials or petitions, under prescribed circumstances should be exercised by an authority higher than the one which had passed the orders against which the appeal, etc. is made.
- No.(222) A disciplinary enquiry should not be conducted by the immediate superior of the employee being proceeded against or by an officer at whose instance the enquiry was initiated.

The Railway Board have carefully examined these recommendations and the conclusions reached are contained in the following paragraphs.

2. The Commission have observed that the information available with them does not at all suggest that disciplinary action is taken in far too many cases or that major penalties are imposed too freely or that appeals and memorials are dealt with perfunctorily. The Board consider that the acceptance of recommendation No. 220 would considerably increase the work of the Union Public Service Commission. It may also lead to delays in completing disciplinary cases, which would neither be in the interest of public service nor in that of the individual servant. The Board have decided not to make any change in the existing procedure.
3. The procedure for submission of petitions, memorials, etc., to the President, referred to in Recommendation No. 221 is contained in Railway Board's letter No. E51RG6-13-dated 4.12.1954 which has also been incorporated as Appendix X-R.I. Revised

contd. on page 2/-----



(from prepage)

Revised Edition 1959. In these rules and instructions, the power to withhold petitions, etc., has been granted only to higher authorities like Head of Department or Divisional/Regional Superintendent. Further, an appeal can be withheld only under prescribed circumstances; the appellant is required - to be informed of the fact together with the reasons for withholding it; a quarterly return is also sent to the appellate authority giving him a list of appeals withheld by the authority through whom the appeal is submitted. The Railway Board consider that these are sufficient safeguards against unjustified withholding of appeals, petitions, etc., and they have, therefore, decided that these rules and instructions do not require any modification. The authorities dealing with petitions, memorials and appeals are, however, expected to apply these rules and instructions in a liberal spirit and the Board desire that they should ordinarily refrain from withholding any appeal, representation, petition or memorial except in rare cases where the justification for contrary action may be obvious.

4. As regards Recommendation No. 222, it is obviously desirable that only disinterested officials should be appointed as enquiry officials in departmental proceedings. There is no bar to the immediate superior of the employee being proceeded against holding an inquiry. However, as a rule, the official who undertakes this task should not be suspected of any bias in such cases; nor, as laid down in Board's letter No. E(S&A)60RG6-32 dated 25-1-61, should an official who has to give evidence at a departmental enquiry be nominated as a member of the enquiry committee or associated with the disposal of the proceedings of that Committee. The Board desire that the authorities concerned should bear this in mind before an enquiry official is appointed in a disciplinary case.

SRG:

Office of the Secretary  
Railway Board

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS

New Delhi, dated 5-4-1963.

On Railway Wages Tribunal's advice  
on revision petitions preferred  
in terms of Rule 1732(2)-R.I.

As per reference to Board's D.O. No. 351/66-20 dated  
11.1.63, the Board made it clear that where the  
Board consults the Railway Wages Tribunal on a  
matter of the Tribunal he should not supersede  
the advice without obtaining the Railway Board's prior  
approval. It is clarified that the 'advice' of the Tribunal  
in the matter merely of their findings as to the extent  
of the charges have been proved but also includes  
the recommendation to the appropriateness of the penalty.

Yours sincerely,

*(Signature)*  
B. D. Gaur



The General Managers,  
All Indian Railways, C.E.S., D.L.V., I.C.F., and  
V.R.K. Railway Projects.

The General Manager/Chief Engineer,  
Railway Electrification, Calcutta.

The Director General, R.D. & S.O., Simla (In triplicate).

The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

The Principal, Railway Staff College, Baroda (In triplicate).

The Principal, Advanced Permanent Way Training School, Poona.

The Principal, Institute of Railway Signal Engineering &  
Tele-communications, Secunderabad.

The Dy. Director, Rail Movements, Calcutta/Mughalsarai.

The Railway Liaison Officer, New Delhi.

The Secretary, Railway Wages Tribunal, Madras.

The General Secretary, I.C.F.A., New Delhi.

Subj: Action to be taken in cases where  
Railway servants are convicted on  
a criminal charge.

Attention is invited to the instructions contained  
in Board's letters -

- (1) No. 350RG6-6 dated 4-2-1960,
- (2) No. 356RG6-6 dated 31-5-1966 and
- (3) No. E(D&A) 57796-49 dated 6-1-1961.

It has been, inter alia, stated therein that where action to impose a departmental penalty on a Railway servant is taken on the basis of facts which led to his conviction in a Criminal Court, dismissal, etc. is not to be automatic and that each case should be examined on its merits and orders imposing the penalty passed if the charges against the Railway servant on which his conviction is based show that he was guilty of an offence involving moral turpitude or of grave misconduct which is likely to render his further retention in service undesirable or contrary to public interests. The competent authority should consider the nature and gravity of the criminal charge and if it is of the view that the offence is such as to render the further retention of the Railway servant in the public service prima facie undesirable, it should make an order dismissing, removing or compulsorily retiring him from service. In a case where the conviction is not for an offence such as to render the further retention of the Railway servant concerned in service prima facie undesirable, the competent authority should, after examination of the judgment of the



court, impose any of the lower penalties specified in the rules as it may consider proper.

2. Cases have come to the notice of the Board which indicate that the above instructions were not kept in view by the Disciplinary authorities in awarding punishments on the ground of conduct which led to the conviction of the Railway servants concerned on criminal charges. For example, some Railway employees were awarded the punishment of removal from service on being only fined for gambling offences. This was not in keeping with the instructions referred to in para 1 above. The Board observe that conviction for gambling offences, especially for the first time, leading to the imposition of a fine by the Court, cannot be deemed to render the further retention of the Railway servant concerned prima facie undesirable and that only minor penalties should be adequate in such cases. They desire that these observations may be brought to the notice of all concerned in dealing with such cases in future.

*P. B. Jain*

(P. B. Jain)  
Deputy Director Establishment,  
Railway Board.

Copy to E(RB)I, E(RB)III, Cash, S(C)I,  
E(V) and E(Rep) Branches and Security Directorate  
of Board's office.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A)65HQ6-40.

New Delhi, dated 30-1-63.

The General Managers,  
All Indian Railways, C.L.W., P.B.W., and J.C.F.

The General Manager & Chief Engineer,  
Railway Electrification, Calcutta.

The Director General, N.F. & S.O., Alambagh, Lucknow (with 5 spaces).

The Chief Administrative Officer & Chief Engineer,  
D.B.K. Railway Projects, Waitait.

The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

The Principal, Railway Staff College, Harode (In triplicate).

The Principal, Indian Railways School of Advanced Permanent Way  
Engineering, Poona.

The Principal, Indian Railways School of Signal Engineering &  
Tele-communications, Secunderabad.

The Dy. Director, Rail Movements, Calcutta/Hooghalsarai.

The Dy. Director Steel (Gen-1), 3, Ashoka English  
Chandni Bose Road, Calcutta-20.

The Secretary, Railway Rates Tribunal, Madras.

The Railway Liaison Officer, New Delhi.

The General Secretary, I.A.C.A., New Delhi.

Sub: Discipline and Appeal rules - Supply of  
copies of oral evidence recorded at the  
disciplinary enquiry.

Attention is invited to Board's letter E(D&A)65HQ6-47  
dated 29-1-1963 wherein it was clarified that, in the absence of a  
specific request from the accused employee, copies of the oral  
evidence need not be supplied to him. If, however, the accused  
employee makes a request for copies of the oral evidence either  
at the end of each day's sitting of the enquiry committee or on  
the conclusion of the enquiry, or even after the show cause notice  
has been served, the request should be complied with.

2. In order to avoid any delay in the supply of copy of  
'oral evidence' if demanded by the accused at the 'show cause'  
notice stage, the Board desire that copies of oral evidence should  
be invariably prepared in duplicate and should be supplied to the  
accused employee on demand either during the course of the enquiry  
or on the conclusion of the enquiry at the show cause notice  
stage. It should be ensured that, just for this formality, there  
is no avoidable delay in the finalisation of disciplinary cases.

*P. B. Jain*

(P. B. Jain)  
Deputy Director Establishment  
Railway Board.

Copy to E(D&A), E(D&A)11, Cash 1, E(O), Security (S), Vigilance  
and Security (Defence) (with 7 spaces) Records of Board's office.





No. E(D&A)66RG6-16.

Rail Bhavan, New Delhi,  
Dated the 6<sup>th</sup> June, 1966.

The General Managers,  
All Indian Railways, C.L.W., D.L.W. and I.C.F.

The General Manager & Chief Engineer,  
Railway Electrification, Calcutta.

The Director General, R.D.S.O., Alambagh, Lucknow (with 5  
spares).

The Chief Administrative Officer & Chief Engineer,  
D.B.K. Railway Projects, Waltair.

The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

The Principal, Railway Staff College, Baroda (in triplicate).

The Principal, Indian Railways School of Advanced Permanent  
Way Engineering, Poona.

The Principal, Indian Railways School of Signal Engineering  
& Tele-Communications, Secunderabad.

The Dy. Director, Rail Movements, Calcutta/Moghalsarai.

The Joint Director Steel (General), 1/1, Acharya Jagdish  
Chandra Bose Road, Calcutta-20.

The Secretary, Railway Rates Tribunal, Madras.

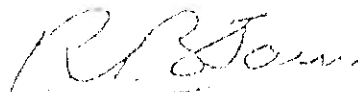
The Railway Liaison Officer, New Delhi.

The General Secretary, I.R.C.A., New Delhi.

Sub: Disciplinary action against Railway Servants.

.....

It has been represented to the Board that in cases where, after considering the reply to the charge-sheet, it is decided not to take any further action, the decision should be communicated to the Railway servant concerned to relieve his suspense. The Board have considered the matter and have decided that in such cases, the competent authority's decision not to take any further action should be invariably communicated to the Railway servant within 2 months of the date it is taken.



(P. B. Jain)

Deputy Director, Establishment,  
Railway Board.

No. E(D&A)66RG6-16.

New Delhi, dated the 6<sup>th</sup> June, 1966.

Copy (with 25 spares) forwarded for information to:

1. The General Secretary, All India Railwaymen's Federation, No. 125/B, Babar Road (Railway  
Station), New Delhi.



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No.E(D&A) 65RG6-6

New Delhi, dated 25.3.1967

The General Managers,  
All Indian Railways, C.L.W., D.L.W. and I.C.F.

Sub:- Transfer of Railway staff whose  
conduct is under investigation.

...

Reference Board's letter No.E(D&A)62RG6-15 dated 29.3.1962 wherein it was laid down that non-gazetted staff whose conduct is under investigation for charges meriting dismissal/removal from service, including those under suspension, should not be transferred from one Railway administration to another till after the finalisation of the departmental or criminal proceedings against them. The Board have considered the matter further and have now decided that non-gazetted staff against whom a disciplinary case is pending or is about to start, should not normally be transferred from one Railway/Division to another Railway/Division till after the finalisation of the departmental or criminal proceedings, irrespective of whether the charges merit imposition of a major or a minor penalty.

DA/n11



( P.B. Jain )  
Deputy Director Establishment,  
Railway Board.

No.E(D&A) 65RG6-6

New Delhi, dated 25.3.1967

Copy forwarded to all Attached and Subordinate  
offices of the Board's Office.



( P.B. Jain )  
Deputy Director Establishment,  
Railway Board.

Copy to E(RB)I, E(RB)III (with 2 spares), E(O)I,  
E(O)II, Cash I, All Vigilance Branches, Security(E) and  
Security(Defence) (with 10 spares) of Board's office.

...



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

F(D&A) 65HG6-6

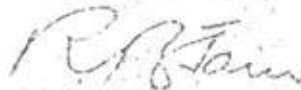
New Delhi, dated 25-3-1967

General Managers,  
Indian Railways, G.L.W., D.L.W. and I.C.F.

Sub: - Transfer of Railway staff whose  
conduct is under investigation.

...

Reference Board's letter No. F(D&A) 62HG6-15 dated 29.3.1962 wherein it was laid down that non-gazetted staff whose conduct is under investigation for charges meriting dismissal/removal from service, including those under suspension, should not be transferred from one Railway administration to another till after the finalisation of the departmental or criminal proceedings against them. The Board have considered the matter further and have now decided that non-gazetted staff against whom a disciplinary case is pending or is about to start, should not normally be transferred from one Railway/Division to another Railway/Division till after the finalisation of the departmental or criminal proceedings, irrespective of whether the charges merit imposition of a major or a minor penalty.

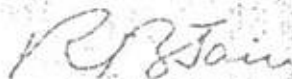


( P.B. Jain )  
Deputy Director Establishment,  
Railway Board.

F(D&A) 65HG6-6

New Delhi, dated 25-3-1967

Copy forwarded to all Attached and Subordinate  
Offices of the Board's Office.



( P.B. Jain )  
Deputy Director Establishment,  
Railway Board.

Copy to E(RB)I, E(RB)III (with 2 spares), E(O)I,  
Cash I, All Vigilance Branches, Security(E) and  
Defence (with 10 spares) of Board's office.

25.3.67





(ii) Where an officer is required only to attend to the usual routine day-to-day work of non-statutory nature attached to the post, an office order may be issued clearly stating that the officer will be performing only the routine day-to-day duties of non-statutory nature and that he would not be entitled to any additional remuneration. The office order should also specify what duties he would be discharging or what duties he would not be discharging.

[ G.I., Dept. of Per. & Trg., O.M. No. 4/2/89-Estt. (Pay-II), dated the 11th August, 1989. ]

The Law Ministry has advised that an officer appointed to perform the current duties of an appointment can exercise administrative or financial powers vested in the full-fledged incumbent of the post but he cannot exercise statutory powers, whether those powers are derived direct from an Act of Parliament, e.g., Income Tax Act or Rules, Regulations and By-Laws made under various Articles of the Constitution, e.g., Fundamental Rules, Classification, Control and Appeal Rules, Civil Service Regulations, Delegation of Financial Powers Rules, etc.

[ G.I., M.H.A., O.M. No. 7/14/Estt. (A), dated the 24th January, 1963. ]

Ref. F(E)60SA/1 dt. 4.3.63



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. B(D&A) 68RG 6-26. New Delhi, dated, 21<sup>st</sup> June, 1968.

The General Managers,  
All Indian Railways, C.L.W., D.L.W., I.C.F.

The Heads of all attached and subordinate  
Offices of Board's Office.

Subj:- Supply of Vigilance Inspector's investigation  
report along with chargesheet.


A case has come to the notice of the Board, where  
on a certain Railway, a disciplinary authority, while  
issuing a Memorandum of charges to an accused official,  
appended a copy of the Vigilance Inspector's investigation  
report with the memorandum, as a document to be relied upon  
during the disciplinary enquiry.

In this connection, your attention is invited to Rly.  
Board's letter No. B(D&A) 61RG 6-15 dated 10-10-61 enclosing  
the Ministry of Home Affairs O.M. No. F.30/5/61-ADV dated  
25.8.61 which stipulates as follows:

"Reports made after a preliminary enquiry or the  
report made by the Police after investigation,  
other than those referred to in clause (a) of  
sub-section 1 of Section 173 of the Code of Criminal  
procedure, 1898, are usually confidential and  
intended only to satisfy the competent authority  
whether further action is called for. These reports  
are not usually made use of or considered in the  
inquiry. Ordinarily even a reference to what is  
contained in these reports is not made in the  
statement of allegations. It is not necessary to  
give access to the Govt. servant to these reports.  
(It is necessary to strictly avoid any reference  
to such reports in the statement of allegations as,  
if any reference is made, it would not be possible  
of such to deny access to these reports, will not be in  
these public interest for the reasons stated above."

It may be noted that these instructions are as applicable  
to investigation reports of Vigilance Inspectors, as they  
are to investigation reports of the Special Police Establish-  
ment or other Branches of Police.

The Railway Board desire that all competent authori-  
ties may be suitably advised to follow the above instruc-  
tions so as to eliminate the possibility of a recurrence  
of the aforementioned error.

  
(G.R. Venkataraman)  
Deputy Director, Establishment,  
Railway Board.

A.G. Apper  
Secreta

Copy to E(RB)II(2spares), ERBIII(3 spares),  
E(O)K(2 spares), all Branches of Vigilance Director  
Cash I, Sec(E) and Security (Defence)(10 spares)  
Branches of Board's office.

Copy to OEDV and PS to DGV.

CONFIDENTIAL

No.134/20/68-AVD  
GOVERNMENT OF INDIA  
MINISTRY OF HOME AFFAIRS

\*\*\*\*\*

New Delhi-11, the

28th August, 1968  
6th Bhadra, 1890

OFFICE MEMORANDUM

Subject:- Disciplinary proceedings - Consideration  
of past bad record for purpose of imposition  
of penalty.

\*\*\*\*\*

A question has arisen whether past bad record of service of an officer can be taken into account in deciding the penalty to be imposed on the officer in disciplinary proceedings, and whether the fact that such record has been taken into account should be mentioned in the order imposing the penalty. This has been examined in consultation with the Ministry of Law. It is considered that if previous bad record, punishment etc. of an officer is proposed to be taken into consideration in determining the penalty to be imposed, it should be made a specific charge in the charge-sheet itself, otherwise any mention of the past bad record in the order of penalty unwittingly or in a routine manner, when this had not been mentioned in the chargesheet, would vitiate the proceedings, and so should be eschewed.

2. In this connection attention is invited to the following extract from the judgement of the Supreme Court in the State of Mysore Vs. K Monche Gowda (AIR 1964 S.C. 506):-

'We....hold that it is incumbent upon the authority to give the Government servant at the second stage reasonable opportunity to show cause against the proposed punishment <sup>is</sup> also based on his previous punishments or his previous bad record, this should be included in the second notice so that he may be able to give an explanation.....'

if  
/and/ the pro-  
posed punishment

In the present case the second show cause notice does not mention that the Government intended to take his previous punishments into consideration in proposing to dismiss him from service. On the contrary, the said notice put him on the wrong scent, for it told him that it proposed to dismiss him from service

Contd...



as the charges proved against him were grave.... the order of dismissal... indicate that the show cause notice did not give the only reason which influenced the Government to dismiss the respondent from service. This notice clearly contravened the provisions of Art. 311 (2) of the Constitution as interpreted by Court."

3. These observations were made by the Supreme Court in the context of the provisions of Article 311 (2) of the Constitution before its amendment by the Constitution (Fifteenth Amendment) Act, 1963. Under the amended Article, at the stage of show-cause notice the Government servant has to be given a 'reasonable opportunity' of making representation on the penalty proposed, but only on the basis of evidence adduced during the enquiry. This would indicate that at the second stage, the procedure should be limited only to the proposed penalty on the basis of the proved charges and additional material in the form of past bad record etc. can not be introduced. If such matter is to be introduced, the Government servant must have a right to make his representation on those matters and for that purpose to call for confidential record and even witnesses to establish mitigating circumstances like his subsequent good conduct. This will be contrary to amended Article 311 (2) which clearly limits the right of representation "only on the basis of evidence adduced during such enquiry". This cannot be one-sided restriction and pre-supposes that the penalty is proposed only on the basis of the charges inquired into, without any additional factors being taken into consideration. Accordingly if past bad record is proposed to be taken into account in determining the penalty to be imposed, it should be made subject matter of a specific charge in the charge-sheet itself. If it is not so done, it cannot be relied upon after the enquiry is closed and the report is submitted to the disciplinary authorities, and/or at the time of imposition of penalty.

4. This may be brought to the notice of all Disciplinary Authorities for information and guidance.

Sd/- R.C. Joshi  
UNDER SECRETARY TO THE GOVERNMENT OF  
INDIA

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

No.B(D&A)68RG6-37

New Delhi, dated

23-9-1968

The General Managers,  
All Indian Railways, C.L.W., D.L.W. and I.C.F.

The Heads of all attached and subordinate offices of  
Railway Board's Office.

Sub:- Disciplinary proceedings - Consideration of  
past bad record for purpose of imposition  
of penalty.

---

A copy of the Ministry of Home Affairs' O.M.  
No.134/20/68-AVD dated 28th August, 1968 on the above  
subject is sent herewith. The Board desire that the  
contents of this O.M. should be brought to the notice of  
all disciplinary authorities for information and guidance.

DA/One

*B.D. Vatsalya*  
( ~~B.D. Vatsalya~~ )  
Deputy Director, Establishment,  
Railway Board.

Copy together with a copy of the Ministry of Home  
Affairs' O.M. to E(RB)I, E(RB)III, E(O)I, all Branches of  
Vigilance Directorate, Cash-I, Security(B) and Security(D) (10  
spares) Branches of Board's Office.

Copy to OSD(V) and P.S. to D<sub>2</sub>(V).

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CONFIDENTIAL

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. 2(DKA)G300-10

New Delhi,

dated 13-13-1968

The General Managers,  
All Indian Railways, C.E.W., I.C.F. and D.L.W.

The Heads of all attached and subordinate offices  
of Railway Board.

Sub:- Authority who has acted as a member or  
chairman of the fact finding enquiry  
should not act as disciplinary authority.

...

A point has been raised whether an authority who has functioned as a Member or Chairman of the Fact Finding/Accident Enquiry Committee can function as a disciplinary authority for the purpose of considering the explanation to the charge-sheet, ordering a departmental enquiry, holding a departmental enquiry itself or imposing the penalty within its own powers. The matter has been considered in consultation with the Ministry of Law and it has been held that if an officer while functioning as chairman or member of fact finding committee has already come to a conclusion and made recommendation that a particular railway servant is guilty, it would be difficult to expect him to approach the case with an open mind. Even more, the railway servant would apprehend that the officer having expressed an earlier opinion, would not as a disciplinary authority depart from his own earlier finding and as such he may have a reasonable apprehension that he would not get a fair hearing. It would, therefore, not be correct for an authority who has already come to a conclusion regarding the guilt of an employee as chairman or member of a Fact Finding Committee to function as a disciplinary authority when there is a likelihood of major penalties being imposed.

(This disposes of D.G.P.O, S.E.Rly.'s D.O.No.P/R/14/141/Pt. XII dated 12th August, 1968).

*R. D. Vatsalya*

( R.D. Vatsalya )

Deputy Director, Establishment,  
Railway Board.

Copy to E(OB)1, E(OB)111, G-3b-1, all Branches of  
Vigilance Directorate, E(O)1, E(O)111, Security(E) and  
Security(Defence) (10 spares) Branches of Board's Office.

Copy to O.G.(V) and 13/13(V)

...





GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No.E(D2A)66RG6-7

New Delhi,

dated ~~27~~-12-1968  
30

The General Managers,  
All Indian Railways, CLW., DM and MP.

The Heads of all attached and subordinate offices of  
Railway Board's Office.

Sub:- Conducting of departmental enquiries in Hindi.

A point has been raised whether in cases where the accused railway servant does not understand English, it is obligatory to supply the statement of allegation in Hindi, conduct departmental enquiry in that language and also supply the copies of proceedings of the departmental enquiry in Hindi. The matter has been considered in consultation with the Ministry of Home Affairs and it is clarified that both Hindi and English are official languages of the Union and all Central Government employees are free to use either of these two languages for transacting their work. Neither of these languages is to be imposed and as such the enquiry officer cannot be asked to use only Hindi for conducting the enquiry. It must, however, be noted that the principles of natural justice require that the delinquent officer must have reasonable opportunity of defending himself and if he is unable to understand English and is also unable to follow the proceedings in English, the statement of allegations may be supplied to him in Hindi and the enquiry officer should also explain to the delinquent officer in a language known to the delinquent the purport of the proceedings.

(This disposes of Central Railway's letter  
No.21829X dated 17.5.1968 on the subject.)

*B.D. Vatsalya*

( B.D. Vatsalya )  
Deputy Director, Establishment,  
Railway Board.

Copy to E(RB) I, E(RB) III, Cash-I, E(O) I, E(O) III, all  
Branches of Vigilance Directorate, Sec(E) and Security(Defence)  
(10 spares) Branches of Board's Office.

Copy to OSD(V) and IS to (M/F)



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

.....

No. E(D&A)69RG6-20

New Delhi, dated 18 - 6 - 1969

The General Managers,  
All Indian Railways, D.L.W., C.L.W. and I.C.F.

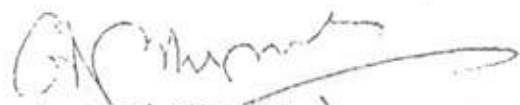
The Heads of all attached and subordinate offices  
of Railway Board.

Sub:- RS(D&A) Rules, 1968 - Opportunity to file written  
briefs by the delinquent officials after the  
completion of production of evidence.

.....

In accordance with the provision in sub-rule (16) of  
Rule 9 of the RS(D&A) Rules, 1968, the Inquiring authority may,  
after the completion of the production of evidence, hear the  
Presenting Officer, if any appointed, and delinquent railway  
servant, or permit them to file written briefs of their respective  
cases, if they so desire. Recently, a case came to the notice of  
the Board in which the departmental inquiry was held ex-parte, as  
the delinquent official did not participate in the inquiry; after  
the close of the enquiry, the Inquiry Officer issued a notice  
by registered post to the delinquent official asking him to  
submit his final representation; the Inquiry Officer did not give  
his findings in the absence of such a representation, which resul-  
ted in abnormal delay in the finalisation of the enquiry. It  
was explained by the concerned Railway that this action was taken  
in terms of para 2 of Board's letter No. E(D&A)58RG6-5 dated  
17.4.58.

In instructions were issued as also in the context of provisions  
of other sub-rules of Rule 9 of the RS(D&A) Rules, 1968, the  
opportunity of filing a written brief after the completion of the  
production of evidence, is to be given only if the delinquent railway servant  
has attended the inquiry. If, on the other hand, the delinquent  
official has not attended the enquiry and the same has been held  
ex-parte, the question of giving the opportunity of filing a  
written brief does not arise, and there is no need to send any  
communication to the employee asking him to file such a written  
brief.



( O.D. Sharma )  
Assistant Director Establishment,  
Railway Board.

Copy to E(O)I, E(O)III, E(RB)I, E(RB)III, all Branches  
of Vig. Dt., Sec(E), Sec(Cr), Sec(Spl), Cash I, and Sec(D) (10 Spa-  
res) Branch of Board's office.

Copy to PS to DGV and ADW(M)

.....



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

...

No.E(D&A)69HG6-12 New Delhi, dated 18-6-1969

The General Managers,  
All Indian Railways, CLW, DLW and ICF.

The Heads of all attached and subordinate offices  
of Railway Board.

Sub :- Discipline and Appeal Rules - Clarification  
regarding.

...

With reference to the Central Civil Services  
(Classification, Control and Appeal) Rules, 1965, the  
Ministry of Home Affairs have clarified certain points.  
The R.S.(D&A) Rules, 1968, correspond to these rules  
and the relevant points in these rules are clarified as  
under :-

Points raised.

Clarification

- |  |  |
|--|--|
| <p>1.(a) In cases where the disciplinary authority is the President, whether the case should be shown to the Minister before disciplinary proceedings are initiated;</p> <p>(b) Whether it is necessary to show the file to the Minister every time before formal orders are issued in the name of the President under rules 9(2), 9(4), etc. of the R.S.(D&amp;A) rules, 1968</p> | <p>(a) Having regard to the transaction of Business Rules, it is necessary that in cases where the disciplinary authority is the President, the initiation of the disciplinary proceedings should be approved by the Minister.</p> <p>(b) It would be sufficient if Minister's orders are obtained for taking action ancillary to the issue of the charge sheet at the stage when the papers are put up to him for initiation of disciplinary proceedings. However, formal orders of the Minister should be obtained at the stage of issuing show cause notice under rule 10(5)(1)(b) and at the stage of passing final orders imposing penalty under rule 10(5)(ii)(b) and rule 10(5)(iii).</p> |
|--|--|

Note:- By virtue of Rule  
3 of the Transaction of

..... 2/-

Business Rules, it is competent for the Minister to delegate his functions to Secretary or any other officer by general or special orders and on such delegation it would not be necessary to take the Minister's orders in each case.

2. What happens to the disciplinary proceedings started by a disciplinary authority 'A' in respect of a Government servant when the latter is transferred to the jurisdiction of another disciplinary authority 'B'.

In such cases, it is not necessary for disciplinary authority 'B' to start de-novo proceedings by framing and delivering fresh articles of charge to the concerned official. He can carry on with the inquiry proceedings at the point where the transfer of the accused officer was effected. However, such cases will be rare in view of the instructions contained in Board's letter No. E(D&A)65206-6 dated 25.3.1967.

3.(a) Rule 25 of the RS(D&A) Rules, 1968, authorises review of "any order made under these rules". Do the words 'these rules' include an order passed under rule 26 as well, i.e. can even an order of review under rule 25 be further reviewed?

(a) A reviewing authority, as soon as he passes an order of review, would exhaust his power under the rule and would become *functus officio*. In view of the second proviso below rule 25(1) he cannot review his own order. However, a superior reviewing authority can review the orders passed by an inferior reviewing authority under the aforesaid rule.

(b) Can the President review an order passed by him under a rule other than rule 25?

(b) The language of sub-rule (1) of rule 25 would show that the reviewing authorities including the President can "review any order made under these rules". The words 'any order' and 'under these rules' indicate that any order passed by the President including an order passed as a result of review under rule 25 itself, would be an order under these rules. The second

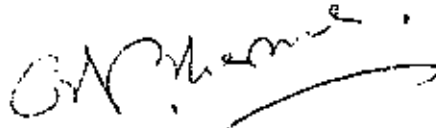


△The President

proviso to this rule limits the power of reviewing authorities in the circumstances laid down therein but vide 'Note' below this proviso; these limitations do not apply to cases of review by the President, can, therefore, review his own orders passed by him including an order passed under rule 25 itself.

Note: As action in cases falling under 1(a), 1(b) and 3(b) above, on behalf of the President, is taken in the Railway Board's Office, the clarifications above in respect of these points are only for the information and guidance of the Railways.

The Board desire that the clarifications in respect of items 2 and 3(a) may be brought to the notice of all concerned for information and guidance.



( O.D.Sharma )  
Assistant Director, Establishment,  
Railway Board.

Copy to E(RB)I, E(RB)III, E(O)I (5 spares), E(O)III  
Cash-I, all Branches of Vigilance Directorate, Sec(E),  
Sec(Cr.), Sec(Spl) and Security(Defence)(10 spares) Branches  
of Board's office.

Copy to ADV(M) and PS to DGV.

...



MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. B (D&A) 6386-16

New Delhi, dated 23-5-1969

The General Managers,  
All Indian Railways, D.L.W., C.L.W. and I.C.P.

The Heads of all attached and subordinate offices of Rly. Board.

Sub:- Circumstances in which an authority who has acted as a member or Chairman of the fact finding enquiry can act as disciplinary authority.

In Board's letter of even number dated 23.12.1968, it was clarified that an authority who has acted as a Member or Chairman of the Fact Finding/Accident Enquiry Committee should not function as a disciplinary authority for the purpose of considering the explanation to the charge-sheet, ordering a departmental enquiry etc., for the reason that such authority has already come to a conclusion and made recommendation regarding the guilt of the employee and it would be difficult for him to approach the case with an open mind.

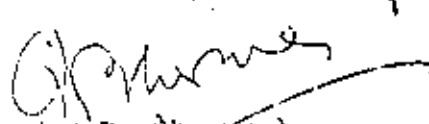
2. Some Railway administrations have experienced practical difficulties in implementing these instructions in that these would limit the powers of officers to act as disciplinary authorities; the levels at which the appeals against the punishment awarded will be dealt, would also be raised, etc.

3. The matter has been reconsidered and it has been decided that there is no objection to an officer, who has acted as Chairman or Member of the Fact Finding/Accident Enquiry Committee, to act as disciplinary authority, provided his findings do not give an indication that he has come to a definite conclusion regarding the guilt of the employee(s). The report of the Fact Finding/Accident Enquiry Committee should, therefore, only indicate that against any particular railway servant named in the report, prima facie grounds exist for initiating disciplinary proceedings and that the duly constituted disciplinary authority under the relevant rules will ultimately decide whether the particular railway servant is in fact guilty or not of the violation of the rules/regulations alleged against him. If this is done, and if the findings of the Committee are suitably worded in keeping with this decision, there would be no legal objection to an officer who has acted as the Chairman or Member of the Fact Finding/Accident Enquiry Committee to act as disciplinary authority.

4. It should, however, be ensured that the Enquiry Officer to be nominated for conducting a proper departmental enquiry is different from the personnel of the Fact Finding/Accident Enquiry Committee who may be a disciplinary authority. In other words, the proper statutory departmental inquiry should be conducted by an officer(s) who is unbiased and has not prejudged the guilt of the employee(s) concerned, even provisionally,

.....2/-

5. The Board desires that the above position should be brought to the notice of all concerned for guidance.

  
(O.D. Sharma)  
Assistant Director, Establishment,  
Railway Board.

Copy to E(HB)I, E(HB)III(2 spares), E(O)I, E(O)III, Cash-I, Safety(5 spares), all Branches of Vigilance Dt., Security(E), Security(Cr.), and Security(I) (30 spares) Branches of Board's office.

Copy to P.S. to D.G.V. and A.D.V.(1).

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

...

No.E(D&A)60HG6-8      New Delhi,      dated 19-6-1969

The General Managers,  
All Indian Railways, CLW, DLW and ICF.

Heads of all attached and subordinate offices of the  
Railway Board.

Sub:- Railway Servants (Discipline and Appeal) Rules,  
1963 - Authority competent to deal with appeal  
or initiate review action in case of railway  
employees transferred to another Railway/  
Division after the imposition of the penalty.

...

In Board's letter No.E(D&A)60HG6-30  
dated 28.7.1962, instructions have been issued as to  
who should act as the disciplinary authority in cases  
where a railway employee is transferred from one Railway/  
Division to another and it is proposed to initiate  
disciplinary action against him for the offence committed  
by him on the former Railway/Division. In accordance with  
these instructions, generally, disciplinary action should  
be taken by the competent authority on the Railway/Division  
on which the person concerned is working at the time  
of initiating disciplinary action and the need for transfer-  
ring the railway servant back to the former Railway/Division,  
on which the offence was committed, and the competent  
authority on that Railway/Division acting as the disciplinary  
authority, should rarely arise.

2. A point has been raised as to who should act as  
appellate or reviewing authority in cases where a railway  
servant files an appeal after he has been transferred to  
another Railway/Division after the imposition of the  
penalty. The position in this regard is clarified as  
follows:-

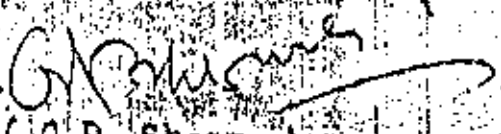
The appellate authority is that to which the  
punishing authority is immediately subordinate. Therefore,  
the appeal will lie only to that authority on the Railway/  
Division where the employee was working at the time of the  
imposition of the penalty, notwithstanding the fact that the  
employee has been transferred to another Railway/Division.  
According to the rules, the appellate authority can enhance  
the penalty already imposed after following the prescribed  
procedure and therefore, the appellate authority on the former  
Railway/Division may increase the penalty, if considered  
necessary, even though the employee has been transferred to  
another Railway/Division.

2. The position is, however, somewhat different  
in so far as review of the disciplinary order is concerned.  
In terms of sub-section (1)(iii) and (1)(v) of rule 25 of

the RS(D&A) Rules, 1968, only that authority which was acting as reviewing authority under whose control the employee is working. It would, therefore, not be valid under the said rules for the authority of the Railway/Division where the employee was previously employed and punished, to act as reviewing authority after his transfer from that Railway/Division. The review can be taken only by the appropriate reviewing authority on the Railway/Division where the employee is working at the time of the proposed review.

In cases, however, where the appellate authority acts as reviewing authority, in terms of sub-rule (2) (a) of rule 25 of the RS(D&A) Rules, within the prescribed time limit, there is no objection for the appellate authority to act as reviewing authority, even after the employee's transfer to another Railway/Division.

(This disposes of North Railway Dy. (PO) D.O. No. E.142/D/VII dated 7.12.1968).



(O.D. Sharma)  
Assistant Director, Establishment,  
Railway Board.

Copy for information and guidance to E(O) I, E(O) III, E(HB) III, E(RB) I, Cash-I, all Branches of Vigilance Directorate, Security(E), Security(Crime), Security(Special) and Security(Defence) (with 10 spares) Branches of Board's Office.

Copy to PS to D.G.V. and copy to ADV(M).



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

...

No. E(D&A)7ORG6-5.

New Delhi, dt. 8-12-70.

- The General Managers,  
All Indian Railways, C.L.W., D.L.W. & I.C.P.
- The Director General, R.D.S.O., Lucknow. (5 spares)
- The Principals,  
Railway Staff College, Baroda.  
Indian Rly. School of Advanced Permanent Way Engg., Poona.  
Indian Rly. School of Sig. Engg. & Telecom., Secunderabad.
- The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.
- The Railway Liaison Officer, New Delhi.
- The General Secretary, I.R.C.A., New Delhi.
- The Joint Director, Iron & Steel, 3 Kollinghat Street, Calcutta.
- The Secretary, Railway Rates Tribunal, Madras.
- The Chief Administrative Officer(R), Metropolitan Transport  
Project (Railways), 14 Strand Road, Calcutta-1.
- The Chief Administrative Officer(R), Metropolitan Transport  
Project, C/O General Manager, Central Railway, Bombay.

Sub:- RS(D&A) Rules, 1968 - Examination of  
witnesses produced by the Railway  
Servant during the enquiry.

...

Reference Board's letter No. E(D&A)7ORG6-5 dated 2-5-70 on the above subject, wherein it has been clarified that in terms of sub-rule (14) of Rule 9 of RS(D&A) Rules, 1968, it is obligatory to examine all the witnesses produced by the delinquent railway servant and it would not be correct to refuse examination of such witnesses on any account.

2. Certain Railway Administrations have brought to the notice of the Board that in view of the above clarification, the inquiring authority will have to examine all the witnesses produced by the delinquent railway servant in defence, and in that event the delinquent railway servant may exploit the situation by quoting a large number of defence witnesses with the illful motive of retarding the progress of and causing immediate delay in finalisation of the disciplinary proceedings against him.

3. The matter has been examined by the Board in consultation with the Cabinet Secretariat (Deptt. of Personnel) and

P.T.O.

It is pointed out that it is nowhere provided in the rules that the Inquiring Authority, on receipt of the list of witnesses from the delinquent official, should send the summons to all of them irrespective of the fact whether they are relevant to the inquiry or not. As such he can refuse to call a witness if there are sufficient reasons for doing so but the Inquiring Authority has to record such reasons in writing. However, once the Inquiring Authority has sent the summons to a witness to attend the inquiry and on the date of inquiry the witness has also come to give evidence on behalf of the delinquent official, the Inquiring Authority cannot refuse to examine that witness on any ground. In the case of outside witnesses cited by the delinquent official, the responsibility to ensure their attendance on the date of hearing rests on the delinquent official. This is the intention of Rule 9(14) of the RS(D&A) Rules, 1958.

1. It is further clarified that while the delinquent railway servant should be given the fullest facilities by the Inquiring Authority to defend himself and with that end in view the witnesses which he proposes to examine, should ordinarily be summoned by the Inquiring Authority, it is not obligatory for the latter to insist on the presence of all the witnesses cited by the delinquent railway servant and to hold up disciplinary proceedings until their attendance has been secured. The Inquiring Authority would be within his right to ascertain in advance from the delinquent railway servant as to what evidence a particular witness is likely to give. If the Inquiring Authority is of the view that such evidence would be entirely irrelevant to the charge against the delinquent railway servant and failure to secure the attendance of the witness would not prejudice defence, he may reject the request for summoning such a witness, but in every case of rejection he should record his reasons in full for doing so.

2. The above instructions may be brought to the notice of all authorities concerned.

(This disposes of CPO/C.Rly's D.O. No. HFB/309/R dated 11-6-70 and CPO/N.Rly's D.O. No. 52E/O/26-IV/L/E(D&A) dated 30-6-70.)

*H.K. Madan*

(H.K. Madan)  
Assistant Director, Establishment,  
Railway Board.

Copy forwarded for information and necessary action to E(O)I & E(O)II, E(RB)I & E(RB)III (with 5 spares each), Cash I, Sec.(Def) (10 spares) Sec. (Cr.), Sec(E), Sec(Spl) and all branches of Vigilance Directorate of Board's Office. (with 5 spares each).

Copy to ADV(H) and PS to ADV.

SRC

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A)70RG6-14.

15  
New Delhi, dated 15-1-1971.

- ...  
The General Managers,  
All Indian Railways, C.L.W., D.L.W. & I.C.F.,  
The Director-General, R.D.S.O., Lucknow (with 5 spares)  
The Principals,  
Railway Staff College, Baroda,  
Indian Rly. School of Advanced Permanent Way Engg., Poona.  
Indian Rly. School of Sig. Engg. & Telecom., Secunderabad.  
The Railway Liaison Officer, New Delhi.  
The General Secretary, I.R.C.A., New Delhi.  
The Joint Director, Iron and Steel, 5 Kollaghat Street, Calcutta-1.  
The Secretary, Railway Rates Tribunal, Madras.  
The Chief Administrative Officer(R), Metropolitan Transport  
Project (Railways), 14 Strand Road, Calcutta-1.  
The Chief Administrative Officer(R), Metropolitan Transport  
Project (Railways), C/O General Manager, Central Railway, Bombay.  
The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

Sub:- Railway Servants (Discipline & Appeal) Rules,  
1968 - Provision for re-cross-examination in  
terms of Rule 9(11) thereof.  
...

In terms of the provisions contained in Rule 9(11) of the  
Railway Servants (Discipline & Appeal) Rules, 1968, the witnesses  
produced by or on behalf of the disciplinary authority shall be  
examined by or on behalf of the Presenting Officer, if any, and  
may be cross-examined by or on behalf of the railway servant, and  
the Presenting Officer, if any, shall be entitled to re-examine

(P.T.O.)

the witness on any points on which they have been cross-examined, but not on any new matter without the leave of the inquiring authority. A doubt has been raised whether cross-examination by or on behalf of the Railway servant could be allowed after the Presenting Officer has re-examined the witnesses. It is hereby clarified that if re-examination by the Presenting Officer is allowed on any new matter not already covered by the earlier examination/cross-examination, a cross-examination on such new matters covered by the re-examination may also be allowed to meet the ends of natural justice.

2. The above instructions may be brought to the notice of all authorities concerned.

Madan

(H.K. Madan)  
Assistant Director, Establishment,  
Railway Board.

Copy forwarded for information and necessary action to each E(O)I & III, E(RB)I & III (with 5 spares), Cash I, Sec. (Def) (10 spares), Sec. (Cr.), Sec. (E), Sec. (Spl) and all Branches of Vigilance Directorate of Board's (with 5 spares each).

Copy to ADV(M) and PS/DGV.

SRG:

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

...

New Delhi, dated 27-2-1971.

NO. E(D&A)71RG6-4.

The General Managers,  
All Indian Railways, C.L.W., D.L.W. & I.C.F.

The Director General, R.D.S.O., Lucknow. (with 5 spares)

The Principals,  
Railway Staff College, Baroda.

Indian Rlys. Institute of Advanced Track Technology, Poona.  
Indian Rlys. Institute of Signal Engg. & Telecom., Secunderabad.

The Railway Liaison Officer, New Delhi.

The Joint Director, Iron and Steel, 3 Koilaghat Street, Calcutta-1.

The Secretary, Railway Rates Tribunal, Madras.

The Chief Administrative Officer(R), Metropolitan Transport  
Project (Railways), 14 Strand Road, Calcutta-1.

The Chief Administrative Officer(R), Metropolitan Transport  
Project (Railways), C/O General Manager, Central Railway, Bombay.

The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

The General Secretary, I.R.C.A., New Delhi.

Sub:- Railway Servants (Discipline & Appeal)  
Rules, 1968 - Setting up of Enquiry  
Committees.

...

Attention is invited to the instructions contained in para 4 of Board's letter No. PC-60/C.C.A./1 dated 15-3-61 dealing with Recommendation No. 222 of the Pay Commission (1957-59) regarding disciplinary proceedings (copy enclosed).

2. The Committee on Subordinate Legislation (Fourth Lok Sabha) have recently examined the question of appointment of inquiry officers to conduct oral inquiry into the charges levelled against delinquent officers under Central Civil Services (Classification, Control & Appeal) Rules, 1965, (corresponding to Railway Servant (Discipline and Appeal) Rules, 1968). The Committee has observed that though they agree that it may not be possible to entrust always inquiries against delinquent officers, to gazetted officers, the inquiries should be conducted by an officer who is sufficiently senior to the officer whose conduct is being inquired into, as inquiry by a junior officer cannot command confidence which it deserves.

3.

The Board desire that above instructions should be

Contd. on page 2/-----

(from prepage)

be brought to the notice of all authorities concerned for compliance.

*H.K. Madan*

(H.K. Madan)  
Assistant Director, Establishment,  
Railway Board.

Copy together with enclosures forwarded for information and guidance to E(O)I, E(RB)I and E(RB)II, Cash I (with 3 spares each), Sec.(E), Sec(Cr.), Sec(Dof). (with 10 spares), Sec.(Spl) and all Branches of Vigilance Directorate of Board's Office (with 15 spares each).

Copy to ADV(M) and PS to DG(V).

SRG:



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A)70RG6-59.

New Delhi, dated 21-4-1971.

- The General Managers,  
All Indian Railways, D.L.W., C.L.W. & I.C.F.,
- The Director General, R.D.S.O., Lucknow (with 5 spares)
- The Principals,  
Railway Staff College, Baroda.  
Indian Rlys. Institute of Advanced Track Technology, Poona.  
Indian Rlys. Institute of Sig. Engg. & Telecom., Secunderabad.
- The Railway Liaison Officer, New Delhi.
- The General Secretary, I.R.C.A., New Delhi.
- The Joint Director, Iron and Steel, 3 Kollaghat Street, Calcutta-1.
- The Secretary, Railway Rates Tribunal, Madras.
- The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.
- The Chief Administrative Officer(R), Metropolitan Transport  
Project (Railways), 14 Strand Road, Calcutta-1.
- The Chief Administrative Officer(R) Metropolitan Transport  
Project (Railway), C/O General Manager, Central Railway, Bombay.

Sub:- Clarification of Rule 10(1) of the  
RS(D&A) Rules, 1968.

...

Rule 10(1) of the RS(D&A) Rules, 1968, inter alia lays down that if the disciplinary authority is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, he may recall the witness and examine, cross-examine and re-examine the witness and may impose on the Railway servant such penalty, as is within its competence in accordance with the rules. With reference to this provision, a point has been raised, whether at the time of such further examination, the delinquent employee, his defence helper and the Presenting Officer, if any, would also be present in the same manner, at the time of inquiry and will have the same rights of cross-examination, re-examination etc.

(contd. from prepage)

2. The matter has been examined by the Board in consultation with the Department of Personnel and it is clarified that it would be desirable that the delinquent employee is present at the time of examination of witnesses by the disciplinary authority, because, if as a result of such examination of the witnesses by the disciplinary authority in the absence of the delinquent employee, the disciplinary authority makes up its mind on the inquiry report by the inquiring authority and imposes any punishment, it may be held that there has been a denial of reasonable opportunity to the delinquent to that extent. The delinquent employee may also take the help of his defence helper during such examination of witnesses, if he so desires. The Disciplinary Authority may, if considered necessary, arrange the presence of the Presenting Officer, if any, at such examination to ensure the interest of the prosecution. As regards the rights of cross-examination, re-examination etc., the rule itself provides for these.

Hiada

(H.K. Madan)

Assistant Director, Establishment,  
Railway Board.

Copy to E(RB)I, E(RB)III, E(O)I, E(O)III, CashI, Sec(E),  
Sec(Spl), Sec(Def) (10 spares) and all the Branches of Vigilance  
Directorate, of Board's Office.

Copy to ADV(M) and P.S. to DGV.

SRG:

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(DCA)71RG6-22.

New Delhi, 11-6-1971.

The General Managers,  
All Indian Railways, C.L.W., D.L.W. & I.C.F.

The Director General, R.D.S.O., Lucknow. (with 5 spares)

The Principals,  
Railway Staff College, Baroda.  
Indian Rlys. Institute of Advanced Track Technology, Poona.  
Indian Rlys. Institute of Sign. Engrs. & Telecom., Secunderabad.

The Railway Liaison Officer, New Delhi./The General Secretary, IRCA,  
New Delhi.

The Joint Director, Iron and Steel, 3 Kailashat Street, Calcutta-1.

The Secretary, Railway Rates Tribunal, Madras.

The Chief Administration Officer(R), Metropolitan Transport  
Project (Railways), 14 Strand Road, Calcutta-1.

The Chief Administrative Officer(R), Metropolitan Transport  
Project (Railways), C/O General Manager, Central Railway, Bombay.

The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

Sub:- Time-limit for disposal of appeals by  
appellate authority.

...

In Board's letter No. E(DCA)69RG6-3 dated 14-2-69, it was inter-alia laid down that all appeals should receive prompt attention and should be disposed of within a reasonable time, and if it is anticipated that an appeal or a petition cannot be disposed of within a month of its submission, an acknowledged receipt or an interim reply should be sent to the individual within a month.

2. As a result of discussion in the meeting of the National Council held on the 25th and 26th Sept., 1970, on the above subject, the Board have further decided as under:-

- (a) The appellate authority should give high priority to the disposal of appeals and ensure that no appeal suffers delay in disposal beyond a period of one month from the date of its receipt by the appellate authority.
- (b) In case the appellate authority anticipates delay in disposal of certain appeals beyond a period of

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(from prepage)

one month, he should submit to the next higher authority a detailed statement of such appeals together with reasons for delay beyond one month.

- (c) The said next higher authority should go into the reasons for the delay and take remedial steps, wherever necessary, to have the pending appeals disposed of, as far as possible within the period of one month, even if it is required to relieve the appellate authority of his normal work so as to enable him to dispose of the appeals within one month. This review where appropriate should be done by Divisional Superintendents in Divisions and Heads of the Departments in the Headquarters.
- (d) Where the appellate authority is the General Manager himself, he should submit the statement of such pending appeals as are likely to be delayed beyond one month, together with the reasons for such delay, to the Railway Board for information and such action as they may consider necessary.

3. The Board desire that the above instructions should be brought to the notice of all authorities concerned for guidance and compliance.

*H. K. Madan*

(H.K. Madan)

Assistant Director, Establishment,  
Railway Board.

Copy forwarded to E(RB) I & III, E(O) I & III, all Branches of Vigilance Directorate, Sec(E), Sec(Cr), Sec(Spl), Sec(Def)-(10 spares) and Cash I Branches of Board's Office.

Copy to ADV(H) and PS to DG(V).

SRC

GOVERNMENT OF INDIA (BHARAT SAHARA)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)

No. E(D&A)70906-41. New Delhi, dated 20-10-1971,

The General Managers,  
All Indian Railways, C.L.W., D.L.W. & I.C.F.

The Director General, R.D.S.O., Lucknow. (with 5 spare)

The General Secretary, I.R.C.A., New Delhi.

The Secretary, Railway Rates Tribunal, Madras.

The Railway Liaison Officer, New Delhi.

The Principals,  
Railway Staff College, Baroda,  
Indian Rlys. Institute of Advanced Track Technology, Poona,  
Indian Rlys. Institute of Sign. Engg. & Telecomm., Secunderabad.

The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

The Joint Director, Iron and Steel, 3 Kollaghat Street, Calcutta.

The Chief Administrative Officer(R), Metropolitan  
Transport Project (Railways),

1. 14, Strand Road, Calcutta-1.

2. Poonaralle High Road, (Rly. Officers Rest House  
Building, Egmore), Madras.

3. C/O General Manager, Central Railway, Bombay.

4. 2nd Floor State Entry Road, Reservation Office, New Delhi.

Sub:- Examination and cross-examination of  
witnesses, where there is no Presenting  
Officer.

Attention is invited to sub-rule 11 of Rule 9 of the  
Railway Servants (Discipline and Appeal) Rules, 1968, reproduced  
below for ready reference:-

"(11) On the date fixed for inquiry, the oral  
and documentary evidence by which the articles of  
charge are proposed to be proved shall be produced  
by or on behalf of the disciplinary authority. The  
witnesses shall be examined by or on behalf of the  
Presenting Officer, if any, and may be cross-  
examined by or on behalf of the railway servant.  
The Presenting Officer, if any, shall be entitled

contd. on page 2/

to re-examine the witnesses on any points on which they have been cross-examined; but not on any new matter without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit."

2. The existing sub-rule (1) of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1966, is also under revision and the revised rule, which is reproduced below for ready reference, will be notified shortly:-

"(14) The evidence on behalf of the railway servant shall not be produced. The railway servant may examine himself, in his own behalf, if he so prefers. The witnesses produced by the railway servant shall then be examined by or on behalf of him and shall be entitled to re-examine the witnesses on any point on which they have been cross-examined, but not on any new matter without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit."

3. It will be seen therefrom that in both the above sub-rules, provision has been made about examination and cross-examination of witnesses by the Presenting Officer, if any. In this connection, a point has been raised as to who should perform this function of examining and cross-examining the witnesses where there is no Presenting Officer, especially when in a very large number of cases on the Railways, no Presenting Officer is nominated and whether there is any objection for the inquiry officer to do so. It is clarified, in this connection, that the inquiring authority is after all appointed to find out the truth in the charges against the delinquent railway servant and the power of making examination, cross-examination, etc. of witnesses is inherent in him. In view of this, there is no objection for the inquiring authority to examine and cross-examine the witnesses in cases where no Presenting Officer is appointed to enable him to find out the truth in the charges against the delinquent railway servant.

(V. Madhavachari)

Joint Director, Establishment,  
Railway Board.

Copy to E(RB)I, II and III, Cash, E(O)I, II and III, Sec(E), Sec(Spl), Sec(Def) (with 10 spares), all Branches of Vigilance Branches, E(L) and E(IU) Branches of Railway Board's Office.

Copy to PS to DG(V) and ADV(M).



GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)

No.E(D&A)71RG6-18

New Delhi, dated 12-12-1972

The General Managers,  
All Indian Railways, C.L.W., D.L.W. & I.C.F.

The Director General, R.D.S.O., Lucknow (with 5 spares)

The General Secretary, I.R.C.A., New Delhi.

The Secretary, Railway Rates Tribunal, Madras.

The Principals,  
Railway Staff College, Baroda.  
Indian Rly.Institute of Sig.Engg.& Telecomm., Secunderabad.  
Indian Rly.Institute of Advanced Track Technology, Poona.

The Joint Director, Iron and Steel, 3 Koilaghat Street, Calcutta.

The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras.

The Railway Liaison Officer, New Delhi.

The Chief Administrative Officer (R), Metropolitan  
Transport Project (Railways) -

1. Poonamallee High Road, Egmore, Madras-8.
2. Mercantile House, 5th Floor, Magazine Street,  
Ray Road, Bombay 400-010.
3. 14. Strand Road, Calcutta-1.
4. 2nd Floor, Railway Reservation Office,  
State Entry Road, New Delhi.

Subject:- Question whether a case where an employee  
has already undergone a penalty, can be  
re-opened with a view to enhance the  
penalty.

Attention is invited to Board's letter No. E55RG6-14  
dated 29.2.1956 (copy enclosed) on the above subject. It has  
been stated therein that even in a case where, for example, an  
employee has already been punished with the stoppage of privile-  
ge passes and has already undergone the punishment, the  
competent authority can still impose on him a higher penalty,  
which may be a fresh one and not necessarily a prolongation  
of the original penalty.

2. The Board desire that in cases where an employee has already undergone the original penalty in whole or in part, this fact should be taken into account by the reviewing/appellate authority when deciding upon the higher penalty, so that unintentional hardship is not caused to the employee. Alternatively, the feasibility of cancelling the original penalty while imposing the higher penalty may be considered.

*T. N. Vijh*

(T.N. Vijh)

Assistant Director Establishment,  
Railway Board.

No.E(D&A)71RG6-18

New Delhi, dated 12 -12-1972.

Copy (with 25 spares) forwarded for information to:-

- (1) The General Secretary, National Federation of Indian Railwaymen, 166/1, Railway Colony, Panchkuin Road, New Delhi.
- (2) The General Secretary, All India Railwaymen's Federation, 125/E, Babar Road, Railway Quarters, New Delhi.

*N.V. Jayaraman*

(N.V. Jayaraman)

for Secretary, Railway Board.

Copy to:-

E(RB)I, E(RB)III (with 2 spares); Cash I (with 5 spares)  
E(O)I, E(O)III (with 5 spares); all Vigilance Branches  
(Vigilance I to Vigilance IV & Confidential); Security(E),  
Security (Spl), Security (Defence) (with 10 spares), branches  
of Board's office.

copy to A.D.V.(M).

Copy of Board's letter No. E(D&A)71RG6-36  
dated 6.6.74 to the General Managers,  
Indian Railways, etc. etc.

Sub: Distinction between Magisterial and Judicial enquiries in accident cases - Stage upto which disciplinary action can be continued in accident and other cases in which prosecution may be launched.

Attention is invited to Board's letter No. E(D&A)65RG6-25 dated 4.8.65 and clarification No. 2 contained in letter No. E(D&A)64RG6-1 dated 3.2.64 wherein it is stated that once a court has taken cognizance of an offence, all departmental proceedings for disciplinary action against the accused responsible for the accident, should be suspended. The departmental proceedings can be continued only so long as the court has not taken cognizance of the offence and that this clarification applied to all the cases, viz. accident as well as other cases.

2. This clarification has come in for further examination in the context of the Supreme Court's judgment in the case of Jang Bahadur Singh Vs Baij Nath Tiwari (1969(1) SCR 134) holding that :-

"the issue in the disciplinary proceedings is whether the employee is guilty of the charges on which it is proposed to take action against him. The same issue may arise for decision in a civil or criminal proceedings pending in a court. But the pendency of the court proceedings does not bar the taking of disciplinary action. The power of taking such action is vested in the disciplinary authority. The civil or criminal court has no such power. The initiation and continuation of disciplinary proceedings in good faith is not calculated to obstruct or interfere with the course of justice in the pending court proceedings. The employee is free to move the court for an order restraining the continuation of the disciplinary proceedings. If he obtains a stay order, wilful violation of the order would, of course, amount to contempt of court. In the absence of a stay order, disciplinary authority is free to exercise its lawful powers. An authority is holding an inquiry in good faith in exercise of the powers vested in it by statutory regulations, is not guilty of contempt of court, merely because a parallel inquiry is imminent or pending before a court."

3. In view of the above observations of the Supreme Court the Board have been advised as under :-

- 1) It is not necessary to stay departmental proceedings

...</-

because a criminal case is pending in court of law on the same charges. Each case can be considered individually on its facts and circumstances to see whether it is really necessary to stay departmental proceedings till the conclusion of the criminal trial.

ii) No firm guidelines can, however, be laid down in regard to(i) above.

4. The existing instructions are modified accordingly. \*

.....

Rajan.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

....

No.E(D&A)7ORG6-14(1)

New Delhi, dated 19-6-1974

- The General Managers,  
All Indian Railways, C.L.W., D.L.W., I.C.F. & MTP(R), Calcutta.  
The Director General, R.D.S.O., Lucknow(with 5 spare copies).  
The Principals,  
Railway Staff College, Baroda.  
Indian Rlys. Instt. of Advanced Track Technology, Poona.  
Indian Rlys. Instt. of Sig.Engg.& Telecomm., Secunderabad.  
Indian Rlys. Instt. of Mech.& Elect.Engg., Jamalpur.  
The Railway Liaison Officer, New Delhi.  
The General Secretary, I.R.C.A., New Delhi.  
The Joint Director, Iron and Steel, 3 Koilaghat Street,  
Calcutta-1.  
The Secretary, Railway Rates Tribunal, Madras.  
The Chief Administrative Officers(R), MTP(R), Madras,  
Bombay & New Delhi.  
The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras/Muzaffarpur.  
Joint Director, Rail Movement, Mughalsarai.  
Joint Director (Coal), Railway Board, C/o C.O.P.S.,  
Eastern Railway, Calcutta.

Subject:- Inquiry under the Discipline and Appeal  
Rules - appointment of Inquiring Authority.

.....

One of the items considered by the National Council set up under the scheme of Joint Consultation and Compulsory Arbitration, was a proposal from the Staff Side that the disciplinary inquiry, as a rule, should be conducted by a person who should be free from all influences, official or otherwise, of the disciplinary authority and that if a representation is made by a delinquent employee against the appointment of an Enquiry Officer, on grounds of bias, and his representation is rejected by the Disciplinary authority, it should be open to him to prefer an appeal against the orders of the Disciplinary authority to the Appellate authority.

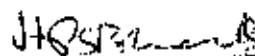
2. The matter was discussed and ultimately, it was agreed that though there was no provision in the Discipline and Appeal Rules for filing an appeal against the order appointing a person as an Enquiry Officer, in a disciplinary proceeding, such an order

...2/...

could, nevertheless, be reviewed under the said rules. It was accordingly, decided that whenever an application is made by a Railway servant, against whom disciplinary proceedings are initiated under the Railway Servants(Discipline & Appeal) Rules, 1968 against the Inquiry Officer, on grounds of bias, the departmental proceedings should be stayed and the application of the delinquent, along with the other relevant material, forwarded to the appropriate reviewing authority specified in rule 25 of Railway Servants(Discipline & Appeal) Rules, 1968 for considering the application and passing appropriate orders thereon expeditiously.

3. The Board desire that all the Disciplinary authorities may please be advised accordingly and it be also impressed upon them that the departmental inquiries should, as far as possible, be entrusted to the regular Enquiry Officers holding the posts where specifically created for conducting such inquiries. In cases, however, due to unavoidable reasons, the inquiries have to be entrusted to officers other than regular Enquiry Officers, it should be ensured that the officers concerned, are of appropriate rank and are fully conversant with the disciplinary procedure. Such officers may also be relieved of their normal duties to such an extent as may be necessary for expeditious completion of the inquiries and for submission of their reports.

DA/Nil.



(H.P.S. Bhalla)  
Assistant Director, Establishment,  
Railway Board.

Copy forwarded to:

E(RB)I, E(RB)III, E(O)I, <sup>/Record,</sup> Security(E), Security(Spl.),  
Sec.(D-with 10 spares), All branches in the Vigilance Directorate  
& ADV(M) in Board's Office.





authority for holding an inquiry into such charge, it may, by an order in writing, appoint a railway or any other Government servant to be known as the "Presenting Officer" to present, on its behalf, the case in support of the articles of charge.

Though the rule above mentioned, permits appointment of a Presenting Officer by the disciplinary authority, the practice, however, has been to appoint Presenting Officers only in cases of gazetted Officers into whose conduct departmental inquiries are conducted by the Central Vigilance Commission through their Commissioners for Departmental Enquiries. It has been now represented by the Central Bureau of Investigation that in the absence of Presenting Officers in the cases investigated by them, prosecution evidence is not marshalled properly in the departmental inquiries, prosecution witnesses and defence witnesses are not examined or cross examined as effectively, material facts do not always find place in the statement of witnesses and facility of re-examination is not normally availed of. As a result, a number of departmental inquiry cases, either failed or succeeded only partly because of the failure of the prosecution to present its case effectively before the Enquiry Officers.

Keeping in view the difficulties expressed by the C.B.I. and also the other relevant factors, the Board have now decided that in cases where departmental action is initiated against non-gazetted railway servants at the instance of the SPB/CBI, there is no objection to the appointment of Presenting Officers by the competent Disciplinary Authorities on the Railways in exceptionally difficult cases, provided they are nominated by the SPB/CBI from their own personnel.

*H.P.S. Bhalla*

(H.P.S. Bhalla)  
Assistant Director, Establishment,  
Railway Board.

DA/N11:

Copy to:-

R(SB)I, R(RB)III, Record Branch, E(O)I, E(O)II,  
Sec:(E), Sec:(D)(with 10 spaces) Sec:(Spl.) Vig-I,  
Vig-II, Vig-III, Vig-IV and Vig-Confid., Branches and  
ADV(M) in Boards' Offices.

Copy of Railway Board's Confidential letter No. 1000/76106-A dated 4-3-1976 addressed to:  
General Managers,  
Indian Railways, etc., etc.

See W-1  
2/2/76

Subject: - Action to be taken in cases where Railway servants are convicted on criminal charge.

In modification of the instructions contained in Ministry of Railways (Railway Board's) letter No. F(D&A) 1000-59 dated 19th January, 1967 on the subject mentioned above, it is hereby clarified that the disciplinary authority may, if it comes to the conclusion that an order, with a view to imposing a penalty on a railway servant on the ground of conduct which had led to his conviction on a criminal charge, should be issued, issue such an order without waiting for the period of filing an appeal or, if an appeal has been filed, without waiting for its decision in the first court of appeal. Before such an order is passed, the Union Public Service Commission should be consulted where such consultation is necessary.

The Ministry of Railways desire that the modified instructions as above, may please be brought to the notice of all the disciplinary authorities concerned for information and guidance.

Sd/-  
(Gulzar Chand)  
Assistant Director, Establishment,  
Railway Board.



G. D. R.

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GOVERNMENT OF INDIA (Bharat Sarkar)  
MINISTRY OF RAILWAYS (Rail Mantralaya)  
(RAILWAY BOARD)

No. E(D&A) 78RG6-11 New Delhi, dated the 3-3-1978

The General Managers,  
All Indian Railways, including, ICF, CMV, DLW, NTR(R), Calcutta,  
and G.M. (Construction), 18, Millers Road, Bangalore-46.

The Director General, RDSO (with 5 spares), Lucknow.

The Principal,

Railway Staff College, Baroda  
Indian Rly. Inst. of Sig. Engg. & Tele. Comm., Secunderabad  
Indian Rly. Instt. Mech and Elect. Engg., Jamalpur  
Indian Rly. Instt. of Advd. Track Technology, Poona

The Chairman,

Railway Service Commission, Allahabad/Bombay/Calcutta/Madras/  
Muzaffarpur.

The Chief Administrative Officer (R),

Metropolitan Transport Project (R), New Delhi/Bombay/Madras

The Railway Liaison Officer, New Delhi

The General Secretary, I.R.C.A., New Delhi

The Joint Director, Iron & Steel, 3, Kollaghat Street, Calcutta.

The Joint Director, (Coal), Railway Board, C/o G.O.S., E. Rly., Calcutta.

The Joint Director, Rail Movement Rly. Board, C/o Eastern Rly. House,  
17, Netaji Subhash Marg, Calcutta.

The Secretary, Railway Rates Tribunal, Madras

The Secretary, R.L.T., Old Stn. Road, Ahmedabad.

The O.S.D. (Project) Wheels & Axle Plant, 18, Millers Road, Bangalore.

Sub: Railway Servants (Discipline & Appeal) Rules-  
Serving of "Speaking Order" on the Railway  
Servants in disciplinary cases.

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It has been observed that in some of the disciplinary cases, there is an omission on the part of the disciplinary authority while imposing any of the penalties as laid down in the Railway



Servants (Discipline and Appeal) Rules, to pass "speaking orders" indicating the reasons for imposing a particular penalty. In respect of some orders of this nature, civil courts have upheld the plea that they not being "speaking orders" were not in accordance with the provisions of the R(D&A) Rules. The Central Vigilance Commission, in the disciplinary cases referred to them, have also taken a similar view.

2. The Railway Ministry, therefore, desire that in all disciplinary cases the disciplinary authority should invariably pass "speaking orders" indicating the reasons for the conclusion arrived at. The same procedure should also be adopted by the appellate authority while passing orders on the appeal of the railway servants.

3. The above procedure may please be brought to the notice of all the authorities concerned for careful compliance.

Please acknowledge receipt.



(Gulzar Chand)  
Dy. Director, Establishment  
Railway Board.

DA/Nil.

Copy to:-

E(O) I, II, E(RB) I, III, Cash-I, Records, Sec. (E), Sec. (Personnel) with 10 spares, Sec. (Crime), Sec. (Spl), Vig. I, Vig. II, Vig. IV and Vig. Confdl. Branches in Board's office.

SKC





Officer by the competent disciplinary authority on the Railway in exceptional & difficult cases provided they are nominated by SRE/CEI from their own personnel. The question of appointing Presenting Officers in cases where the non-gazetted Railway servants are involved in Vigilance cases has since been considered by the Board and they have now decided that the Presenting Officers may be appointed in Vigilance cases and will in very complicated cases where Chief Vigilance Officers (CVOs) feel it necessary for assisting the Agency Officers for appreciation of disciplinary cases provided that they are nominated by the Chief Vigilance Officers from their own existing personnel without looking for creation of any additional post or extra staff.

(Hindi version will follow)



(G. S. Singh)  
 Dy. Director, Establishment,  
 Railway Board.

DM/11.

Copy to:-

MEMO, E(RP)III, Record Branch, E(O)2, E(O)II,  
 Sec.(S), Sec.(D) with 10 copies and Sec.(S)1 VIG, (with 40 copies),  
 VIG. II, VIG. III, VIG. IV, VIG. Confid. Branches; S/ Secy  
 to DM(i) in Board's Office.

AC/

CONFIDENTIAL

Government of India  
Ministry of Railways  
(Railway Board)

No. R(USA)80R66-47.

New Delhi, dated 29-5-61

The General Manager,  
All Indian Railways, C.M., D.C., I.C., Metro Railway, Calcutta  
and the G.M. (Construction), 12, Millers Road, Bangalore-46.

The Director General, R.D.S.O., Lucknow.

The Principal,  
Railway Staff College, Baroda,  
Indian Railway Instt. of Advanced Tech. Technology, Pune,  
Indian Railway Instt. of Sig. and Tele. Commn., Secunderabad,  
Indian Rly. Instt. of Tech. & Elec. Engrg., Jaipur.

The Chairman,  
Railway Service Commission, All India, Bombay, Calcutta,  
Madras, Kuzhifurpur, Secunderabad, Gauhati.

The Chief Administrative Officer (R),  
Metropolitan Transport Project, Bombay/Madras/New Delhi.

The Railway Liaison Officer, New Delhi.

The General Secretary, I.R.C.A., New Delhi.

The Joint Director, Iron & Steel, B, Kailash Street, Calcutta.  
The Joint Director (Coal) Railway Board C/o C.P.S., E.Rly. Calcutta.

The Director Rail Movement, Rly. Board C/o E.Rly., Railway  
Station, Calcutta.

The Secretary, Railway Rates Tribunal, Madras.

The G.M. (Project) Wheel & Axle Plant, 14, Millers Road,  
Bangalore-16.

The FA & CA, All Indian Railways.

Subj:- Maintenance of records and enquiry of  
statements made by the concerned officers  
and the witnesses in the case of  
proceedings under Section 131 of the Act.

A copy of the report of the committee set up under  
the chairmanship of Mr. A.V. Kulkarni, Member of the Cabinet  
for Transport, Road Transport and Roadways, is being submitted for  
information.

CONFIDENTIAL



Government of India  
Ministry of Railways  
(Railway Board)  
....

New Delhi, dated 27 -6-81

No.E(D&A)81RGG-23.

The General Managers,  
All Indian Railways, CLW, ELW, ICW, Metro Railway, Calcutta  
and the G.M. (Construction), 18 Millers Road, Bangalore-46.

The Director General, H.D.S.O., Lucknow.

The Principal,  
Railway Staff College, Baroda.  
Indian Railway Instt. of Advanced Track Technology, Pune.  
Indian Railway Instt. of Sig. Engg. & Tele. Comn.,  
Secunderabad.  
Indian Railway Instt. of Mech. & Elect. Engg., Jamalpur.

The Chairman,

Railway Service Commission, Allahabad/Bombay/Calcutta/  
Madras/Muzaffarpur/Secunderabad/Coimbatore.

The Chief Administrative Officer (R),  
Metropolitan Transport Project, Bombay/Madras/New Delhi.

The Railway Liaison Officer, New Delhi.

The General Secretary, I.R.C.A., New Delhi.

The Joint Director, Iron & Steel, 3, Kailashat Street, Calcutta.

The Joint Director (Coal) Railway Board C/o COPS, Eastern  
Railway House, Calcutta.

The Director, Rail Movement, Railway Board/ C/o Eastern Railway  
House, Calcutta.

The Secretary, Railway Rates Tribunal, Madras.

The G.M. (Project) Wheel and Axle Plant, 18, Millers Road,  
Bangalore-46.

The FA & CAO, All Indian Railways.

Sub:- RS(D&A) Rules, 1963 - Question whether  
charges can be dropped at the stage of  
initial written statement of defence.

contd...2/-

A copy of the Department of Personnel and Administrative Reforms, Ministry of Home Affairs's O.O. No. 11013/2/79-8stt(a) dated 14.3.81 on the above subject is sent herewith. The Board desire that the position indicated in the above O.O. may be brought to the notice of all the concerned authorities for guidance/compliance.

Rule 14(5)(a) and 14(4) of the CCS(CCA) Rules, 1965 correspond to Rule 9(9)(a) and 9(7) of RG(P&A) Rules, 1968.

*T. V. Viji*

( T. V. Viji )

Ch. Director, Establishment,  
Railway Board.

DA/One.

Copy to:-

E(RP)I, II & III Branches, E(PB) Desk, E(O)I, II & III Branches, Genl. I Branch, Record Branch, G(Accommodation) Branch, Accts. III Branch (with 10 spares), Vig. I (10 spares), Vig. II, Vig. III, Vig. IV and Vig. Contd. Branches, P(E)III (with 5 spares), Legal Cell (with 3 spares), Security (E) Branch, Security (Genl) Branch, Security (Special) Branch, Security (General) Branch (with 10 spares and copy to Ch. Secretary, Railway Board).

Copy of Ministry of Home Affairs, Department of Personnel and Administrative Reforms Office Memorandum No. 11014/4/73-Extt(A) dated 15.3.1981 from Deputy Secretary addressed to All Ministries and Departments of Government of India.

-----  
Subj:- CCS(CCA) Rules, 1965-Question whether charges can be dropped at the stage of initial written statements of defence.  
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The undersigned is directed to say that a question has been under consideration of this Department whether rule 14(5)(a) of the CCS(CCA) Rules, 1965, permits the dropping of charges by the disciplinary authority after considering the written statement of defence submitted by the accused Government servant under rule 14(4) ibid. The question has been considered in consultation with the Ministry of Law and the position is clarified as under:-

- ✓(a) The disciplinary authority has the inherent power to review and modify the articles of charge or drop some of the charges or all the charges after the receipt and examination of the written statement of defence submitted by the accused Government servant under rule 14(4) of the CCS(CCA) Rules, 1965.
- ✓(b) The disciplinary authority is not bound to appoint an inquiry officer for conducting an enquiry into the charges which are not admitted by the accused official and about which the disciplinary authority is satisfied on the basis of the written statement of defence that there is no further cause to proceed with.

2. It may, however, be noted that the exercise of the powers to drop the charges after the consideration of the written statement of defence by the accused Government servant will be subject to the following conditions:-

- ✓(a) In cases arising out of investigations by the Central Bureau of Investigation, the CBI should be consulted before a decision is taken to drop any of, or all, the charges on the basis of the written statement of defence submitted by the accused Government servant. The reasons recorded by the disciplinary authority for dropping the charges should also be intimated to the Central Bureau of Investigation.
- ✓(c) The Central Vigilance Commission should be consulted where the disciplinary proceedings were initiated on the advice of the Commission and the intention is to drop the proceedings altogether, as distinct from dropping or reviewing or modifying some charges.

...../

3. The Ministry of Finance and are requested to bring the contents of this Office Memorandum to the notice of all the authorities under their control for their guidance and compliance.

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GOVERNMENT OF INDIA/BHARAT SARKAR  
MINISTRY OF RAILWAYS/RAIL MANTRALAYA  
(Railway Board)

No.E(D2A)79RG6-40

New Delhi, dated 18.8 . 81

The General Managers,  
All Indian Railways, including CLW, DLW, ICF, MTP(R) Calcutta,  
and G.M. (Construction), Southern Railway, 13, Millers Road,  
Bengalore, G.M. (Construction), H.F. Railway, Gauhati and G.H.,  
Wheels & Axles Project, Bangalore.

The Director General, F.D.S.O., Lucknow.

The Chairman,  
Railway Service Commissions, Allahabad/Bombay/Calcutta/  
Gauhati/Madras/Secunderabad/Muzaffarpur.

The Principal,  
Railway Staff College, Baroda.  
Indian Rly. Instt. of Sig. Engrg. & Telecomm., Secunderabad.  
Indian Rly. Instt. of Mech. Elect. Engrg., Jamalpur.  
Indian Rly. Instt. of Adv. Track Tech., Pune.

Railway Liaison Officer, New Delhi.

The General Secretary, I.R.C.A., New Delhi.

The Chief Engineer Electrification, Allahabad.

The Director, Railmovement, Railway Board, C/o Eastern Railway,  
House 17, Netaji Subhash Marg, Calcutta.

The Jt. Director, Iron & Steel, 3, Kailashat Street, Calcutta.

The Jt. Director, (Coal), Railway Board, C/o COPS E.Rly. Calcutta

The Secretary, Railway Board's Tribunal, Madras.

The Chief Administrative Officer (NO Metropolitan Transport  
Project (Rlys.) Bombay/Madras/New Delhi.

PA & C.A.O., Central Organisation for modernation of Workshops,  
New Delhi.

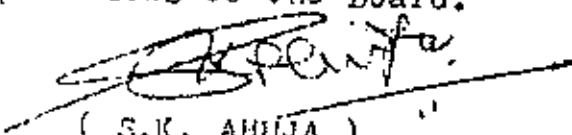
Sub: Review under Rule 25 of Railway Servants  
(Discipline and Appeal) Rules, 1968.

The question whether Rule 25 of Railway Servants  
(Discipline and Appeal) Rules, 1968 permits successive reviews

.....2/-

by the authorities enumerated therein has been under consideration of the Board for sometime past. It is clarified that once a review has been done by any of the authorities under the aforesaid Rule, no further review lies to any of the other authorities. However, the aggrieved employee has the right under Rule 31 of Railway Servants (Discipline and Appeal) Rules, 1969 to submit a petition to the President of India which would be dealt with in the Railway Board in accordance with the instructions contained in Appendix-X to Indian Railway Establishment Code Volume-I and in consultation with the Union Public Service Commission. The above may be kept in view while forwarding review petitions to the Board.

Hindi version will follow

  
( S.K. AHUJA )  
Dy. Director, Establishment(D&A)  
Railway Board.

Copy to:-

W(RB) I, II & III Branches, E(O) I, II & III Branches, Cash-I Branch, C(Accommodation) Branch, Accts. III Branch (with 10 spares), Vig. I (10 spares), Vig. II, Vig. III, Vig. IV, and Vig. Confdl. Branches, F(E) III (with 5 spares), Legal Cell (with 3 spares), Security (E) Branch, Security (Crime) Branch, Security (special) Branch, Security (Defence) Branch (with 10 spares) and copy to SA/Secretary, Railway Board.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(Railway Board)

...

No.E(D&A)76RG6-31

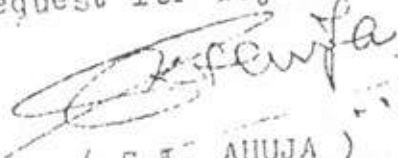
New Delhi, Dated 19.7.82

The General Managers,  
All Indian Railways including Production Units etc.

Sub: Railway Servants (Discipline &  
Appeal) Rules, 1968.

A clarification with reference to Note 2 below Sub-rule (9) of Rule 9 of Railway Servants (Discipline & Appeal) Rules, 1968 prior to the revision of Rule 9 ibid was issued in Board's letter No.E(D&A)69RG6-48 dated 13.2.70 stating that the restriction that at the time of nomination, the assisting person should not have more than two pending disciplinary cases in which he has to assist, will not apply if the nominated person is a Railway Trade Union Official and that not more than one adjournment will be granted on the ground of his inability to attend the enquiry. This position was again reiterated in Board's letter of even number dated 24.11.80 in which it was further clarified that the programme drawn by the enquiry officer has to be strictly adhered to and only one adjournment of the enquiry will be granted on the grounds of counsel's inability to attend the enquiry on account of his sickness.

In the PNM meeting held between All India Railwaymen's Federation and the Board in March, 1982, the Federation represented that in cases where subsequent requests are made to the Enquiry Officer for adjournment of an enquiry on the grounds of Counsel's inability to attend the enquiry on account of his sickness, even though the enquiry may already have been adjourned on an earlier occasion on the same grounds, the existing condition of not more than one adjournment of the enquiry on account of counsel's sickness should not be applied. The Board have decided that in such cases the Enquiry Officer should exercise his judgement to accept or not to accept the request for adjournment.

  
( S.K. AHUJA )  
By. Director, Establishment(D&A)  
Railway Board.

.....2/-

Copy for information to:

1. The General Secretary, All India Railmen's Federation,  
4, ~~State House Road, New Delhi.~~ (110 001)
2. The General Secretary, National Federation of Indian  
Railwaymen. (25 spares)
3. Copy to all members for the National Council, Departmental Council and  
Secy., Staff Side, National Council,  
13-C Ferozshah Road, New Delhi.

Copy to E(LR)I Br. with  
60 spares.

*S. Panchapagesan*  
( S. PANCHAPAGESAN )  
For Secretary, Railway Board.

No.E(D&A)76RG6-31

New Delhi, Dated 19.7.82

Copy for information to:

- The General Managers, Metro Rail, Calcutta and Wheel & Axle  
Plant, Bangalore.
- The General Managers (Construction), Southern Railway, Bangalore  
and Northeast Frontier Railway, Gauhati.
- The Director General, R.D.S.O., Lucknow.
- The Chief Administrative Officer, M.T.Ps (Railways),  
Bombay/Delhi/Madras; and C.A.O., Indian Railways Diesel  
Component Works, Nabha Road, Patiala.
- The Principal,  
Railway Staff College, Vadodra.  
Indian Rlys.Instt. of Sig. Engg. & Telcomm., Secunderabad.  
Indian Rlys.Instt. of Adv. Track Technology, Pune.  
Indian Rlys.Instt. of Mech. & Elec. Engg., Jamdipur.
- The Chairman, Railway Service Commission,  
Allahabad/Bombay/Calcutta/Madras/Muzaffarpur/Gauhati/  
Secunderabad/Bangalore/Danapur.
- The Chief Engineer, Railway Electrification, Allahabad.
- The Secretary, Railway Rates Tribunal, Madras - 28.
- The Railway Liaison Officer, New Delhi.
- The Director, Rail Movement, Calcutta.
- Joint Director, Rail Movement, Mughalsarai.
- The Jt. Director, Iron & Steel, 3-Kolaghat Street, Calcutta.

*S.K. ABUJA*  
S.K. ABUJA )  
By, Director, Establishment (DSA)  
Railway Board.

GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)

No. E(LA) 83RC6-3.

New Delhi, dt. 25 -3-83

The General Managers,  
All Indian Railways including C.I.W., D.L.W., I.C.F.,  
Wheel and Axle Plant, Bangalore.

The General Managers (Construction),  
Southern Railway, Bangalore and  
Northeast Frontier Railway, Gauhati.

The Director General, R.D.S.O., Lucknow.

The Chief Administrative Officer, M.T.Ps (Railways),  
Bombay/Delhi/Madras.

C.A.O., Indian Railways, Diesel Component Works, Naha  
Road, Patiala.

The Principal,  
Railway Staff College, Vadodra.  
Indian Railway Institute of Signal Engineering &  
Telecom., Secunderabad.  
Indian Railway Institute of Advance Track Technology,  
Pune.  
Indian Railway Institute of Mech. and Elect. Engineering,  
Jamalpur.

The Chairman, Railway Service Commission,  
Allahabad/ Bombay/Calcutta/Madras/Jammu/Jaipur/Gauhati/  
Secunderabad/Bangalore/Danapur.

The Chief Engineer, Railway Electrification,  
Allahabad.

The Secretary, Railway Rates Tribunal, Madras-28.

The Railway Liaison Officer, New Delhi.

The Director, Rail Movement, Calcutta.

The Joint Director, Rail Movement, Mughalsarai.

contd... 2/-

The Joint Director, Iron & Steel, 3, Kollinghat Street,  
Calcutta.

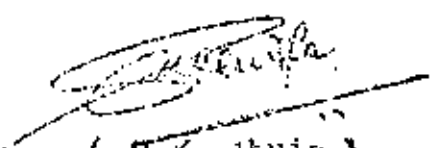
The Joint Director (Coal), Railway Board, C/o OOPS,  
Eastern Railway, Calcutta.

Subject:- Railway Rates Tribunal's advice on  
Revision petition preferred by  
non-gazetted staff in terms of Rule  
24 of Railway Servants (Discipline &  
Appeal) Rules, 1968.

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In terms of Board's secret letter No. E-SIRG6-20 dated 17.5.52 and further clarified in their secret letter No. E(SA)62235-23 dated 5.6.62, where the General Manager finds himself unable to accept the advice of the Railway Rates Tribunal, he should not supersede the Tribunal's advice without obtaining the Railway Board's prior orders. Instance have come to the Board's notice where these orders have not been kept in view while disposing of appeals/ review petitions where on request made by the appellant, advice of the Railway Rates Tribunal has been obtained in terms of Board's letter No. E-SIRG6-20 dated 14.4.52. Non-compliance of the requirements laid down in Board's letters of 17.5.52 and 5.6.62 gives rise to avoidable complications. It is therefore, enjoined that the directives on the subject should be strictly followed in future.

Receipt of this letter may please be acknowledged.

  
( S. K. Ahuja )  
Dy. Director Establishment (D&A)  
Railway Board.

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8-5-8  
The General Manager,  
Central Railway,  
Bombay.



Sub:- Railway Servants (Discipline & Appeal) Rules, 1963- Determination of Disciplinary Authority.

Reference your Railway's confidential letter No. HPB/309/R/D/III dated 11.7.84 on the above subject.

2. In connection with the doubt raised in your above referred to letter, it is advised that the disciplinary authority has to be determined with regard to the post held by charged railway servants at the time of initiation of disciplinary action and at the time of imposition of penalty. It is further clarified that the disciplinary authority may not be determined with regard to the post held at the time when misconduct occurred.

DA:- Nil.

*V.K. Rao*  
( V.K. Rao )  
Dy. Director Establishment (D&A)  
Railway Board.

*o/c*





Board's letter No. E(D&A) 84 RGG-14.

Dated 8.1.83 addressed to GMs/Zone/ Rlys. etc.

Subject:- Revision under Rule 25 of the  
Railway Servants (Discipline & App.  
Rules, 1968.

Attention is invited to Board's letter No. E(D&A) 84 RGG-59 dated 1.8.83 in which it was mentioned that rule 25 of the Railway Servants (Discipline & appeal) Rules, 1968, does not provide for a right, or path, to the affected employee to seek conduct of a review (now revision) of the decision of the appellate authorities in disciplinary cases and that the practice of conducting automatic review on the basis of representations by the employees should be discontinued forthwith.

2. In a recent PMA meeting, the NFIR have represented against the above instructions.

3. The question has been examined taking into account the position obtaining in other civil departments governed by the CGP(CGA) Rules, 1968 and it is decided that revision applications, made after exhausting the avenue of appeal or, where an appeal is preferred, after the expiry of the period of limitation for an appeal, should be dealt with in the same manner as if it were an appeal under the said Rules provided the application for revision is otherwise in order.

This does not debar suo motu revision in appropriate cases.

*V. K. Rao*

( V. K. Rao )  
Dy. Director Establishment (D&A)  
Railway Board.

Copy to: BR 1, II, III, E(O) 1, II, III, Sec(SPL.),  
Sec(D) and Cash-IV Branches, Railway Board.

*20/1/83*



Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
( Railway Board )

NO.E(D&A)85 RG6-21

New Delhi, dated 30 -5-1985.

- The General Managers,  
All Indian Railways including CLW, DLW, ICF & W&AP.  
The General Manager (Construction)  
(i) Southern Railway, Bangalore.  
(ii) Northeast Frontier Railway, Gauhati.  
The Director General, RDSO, Lucknow.  
The CAO, Indian Railways, BCW, Patiala.  
The CAO/MTP(R), Bombay, Delhi, Madras.  
The Chairman, RSC, Allahabad, Bombay, Madras, Calcutta,  
Gauhati, Bangalore, Muzaffarpur, Jammu,  
Secunderabad, Danapur, Ajmer, Ahmedabad,  
Chandigarh, Bhopal, Bhubnoshwar and Trivendrum  
The Principal, RSC- Vadodara, IRIST, IRITT & IRIMEE.  
The Chief Engineer, Railway Electrification, Allahabad.  
The Secretary, Railway Rates Tribunal, Madras-6000025.  
The Railway Liaison Officer, New Delhi.  
The Director, Rail Movement, Calcutta.  
The Joint Director (I&S), 3-Koilaghat St., Calcutta.  
The General Manager, Metro Railway, Calcutta.  
The CAO, COFMOW, / IRCON, RITES, New Delhi.

and Managing  
Director

Sub: Steps for expediting the disposal  
of disciplinary cases.

The Railway Board have decided that the following  
measures should be adopted for quickening disciplinary cases  
within the framework of the existing rules:

- (-)
- (i) In cases investigated by the CBI as well as  
in other cases, the charge-sheet should be  
issued within 1 month of the receipt of the  
CVC's advice. If this time-line is strictly  
adhered to, it should be possible for the  
Departments to issue the charge-sheet within  
3 months of the receipt of an investigation  
report, including the time taken in consult-  
ing the CVC.

- (ii) Wherever the CVC is not required to be consulted, the charge-sheet should be issued within 2 months of the receipt of the investigation report. Where there is no preliminary investigation report, a charge-sheet should be issued within 1 month of taking a decision in the matter.
- (iii) A properly drafted charge-sheet is the sheet-anchor of a disciplinary case. Therefore, the charge-sheet should be drafted with utmost accuracy and precision based on the facts revealed during the investigation of otherwise and the mis-conduct involved. It should be ensured that no relevant material is left out and at the same time no irrelevant material or witnesses are included.
- (iv) With a view to reducing the time taken by the Government servant for inspection of documents before submission of his written statement of defence in reply to the charge-sheet, copies of all the documents relied upon and the statements of witnesses cited on behalf of the Disciplinary Authority should be supplied to the Government servant along with the charge-sheet, wherever possible. In this connection your attention is invited to item (1) of Railway Board's letter No.E(D&A) 83RG6-14 dated 29-3-85.
- (v) In all cases which are presently pending for appointment of Inquiry Officer and Presenting Officer, such appointment should be made within 1 month. In all other cases, the Inquiry Officer and the Presenting Officer should be appointed, wherever necessary, immediately after the receipt of the Government servant's written statement of defence denying the charges. In this connection your attention is invited to item (2) of Railway Board's letter No.E(D&A) 83RG 6-14 dated 29-3-85.
- (vi) Wherever a large number of oral inquiries are pending, the Department should earmark some officers on a full-time basis to complete these inquiries within a specified time-limit to be indicated by the disciplinary authority. The time-limit shall be indicated as an administrative instruction, having regard to the nature of the charges and the evidence involved. Similarly where part-time Inquiry Officers are appointed, the disciplinary authority could, having

contd-----/

(from contd.item vi)

regard to the nature of the charges and the evidence involved, specify time-limits for the completion of the inquiry as an administrative instruction.

There are special posts of Inquiry Officers created on the Railways. If these officers are not sufficient in number, whole-time-Inquiry Officers should be found by suitable adjustment from within existing sanctioned strength of officers/inspectors.

- (vii) The oral inquiry, including the submission of the Inquiry Officer's report, should normally be completed within a period of 6 months from the date of appointment of the Inquiry Officer. In the preliminary inquiry in the beginning requiring the first appearance of the charged Government servant and the Presenting Officer, the Inquiry Officer should lay down a definite time-bound programme for inspection of the listed documents, submission of the lists of defence documents and defence witnesses and inspection of defence documents before the regular hearing is taken up. The regular hearing, once started, should be conducted on day-to-day basis until completed and adjournment should not be granted on frivolous grounds.
- (viii) After the receipt of the report of the Inquiry Officer along with the advice of the CVC wherever required, the final decision in the matter should be taken by the Department within a period of 2 months except in cases where the UPSC is required to be consulted. Wherever the reconsideration of the advice of the CVC is sought, such reference should be once only at this stage. In cases in which UPSC is to be consulted, the final decision in the matter should be taken within 1 month of the receipt of their advice.
- (ix) The statutory rules lay down certain time-limits or require the disciplinary authority to specify time limits for some stages of the disciplinary proceedings. These time-limits should be adhered to strictly. If ever some extension of time is granted, it should be done keeping in view the need for expeditious conclusion of the proceedings and to discourage the dilatory tactics sometimes adopted by Government servants.

(V.K.Rao)

By Director, Estt. (D&A), Railway Board.

Copy to: D(Y), ERB-11, ERB-D, ERB-L,  
Genl-IV, Sec.(E), and Sig. 1 (10 parts) Branches, Rly Bd.





Copy of Northern Railway's letter No.82/Admn/A/111  
dated 12.6.1985 addressed to the Secretary (Estt.)  
Railway Board.

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Sub:- Review of D&AR cases under Rule 25 of the  
Railway Servants (D&A) Rules, 1968.

.....  
An employee of this Railway was removed from  
Service on 30.7.1983 for unauthorised absence. He  
submitted an appeal to the appellate authority on  
27.10.1983 which was rejected. On 7.3.1984 he submitted  
a Review Petition to the Reviewing Authority but before  
his Review Petition could be considered by FA&GAO he  
expired (on 17.3.1984) Rule 25 of the Railway Servants  
(D&A) Rules, 1968 is silent on the point whether a review  
of the case can be made even after the death of the  
employee.

It may, therefore, please be advised whether  
a review can in such cases be undertaken, if so  
the competent authority for the same may be intimated  
at an early date as the Review Petition of the  
deceased employee is pending decision since long.

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GOVERNMENT OF INDIA  
MINISTRY OF TRANSPORT  
DEPARTMENT OF RAILWAYS  
(RAILWAY BOARD)

RBE/No. 313/85.

New Delhi dt. 1-11-85.

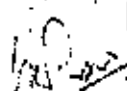
No. E(D&A)85RG6-46

The General Manager,  
Northern Railway,  
New Delhi.

Sub:-Revision petition against punishment-  
whether it is necessary to decide after the  
death of the petitioner.

Ref:-Your letter No.82/Adm./A/11 dt. 30-7-85  
on the above subject.


Pending revision petitions have to be necessarily  
disposed of on merits by the concerned Revising Authority  
although the petitioner concerned may have died in the  
meanwhile. This is also applicable to pending appeals.

  
(V.K. Rao)  
Dy. Director Estt. (D&A)  
Railway Board

DA:- Nil.

Copy to GM's all Indian Railways (except Northern) and  
Production Units etc. alongwith a copy of Northern  
Railway's letter under reference.

Encl:- One.

  
(V.K. Rao)  
Dy. Director Estt. (D&A)



.....

Subj:- Judgment of Supreme Court in Civil Appeal No. 6814 of 1983, Civil Appeal No. 3474 of 1982 etc. delivered on 11.7.85 regarding the scope of second proviso to Art. 311(2) of the Constitution.

.....

The judgements delivered by the Supreme Court on 11-7-85 in the case of Jules Ram Patel and others has been the cause of much controversy. The apprehension caused by the judgement is mainly due to an inadequate appreciation of the points clarified in this judgement and in the subsequent judgement of the Supreme Court delivered on September 17, 1985 in the case of Sitvevir Singh and others (Civil Appeal No. 242 of 1982 and Civil Appeal No. 575 of 1982). It is, therefore, imperative to clarify the issue for the benefit and guidance of all concerned.

2. In a first place it may be understood that the Supreme Court in its judgement has not established any new principle of law. It has only clarified the constitutional provisions, as embodied in Art. 311(2) of the Constitution. In other words, the judgement does not take away the constitutional protection granted to government employees by the said Article, under which no Government employee can be dismissed, removed or reduced in rank without an inquiry in which he has been informed of the charges against him and given a reasonable opportunity to defend himself. It is only in three exceptional situations listed in clauses (A), (B) and (c) of the second proviso to Art. 311(2) that the requirement of holding such an inquiry may be dispensed with.

3. Even under these three exceptional circumstances, the judgement does not give unbridled power to the competent authority when it takes action under any of the three clauses in the second proviso to Art. 311(2) of the Constitution or any service rule corresponding to it. The competent authority is expected to exercise its power under this proviso after due caution and considerable application of mind. The principles to be kept in view by the competent authority while taking action under the second proviso to Art. 311(2) or corresponding service rules have been defined by the Supreme Court itself. These are reproduced in the succeeding paragraphs for the information, guidance and compliance of all concerned.

4. When action is taken under clause (a) of the second proviso to Art. 311(2) of the Constitution or rule 12(i) of the CCs (CCA) Rules, 1965 or any other service rule similar to it, the first prerequisite is that the disciplinary authority should be aware that

a government servant has been convicted on a criminal charge. But this awareness alone will not suffice. Having come to know of the conviction of a government servant on a criminal charge, the disciplinary authority must consider whether his conduct, which had led to his conviction, was such as warrants the imposition of a penalty and if so, what that penalty should be. For that purpose, it will have to peruse the judgment of the criminal court and consider all the facts and circumstances of the case. In considering the matter, the disciplinary authority will have to take into account the entire conduct of the delinquent employee, the gravity of the misconduct committed by him, the impact which his misconduct is likely to have on the administration and other extenuating circumstances or redeeming features. This, however, has to be done by the disciplinary authority by itself. Once the disciplinary authority reaches the conclusion that the government servant's conduct was blameworthy and punishable, it must decide upon the penalty that should be imposed on the government servant. This too has to be done by the disciplinary authority by it. The principle, however, to be kept in mind is that the penalty imposed upon the civil servant should not be grossly excessive or out of all proportion to the offence committed or one not warranted by the facts and circumstances of the case.

5. After the competent authority passes the requisite orders as indicated in the preceding paragraph, a government servant who is aggrieved by it can agitate in appeal, revision or review, as the case may be, that the penalty was so severe or excessive and not warranted by the facts and circumstances of the case. If it is his case that he is not the person who was in fact convicted, he can also agitate this question in appeal, revision or review. If he fails in all the departmental remedies available to him and still wants to pursue the matter, he can seek judicial review. The court (which term will include a Tribunal having the powers of a Court) will go into the question whether the impugned order is arbitrary or grossly excessive or out of all proportion to the offence committed, or not warranted by the facts and circumstances of the case or the requirements of the particular service to which the government servant belongs.

6. Coming to clause (b) of the second proviso to Art. 311(2), there are two conditions precedent which must be satisfied before an action under this clause is taken against a government servant. These conditions are:-

- (i) There must exist a situation which makes the holding of an inquiry contemplated by Art. 311(2) not reasonable or practicable. What is required is that holding of inquiry is not practicable in the opinion of a reasonable man taking a reasonable view of the pre prevailing situation. It is not possible to enumerate all the cases in which it would not be reasonably practicable to hold the inquiry. Illustrative cases would be:-

- (a) Where a civil servant, through or together with his associates, terrorises threatens or intimidates witnesses who are likely to give evidence against him with fear or reprisal in order to prevent them from doing so; or
- (b) where the civil servant by himself or with or through others threatens, intimidates and terrorises the officer who is the disciplinary authority or members of his family so that the officer is afraid to hold the inquiry or direct it to be held; or
- (c) where an atmosphere of violence or of general indiscipline and insubordination prevails at the time the attempt to hold the inquiry is made.

The disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the civil servant is weak and is, therefore, bound to fail.

(ii) Another important condition precedent to the application of clause (b) of the second proviso to Art.311(2) or Rule (19 (ii) of the CCs(CC&A) Rules, 1965 or any other similar rule is that the disciplinary authority should record in writing the reason or reasons for its satisfaction that it was not reasonably practicable to hold the inquiry contemplated by Art.311(2) or corresponding provisions in the service rules. This is a constitutional obligation and, if the reasons are not recorded in writing, the order dispensing with the inquiry and the order of penalty following it would both be void and unconstitutional. It should also be kept in mind that the recording in writing of the reasons for dispensing with the inquiry must precede an order imposing the penalty. Legally speaking, the reasons for dispensing with the inquiry need not find a place in the final order itself, though they should be recorded separately in the relevant file. In spite of this legal position, it would be of advantage to incorporate briefly the reasons which led the disciplinary authority to the conclusion that it was not reasonably practicable to hold an inquiry, in the order of penalty. While the reasons so given may be brief, they should not be vague or they should not be just a repetition of the language of the relevant rules.

7. It is true that the Art. 311(3) of the Constitution provides that the decision of the competent authority under clause (b) of the second proviso to Art.311 (2) shall be final. Consequently, the decision of the competent authority cannot be questioned in appeal, revision or review. This finality given to the decision of the competent authority is, however, not binding on a Court (or Tribunal having the powers of a Court) so far as its power of judicial review is concerned, and the court is competent to strike down the order dispensing with the inquiry as also the order imposing penalty, should such a course of action be considered necessary by the court.



All disciplinary authorities should keep this factor in mind while forming the opinion that it is not reasonable practicable to hold an inquiry.

8. Another important guideline with regard to this clause which needs to be kept in mind is that a civil servant who has been dismissed or removed from service or reduced in rank by applying to his case clause (b) of the second proviso to Art. 311(2) or an analogous service rule can claim in appeal or revision that an inquiry should be held with respect to the charges on which such penalty has been imposed upon him, unless a situation envisaged by the second proviso is prevailing at the hearing of the appeal or revision application. Even in such a case the hearing of the appeal or revision application should be postponed for a reasonable length of time for the situation to return to normal.

9. As regards action under clause (c) of the second proviso to Art. 311(2) of the Constitution, what is required under this clause is the satisfaction of the President or the Governor, as the case may be, that in the interest of the security of the State, it is not expedient to hold an inquiry as contemplated by Art. 311(2). This satisfaction is of the President or the Governor as a constitutional authority arrived at with the aid and advice of his Council of Ministers. The satisfaction so reached by the President or the Governor is necessarily a subjective satisfaction. The reasons for this a satisfaction need not be recorded in the order of dismissal, removal or reduction in rank; nor can it be made public. There is no provision for departmental appeal or other departmental remedy against the satisfaction reached by the President or the Governor. If, however, the inquiry has been dispensed with by the President or the Governor and the order of penalty has been passed by disciplinary authority subordinate thereto, a departmental appeal or revision will lie. In such an appeal or revision, the civil servant can ask for an inquiry to be held into his alleged conduct, unless at the time of the hearing of the appeal or revision all situation envisaged by the second proviso to Article 311(2) is prevailing. Even in such a situation the hearing of the appeal or revision application should be postponed for a reasonable length of time for the situation to become normal. Ordinarily the satisfaction reached by the President or the Governor, would not be a matter for judicial review. However, if it is alleged that the satisfaction of the President or Governor, as the case may be, had been reached mala fide or was based on wholly extraneous or irrelevant grounds, the matter will become subject to judicial review because, in such a case, there would be no satisfaction, in law, of the President or the Governor at all. The question whether the Court may compel the Government to disclose the material to examine whether the satisfaction was arrived at mala fide or based on extraneous or irrelevant grounds, would depend upon the nature of the documents in question i.e. whether they fall within the class of privileged documents or whether in respect of them privilege has been properly claimed or not.

10. The preceding paragraphs clarify the scope of clauses (a), (b) & (c) of the second proviso to Art. 311(2) of the Constitution, rule 19 of CCS(CC&A) Rules, 1965 and other service rules similar to it, in the light of the judgements of the Supreme Court delivered on 11.7.85 and 12.9.85. It is, therefore, imperative that these clarifications are not lost sight of while invoking the provisions of the second proviso to Art. 311(2) or service rules based on them. Particularly, nothing should be done that would create the impression that the action taken is arbitrary or mala fide. So far as clauses (a) and (c) and service rules similar to them are concerned, there are already detailed instructions laying down the procedure for dealing with the cases falling within the purview of the aforesaid clauses and rules similar to them. As regards invoking clause (b) of the second proviso to Art. 311(2) or any similarly worded service rule, absolute care should be exercised and it should always be kept in view that action under it should not appear to be arbitrary or designed to avoid an inquiry which is quite practicable.

11. Ministry of Finance etc. are requested to bring the above clarifications to the notice of all the authorities serving under their control for their information, guidance and compliance.

12. Hindi version will follow.

Sd/-  
(A. JAYARAMAN)  
DIRECTOR.



It may kindly be recalled that in Union of India vs. Tulsiram Patel (1985), 3 SCC 398, the Supreme Court has had the occasion to explain the scope and reach of article 309, 310 and 311, and in particular of the second proviso to article 311(2) of the Constitution. This case was decided by a five-judge Bench of the Supreme Court. Immediately thereafter, in Satyavir Singh v. Union of India (1985) 4 SCC 252, a three-judge Constitution Bench of the Supreme Court gave a clear summary of the conclusions reached by the majority in Tulsiram Patel case. This summary was given by Madoo, J., who earlier delivered the majority judgement in T.S. Case.

2. The Department of Personnel & Training have issued an Official Memorandum dated 11 Nov., 1985 setting out therein what are essentially the conclusions reached by the Supreme Court in the fore-said two judgements. It appears that Department have requested the Railway Board to bring the said O.M. to the notice of the Railway authorities. It may be recalled that the scheme of the CCS(CCA) Rules, 1965 as far as disqualification is concerned is embodied as vert sunuk r ti that if the Railway Servts (Discipline) to circulating the said O.M. to all the Railways.

3. It may, however, be borne in mind that the said O.M. does not set out all the findings of the Supreme Court. In the nature of things, there can never be an acceptable substitute to the judgement of the Court. While forwarding the said O.M. to the Railways, we may also draw their attention to the following:-

(i) The O.M. offers useful clarifications in respect of the second proviso to article 311(2) of the Constitution, in the light of the recent supreme Court judgements in Tulsiram Patel and Satyavir Singh cases, and, for its fuller understanding, the said judgements should also be consulted. In this regard, the summary of the conclusions reached by the majority in Tulsiram Patel case, as set out in paras 6 to 8 of the Supreme Court judgement in S.S. case, may prove to be specially helpful.

(ii) The said O.M. sets out only the major findings of the Supreme Court. Some of the observations of the Court which have not been set out in the said O.M. but which may prove to be useful in the day to day operation of the Railway Service Rules, have been extracted below:

(a) The word 'inquiry' in clause (b) of the second proviso includes a part of an inquiry. It is, therefore, not necessary that the situation which makes the holding of an inquiry not reasonably practicable should exist before the inquiry is

in the course of the inquiry. Such a situation can also come into existence subsequently during the course of the inquiry, for instance, after the service of a charge-sheet upon the civil servant or after he has filed his written statement thereto or even after evidence has been led in part.

(b) " It will also not be reasonably practicable to afford to the civil servant an opportunity of a hearing or further hearing, as the case may be, when at the commencement of the inquiry or ending it, the civil servant absconds and cannot be served or will not participate in the inquiry. In such cases, the matter must proceed ex-parte and on the materials before the disciplinary authority.

(c) " Railway Service is a public utility service within the meaning of clause (n) of Section 2 of the Industrial Disputes Act, 1947, and the proper running of the railway service is vital to the country.

" Where, therefore, the railway employees went on an illegal all-India strike without complying with the provisions of Section 22 of the Industrial Disputes Act, 1947 and thereby committed an offence punishable with imprisonment and fine under Section 26(f) of the said Act and the situation became such that the railway services were paralysed, loyal workers and superior officers assaulted and intimidated, the country held to ransom, and the economy of the country and public interest and public good pre-judicially affected prompt and immediate action was called for in order to bring the situation to normal. In these circumstances, it cannot be said that an inquiry was reasonably practicable or that clause (b) of the second proviso was not properly applied. The fact that the railway employees may have gone on strike with the object of forcing the Government to meet their demands is not relevant because their demands were for their private gain and in their private interest and the railway employees were not entitled in seeking to have their demands conceded to cause untold hardship to the public and pre-judicially affect public good and public interest and the good and interest of the nation.

"The quantum and extent of the penalty to be imposed in cases such as the above would depend upon the gravity of the situation at a particular centre and the extent to which the acts said to be committed by particular civil servants, even though not serious in themselves, in conjunction with acts committed by others contributed to bringing about the situation. The fact, therefore, that a particular centre certain civil servants were dismissed from service while at some other centres they were only removed from service does not mean that the penalties were arbitrarily imposed.

(d) "The next point was that it was that it was not alleged by the authorities that anyone was physically injured in the agitation. This is another argument which is difficult to understand. As held in Tulsiram Patil Case, it will not be reasonably practicable to hold an inquiry where an atmosphere of violence or of general indiscipline or insubordination prevails. It is, therefore, not necessary that the disciplinary authority should wait until incidents take place in which physical injury is caused to others before dispensing with the inquiry.

(e) "Where the disciplinary authority feels that crucial and material evidence will not be available in an inquiry because the witnesses who could give such evidence intimidated and would not come forward and the only evidence which would be available, namely, in this case, of policemen, police officers and senior officers, would only be peripheral and cannot relate to all the charges and that, therefore, leading only such evidence may be assailed in a court of law as being a mere force of an inquiry and a deliberate attempt to keep back material witnesses, the disciplinary authority would be justified in coming to the conclusion that an inquiry is not reasonably practicable."

(f) "Where a large group of members of the Central Industrial Security Force Unit posted at the plant of the Bokaro Steel Ltd. indulged in acts of insubordination, indiscipline, dereliction of duty, abstention from physical training and parade, taking out processions, shouting inflammatory slogans, participating in the 'gharao' of supervisory officers going on hunger strike and 'dharana' near the quarter guard and Administrative Building of the Unit, indulging in threats of violence, bodily harm and other acts of intimidation to supervisory officers and loyal members of the a idini, and thus, or led a situation whereby the normal functioning of the said unit of the Central Industrial Security Force was made difficult and impossible, the disciplinary authority was justified in applying clause (b) of the second proviso to those who were considered responsible for such acts. Clause (B) of the second proviso to article 111(2) was also properly applied to the cases of those members of the Central Industrial Security Force who were considered responsible for creating a similar situation at Bokaro Steel."

" In cases such as the above, it is not possible to state in the order of dismissal the particular acts done by each of the members of the concerned group as such cases are very much like a case under Section 149 of the Indian Penal Code.

In situations such as the one where a large group was acting collectively with the common object of coercing those in charge of the administration of the Central Industrial Security Force and the Govt. to compel them to grant recognition to their Association and to concede their demands, it is not possible to particularise in the orders of dismissal the acts of each individual members who participated in the commission of these acts. The participation of each individual might be of a greater or lesser degree but the acts of each individual contributed to the creation of a situation in which a security force itself become a security risk.

(g) " An order imposing penalty issued by the President or the Governor, as the case may be, cannot be challenged in a departmental appeal or revision,

(iii) The Supreme Court held that its earlier decision in challenge Case ( 1976) 3 SCC 190) is not correct with respect to the interpretation placed by it upon Rule 14 of the Railway Servants, (Discipline and Appeal) Rules, 1968, and particularly upon the word "consider" occurring in the last part of that rule and in interpreting Rule 14 by itself and not in conjunction with the second proviso to article 311(2). The consideration under Rule 14 of what penalty should be imposed upon a delinquent railway servant must be ex parte.

(iv) The Supreme Court gave an account of the Railway Servants (Discipline and Appeal) Rules, 1968, and interpreted some of them in paras 109 to 115 of its judgment in P. Chandra and paras 6(94) to 6(96) of its judgment in S. S. Chandra. A perusal of this account will be useful.

4. In S.S. Chandra, the Supreme Court observed:

" A civil servant who has been dismissed or removed from service or reduced in rank by applying to his case clause (b) of the second proviso to Article 311(2) or an analogous service rule can claim in appeal or revision that an inquiry should be held with respect to the charges on which such penalty has been imposed upon him unless a situation envisaged by the second proviso is prevailing at the hearing of the appeal or revision application. Even in such a case the hearing of the appeal or revision application should be postponed for a reasonable length of time for the situation to return to normal.



"In a case where a civil servant has been dismissed or removed from service or a reduced in rank by applying clause (c) of the second proviso or an analogous service rule to him, no appeal or revision will lie of the order of penalty was passed by the President or the Governor. If, however, the inquiry has been dispensed with by the President or the Governor and the order of penalty has been passed by the disciplinary authority (a position envisaged by clause (iii) of Rule 14 of Railway Servants (Discipline & Appeal) Rules, 1968, and clause (iii) of Rule 19 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965), a departmental appeal or revision, will lie. In such an appeal or revision the civil servant can ask for an inquiry to be held into alleged conduct unless at the time of the hearing of the appeal or revision a situation envisaged by the second proviso to Article 311(2) is prevailing. Even in such a situation the hearing of the appeal or revision application should be postponed for a reasonable length of time for the situation to become normal. The civil servant, however, cannot contend in such appeal or revision that the inquiry was wrongly dispensed with by the President or the Governor."

These observations, in their turn, are based on the findings of the court in para 137 of the judgement in T.P. Case.

5. The findings of the court, extracted in the previous paragraph are not warranted by the provisions of article 311. In support of these findings, the court held that "no prejudice could be caused to the Government or the Department if the hearing of an appeal or revision application, as the case may be, is postponed for a reasonable time (para 137 of the judgement in T.P. case). The Court is blowing hot and cold at the same time. While turning down Chellappan ruling, the Court held that the language used in the second proviso to article 311 leaves no scope for introducing into the second proviso some kind of inquiry or opportunity to show cause by a process of inference or implication, but where there is express mention of certain things, then anything not mentioned is excluded, and that considerations of fair play and justice do not enter into the picture. If this be so, and perhaps rightly so, then it escapes logic how the Court arrived at the findings extracted in para. 4 above which are by now amply warranted by the language employed in the second proviso. These findings are also open to other objections mentioned in the following paragraphs.

6. In fact, in S.S. Case, the Supreme Court observed: "It is important to note that the majority judgement in Tulsiram Patel case is more beneficial to civil servants and confers greater rights upon them than Chellappan case did. According to Chellappan case, a civil servant to whom a service rule analogous to the second proviso to Article 311 (2) is sought to be applied has only the right to be heard with respect to the penalty proposed to be imposed upon him. The majority judgement in Tulsiram Patel case has, however, conferred upon the civil servants who have been dismissed or removed from service or reduced in rank by applying the second proviso to Article 311 (2)

or an analogous service rule the right to full and complete inquiry in an appeal or revision unless a situation envisaged by the second proviso is prevailing at the time of the hearing of the appeal or revision application. Even in such a case under the majority judgement the hearing of the appeal or revision application is to be postponed for a reasonable length of time for the situation to become normal. "(Vide paras 6(91), 6(99) and 8 on tje kidge, ant on tje U.S. Case).

7. This holding appears to suggest that a civil servant has a right to inquiry in an appeal or revision even in a case covered by clause (a) of the second proviso. This view appears to be totally unwarranted in as much as clause (a) does not speak in terms of inquiry at all, unlike clauses (b) and (c) of the second proviso. This is not to suggest that even clauses (b) and (c) provide for inquiry. Clause (a) does not seem to warrant the holding of any inquiry either at the initial stage or at the subsequent stages. Nor do the service rules make provision for inquiry in such a case.

8. In support of the view that inquiry has to be held in an appeal or revision, the Supreme Court has sought to derive support from the service rules dealing with departmental remedies. The relevant observations of this Court in this regard are extracted below:

"Service rules generally provide for departmental remedies by way of an appeal, revision and review in the case of disciplinary action taken against a civil servant.

"Sub-clause (ii) of clause (c) of the first proviso to Rule 25(1) of the Railway Servants (Discipline and Appeal) Rules, 1960, inter alia provides that where an inquiry has not been held, the revising authority shall itself hold such inquiry or direct such inquiry to be held, subject to the provisions of Rule 14 of the said Rules which is analogous to the second proviso to article 31(2). Thus, under the said Rules a Railway servant has a right to demand in revision an inquiry into the charges against him subject to a condition envisaged in Rule 14 of the said Rules not prevailing at that time.

"Although a provision similar to Sub-clause (ii) of clause (c) of the first proviso to Rule 25(1) of the Railway Servants (Discipline and Appeal) Rules, 1960, does not exist in the rules relating to appeals in the said Rules owing to the factors set out in Rule 22(2) of the said Rules which are to be considered by the appellate authority in deciding an appeal, a provision similar to the said sub-clause (ii) of clause (c) of the first proviso to Rule 25(1) should be read and imported into the provisions relating to appeal in the said Rules.

"Where service rules do not contain a provision similar to sub-clause (ii) or clause (c) of the first proviso to Rule 25(1) of the Railway Servants (Discipline and Appeal) Rules, 1968, having regard to the factors to be taken into account by the appellate authority in deciding an appeal a provision similar to the said subclause (ii) of clause (c) of Rule 25(1) of the Railway Servants (Discipline and Appeal) Rules, 1968 should be read and imported into the provisions relating to appeals and revision contained in such service rules. This would, however, be subject to a situation envisaged by the second proviso to Article 311(2) not existing at the time of the hearing of the appeal or revision."

See also para. 123 of the judgment in T.P. case.

9. The Supreme Court appears to have wrongly construed the scope of Sub-clause (ii) of clause (c) of the first proviso to rule 25(1). Clause (c) reads as follows:

" Subject to the provisions of Rule 14 the revising authority shall,-

(i) Where the enhanced penalty which the revising authority proposed to impose in the one specified in clause (iv) of Rule 6 and falls within the scope of the provisions contained in sub-rule (3) of Rule 11; and

(ii) Where an inquiry in the manner laid down in Rule 9 has not already been held in the case, itself held such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 9. and the staff on a consideration of the proceedings of such inquiry, pass such orders as it may deem fit."

10. The court erred in reading sub-clause (ii) of clause (c) independently of sub-clause (i) of clause (c). In short, sub-clause (ii) provides for holding an inquiry only in the case covered by sub-clause (i) (which is a case of minor penalty of withholding of increments of pay), and not generally in all cases, especially those involving major penalties. Clause (c) subjects its provisions to the provisions of Rule 14 only for the purpose of indicating that even in the case covered by clause (c) inquiry can be dispensed with as under Rule 14. Proceeding on a wrong interpretation of clause (c), the Court read the requirement of inquiry in Rule 27 relating to appeals, and also further held that the requirement of inquiry should be read into other service Rules also, even if they do not contain a provision similar to sub-clause (ii) of clause (c) of the first proviso to rule 25(1) of the Railway Servants Rules.

11. A perusal of the judgments of the Court would reveal that the Court sought support for its view regarding holding of inquiry in an appeal or revision from the Railway Servants Rules and not from the Constitution itself. If the said support cannot be drawn from the relevant Rule in the Railway Servants Rules, the entire foundation for the holding of the Supreme Court would fall.

12. The court, however, held that even if the safeguard of inquiry does not flow from the Constitution but only from the Service Rules, such Rules would be held to be constitutional. It observed:

"where an Act or a rule provides that in a case in which the second proviso to Article 311(2) applies any of the safeguards excluded by that proviso will be available to a civil servant, the constitutionality of such provision would be preserved by interpreting it as being directory and not mandatory. The breach of such directory provision would not, however, furnish any cause of action or ground of challenge to a civil servant because at the threshold such cause of action or ground of challenge would be barred by the second proviso to Article 311(2)."

13. The aforesaid observations of the Court are open to the following objections, among others: First, at the level of fact, it is wrong to assume that the Service Rules provide for the safeguard of inquiry. Secondly, they run counter to the main thesis of the Court that a service rule will have to be read subject to the relevant provisions of the Constitution and not the other way round, and that a rule will be unconstitutional if it restricts the full evolutionary operation of the second proviso to article 311(2). And yet the Court first lifted the requirement of inquiry from the Railway Servants Rules (a requirement for which there is no basis in the said Rules), read it into other Service Rules, called such a service rule a directory provision, and finally elevated the so-called safeguard to the level of a constitutional safeguard under the second proviso to article 311 without the need for a further back up from the Service Rules. This is indeed a case of the constitution being amended through the medium of Service Rules. Thirdly, the holding that the Service Rule providing for inquiry will only be directory provision and that Courts cannot interfere to compel the performance of such provision is contrary to the general jurisprudence of the court that, even in the exercise of discretionary powers, the action taken should not be arbitrary. This will invariably lead one to the question of permissible limits within which, or class or classes of cases in which, the directory provision should or should not be invoked. Fourthly, if the service rule making provision for inquiry is to be treated as merely directory, there is then no basis for the court to hold that civil servants have a right to a full and complete inquiry.

14. In fact, the Court itself has proclaimed that "the majority judgement in Tulsiram Patel case has conferred upon the civil servants..... the right to a full and complete inquiry" (vide para 8 of the judgement in S.S. Case, Emphasis supplied). This is a clear case of what jurists call "judicial Legislation." There is no doubt that the judgement in T.P. case confers greater rights upon civil servants than the judgement in Chalippon case did.

15. Whenever next opportunity presents itself to the Railways, we should take steps to draw the attention of the Supreme Court to the untenability of the interpretation placed by them on Rule 25 of the Railway Servants Rules. For the reasons stated earlier in this note, it is open to the Government to challenge the ruling of the Court on the need for holding inquiry in an appeal or revision. Be that as it may, until the findings of the Court are over-ruled by the Supreme Court, they reflect the Law declared by the Supreme Court.

SD/-  
Dr. P.C. Rao  
Legal Adviser  
16.12.85



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
DEPARTMENT OF RAILWAYS  
(Railway Board)

No. E(D&A) 85RG6-72

New Delhi, ~~5-1-86~~ <sup>6-2-86</sup>

See 16/11/86  
dr 16/5/86  
dr 21/5/87

The General Managers,  
all Indian Railways,  
CLW, DLW & ICF.

Sub:- Judgement of the Supreme Court delivered on 11.7.85 regarding the scope of the Second Proviso to Article 311(2) of the Constitution.

....

The Department of Personnel, vide their O.M.No. 11012/11/85/Estt.A dated 11.11.85, have given detailed clarifications on the scope of clauses (a), (b) and (c) of the Second Proviso to Article 311(2) of the Constitution and provisions of Service rules analogous to Rule 14 of the Railway Servants (Discipline & appeal) Rules 1968, in the light of the Judgements of the Supreme Court delivered on 11.7.85 and 12.9.85. A copy of this Office Memorandum is enclosed. The clarifications contained therein may please be brought to the notice of concerned railway authorities for their information, guidance and compliance.

In the course of the scrutiny of the above mentioned Office Memorandum of the Department of Personnel in this office, the Legal adviser to the Railway Board has made some detailed observations and a copy of these observations is also enclosed. These observations made by the Legal adviser should also be borne in mind while dealing with cases of application of Rule 14 of the Railway Servants (Discipline & appeal) Rules, 1968. Attention is invited particularly to para 15 of the Legal adviser's note and your Railway may, be on the lookout for a suitable representative case in which we can seek proper interpretation of Rule 25 from the Supreme Court. Such a case may come even via administrative Tribunals. If and when such cases come to notice, the same may please be reported to Railway Board's office immediately.

Yours faithfully,  
Y. K. Rao

Hindi version will follow.

Encl: Two

(Y. K. Rao)  
Director, Estt. (D&A)  
Railway Board.

No. E(D&A) 85RG6-72

New Delhi, Pb.

-2-86.

Copy with copy each of the enclosed to other Railway  
Administrations.

(Y. K. Rao)

Director, Estt. (D&A)





GOVERNMENT OF INDIA  
MINISTRY OF TRANSPORT  
DEPARTMENT OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

P. T. THIRUVENGADAM,  
EXECUTIVE DIRECTOR, ESTABLISHMENT.

No. E(D&A)83RG6-41-1

New Delhi, dt. 3.4.1986.

My dear CPOs of Zonal Railways, (CIV, PLV and JCF).

In order to ensure that discipline is maintained correctly and justly, there is an imperative need to cut down delays in completion of disciplinary proceedings. Suggestions have been made from time to time which may help in reducing the time taken in disposal of the cases. Certain avoidable delays do still, however, occur in the finalisation of disciplinary cases despite the issue of circulars stressing that a close watch be kept on such cases. Attention is particularly invited to Board's three letters No. E(D&A)83RG6-14, E(D&A)85 RG6-21, E(D&A)83RG6-14 dated 29.3.85, 30.5.85 and 5.12.85 respectively.

2. The Board have, therefore, decided to get monthly statistical information regarding pending cases of suspension, minor penalty action and major penalty action. A proforma for supplying the required information is enclosed. The Board desire that your Railway should at once set up a suitable machinery for collection of the requisite statistical information and furnish the data by the 20th of the month following the month to which the statement relates. These returns may be started from the month of April, 86 onwards and the first report should reach us by 20th May, 1986.

3. I would invite your attention, in this connection, to the Board's letter No. 85/VIG.I/RET/3/1 dated 20.5.85 where proforma for supplying information in respect of vigilance cases on quarterly basis has been circulated. The monthly returns which are now prescribed, should cover only non-vigilance cases.

4. While on this subject, I have to point out that vide Railway Board's letter No. E(D&A) 69 RG6-17 dated 8.1.71, a model time schedule of 202 days for completion of major penalty disciplinary proceedings was laid down. This targeted period of 202 days has to be scaled down to 150 days following deletion of the provision relating to issue of second show cause notice and certain other procedural improvements made in Rule 9 of the RS(D&A) Rules in Feb. 80. A revised schedule encompassing 150 days is attached.

5. Kindly acknowledge receipt.

Yours sincerely,

(P. T. Thiruvengadam)

Shri



PRO FORM A

Name of the Railway \_\_\_\_\_

Position of D&A Cases for the month of \_\_\_\_\_

I. Suspension

- (1) Opening balance of number of suspension cases at the beginning of the month \_\_\_\_\_
- (2) New cases of suspension ordered during the month \_\_\_\_\_
- (3) No. of suspensions revoked during the month \_\_\_\_\_
- (4) Closing balance of number of cases of suspension at the end of the month  
upto three months: \_\_\_\_\_  
between three to six months: \_\_\_\_\_  
over six months: \_\_\_\_\_  
Total: \_\_\_\_\_
- (5) Dates of suspension alongwith details of the three oldest cases of suspension (while identifying oldest cases, unavoidable cases of suspension on account of pending criminal case etc. should be ignored)

II. Minor Penalty cases

- (1) Opening balance of all pending cases at the beginning of the month \_\_\_\_\_
- (2) No. of cases of fresh chargesheets issued during the month \_\_\_\_\_
- (3) No. of minor penalty cases finalised during the month \_\_\_\_\_
- (4) Closing balance for  
No. pending for  
less than three months \_\_\_\_\_  
over three months \_\_\_\_\_
- (5) Date of issue of minor penalty chargesheet and details in respect of the three oldest cases on the railway:

III. Major Penalty cases

(1) Opening balance of pending cases at the beginning of the month \_\_\_\_\_

(2) No. of fresh chargesheets issued during the month \_\_\_\_\_

(3) No. of cases finalised during the month including those which resulted in imposition of minor penalties \_\_\_\_\_

(4) Closing balance Pending for \_\_\_\_\_

Less than six months \_\_\_\_\_

Between six months and nine months \_\_\_\_\_

Over nine months \_\_\_\_\_

(5) Date of issue of chargesheet and details in respect of the three oldest cases on the railway: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MODEL TIME SCHEDULE

In the disciplinary proceedings	Time laid down in the D&A Rules	Time limit for stages where no time limit has been laid down in the rules	Remarks
1	2	3	4
Issue of charge-sheet.	.....	.....	.....
Inspection of documents mentioned in the list enclosed with the charge-sheet and taking relevant extracts therefrom, with the help of Assisting Railway servant, if any, and asking for inspection of additional documents not mentioned in the list enclosed with the charge-sheet.	20 days maximum	.....	.....
Time by which the employee should submit his written statement of defence to the charge-sheet, submit a list of witnesses to be examined on his behalf and nominate an Assisting Railway servant, if not already done.	10 days	10 days	<p align="center">time</p> <p>No limit has been laid down in the rules for submitting a list of witnesses and nomination of an Assisting Railway servant. Therefore, ten more days as mentioned in col. (3) may be given to the employee at the discretion of the disciplinary authority.</p>
Time by which the disciplinary authority should take a decision to hold an inquiry after considering the defence to the charge-sheet.	.....	10 days (including two days for receipt of the statement of defence in the office of the Disciplinary Authority)	.....

	2	3	4
6. Time by which the date of inquiry should be fixed after completion of all preliminaries.	20 days	.....	Though in the rule, maximum of 30 days have been allowed for this purpose; yet it is considered that 20 days would be quite sufficient for the employee to prepare himself for defence. This also does not infringe the rule, as the rule is not rigid about this.
5. Time by which the inquiry should be completed and the Inquiry Officer should submit his report to the Disciplinary Authority.	.....	60 days	.....
7. Time by which the Disciplinary Authority should take the decision and issue the notice of penalty.	.....	20 days	.....
	50 days	100 days	Total: 150 days



GOVERNMENT OF INDIA  
MINISTRY OF TRANSPORT  
DEPARTMENT OF RAILWAYS  
(RAILWAY BOARD)

R.B.E.No. 77 / 86.

NO.E(D&A)86-RG6-11

New Delhi, dated 17-4-1986

The General Managers,  
All Indian Railways including  
CLW, DLW, ICF and W&AP.

The Director General,  
R.D.S.O., Lucknow

The General Managers (Construction),  
Southern Railway Bangalore and  
N.F. Railway, Guwahati.

The Chief Administrative Officer,  
Diesel Component Works, Patiala  
The O.S.D. (Rail Coach Factory (Kapurthala), Rly. Officers Complex,  
Tilak Bridge, New Delhi.

The Chief Administrative Officers,  
MTP (Railways), Bombay, Delhi and Madras.

The Chief Administrative Officer,  
COFMOW, New Delhi.

The Managing Director,  
RITES, New Delhi

The Managing Director,  
IRCON, New Delhi.

The General Manager,  
Metro Railway, Calcutta

The Chairman, Railway Recruitment Boards-Allahabad,  
Bombay, Calcutta, Madras, Guwahati, Bangalore,  
Muzaffarpur, Jammu, Secunderabad, Patna, Ajmer, Ahmedabad,  
Chandigarh, Bhopal, Bhubhaneshwar, Trivandrum, Ranchi,  
Malda and Gorakhpur.

The Secretary, R.R.T., Madras

The Adml. General Manager, R.E., Allahabad.

The Principal-R.S.C., Vadodara, IRIMEE Jamalpur,  
IRISET, Secunderabad and IRIATT, Punc.

The Railway Liaison Officer, New Delhi

The Director, Rail Movement, Calcutta

The General Secretary, IRCA, New Delhi.

**Sub: Consideration of Appeals in Discipline  
and Appeal Rules cases.**

Rule 21(2) of the Railway Servants (Discipline and Appeal) Rules 1968 provides that an appeal shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language and shall be complete in itself. In this connection, it is clarified that while the appellate authority has the discretion not to consider an appeal which is couched in improper language, it may not be appropriate if an appeal, which otherwise has some merits, is not considered simply on this ground. All appellate authorities may therefore be requested to ensure that where an appeal contains improper and disrespectful language, but otherwise has merit, the appellant should be directed to submit a properly worded appeal for consideration.

In this connection, attention is also invited to Board's letter: No.E(D&A)78RG6-11 dated 3.3.78 wherein the need for passing "speaking" orders has been emphasised.

Receipt of this letter may please be acknowledged.

*V.K. Rao*  
(V.K. Rao)

Deputy Director, Estt. (D&A),  
Railway Board.

NO.E(D&A)86(RG6)-11

New Delhi, dated 17-4-1986.

Copy (with 25 spares) for information to:-

1. The General Secretary, N.F.I.R., 3-Chandernagore Road, New Delhi-110055 (with 25 spares).
2. The General Secretary, All India Railwaymen's Federation, 4-State Entry Road, New Delhi.
3. All Members of the National Council and Secretary, Staff Side, 13 C Krozeshal Road, N. Delhi.  
*J. K. Singh*  
for Secretary, Railway Board.

Copy to:

Vig.I, ERB-I, ERB(D), E(O)I, Cash IV and Sec.(E),  
Branches of Railway Board.

Copy of Board's circular letter  
No. E(D&A)86RG6-42 dt. 9.5.86 (RBE No. 88/86)

Sub: Procedure to be followed under Rule 9(22) of RS(D&A) Rules 1986 - serving of a copy of the Presenting Officer's brief to the delinquent railway servant.

Presenting Officers are normally appointed only in Railway Vigilance/SPE cases. It has been repeatedly stressed in training courses etc. that a copy of the written brief filed at the end of the enquiry by Presenting Officer should be supplied to the delinquent officer before taking the latter's brief, if any. Since an instance of breach of this requirement has recently come to notice, it is requested that the contents of the enclosed DOP's O.M. No. 11012/18/77-Estt(A) dt. 2.9.78 may be brought to the notice of all concerned for information and guidance.

.....

Copy of DOP's OM No. 11012/18/77-Estt (A) dt. 2.9.78.

Sub: CCS(CCA) Rules 1965 - procedure to be followed under Rule 14(19) thereof.

The undersigned is directed to say that according to Rule 14(19) of the CCS(CCA) Rules, the inquiring authority may after the completion of the production of evidence, hear the P.O. if any, appointed and the Government servant, or permit them to file written briefs of their respective cases, if they so desire. with reference to this Rule, a question has been raised whether the written brief filed by the PO should be made available to the accused Govt. servant before he files his own written brief. The matter has been examined in consultation with the Ministry of Law and the position is explained in the succeeding paragraph.

2. It will be seen from the phraseology of Rule 14(19) that the inquiring authority has to hear arguments that may be advanced by the parties after their evidence has been closed. But he can, on his own, or on the desire of the parties, take written briefs. In case he exercises the discretion of taking written briefs, it will be but fair that he should first take the brief from the PO, supply a copy of the brief to the Government servant. In case the copy of the PO's brief is not given to the Govt. servant, it will be like hearing arguments of the PO at the back of the Govt. servant. In this connection, attention is also invited to the judgment of the Calcutta High Court in the case of Collector of Customs Vs Mohd Habibul (SLR 1973) (1) Calcutta 321) in which it is laid down that the requirement of Rule 14(19) of the CCS(CCA) Rules 1965 and the principles of natural justice demand that the delinquent officer should be served with a copy of the written brief of the P.O. before he is called upon to file his written brief.

3. Ministry of Finance etc. are requested to bring the above clarification to the notice of all concerned authorities under their control.

.....

Rejan.



Copy of Board's circular letter No. E(D&A)/  
MSRGG-72 dated 16.5.1986 addressed to the  
General Manager, All Indian Zonal Railways, etc.

Subject: Judgment of the Supreme Court in Civil  
Appeal No. 6814 of 1983, Civil Appeal No. 3484  
of 1982 etc. delivered on 11.7.85 - regarding  
the scope of second proviso to Article 311(2)  
of the Constitution.

Attention is invited to Board's letter of even number  
dt. 6.2.1986 and enclosures thereto, regarding judgment of  
Supreme Court delivered in Tulsiram Patel's case on 11.7.85  
on the scope of second proviso to Article 311(2) of the  
Constitution. A copy of department of Personnel & Training's  
O.M. No. 11012/11/85-Estt(A) dated 4.4.1986 clarifying the  
position further is circulated herewith for information and  
guidance. Please acknowledge receipt.

Sd/-  
(V.K.RAO)  
Dy. Dir. Estt.(D&A)

DA:As above.

.....  
Copy of DOP&T's OM No. 11012/11-85-Estt(A) dt. 4.4.86.

Subject: Judgment of the Supreme Court in Civil Appeal No. 6814  
of 1983, Civil Appeal No. 3484 of 1982 etc. delivered  
on 11.7.85 regarding the scope of second proviso to  
Article 311(2) of the Constitution.

The undersigned is directed to refer to paras 6 to 8 of  
this Department's O.M. of even number dt. 11.11.85, wherein  
instructions are contained relating to factors that are relevant  
where action is taken under clause (b) of second proviso to  
Article 311(2) of the Constitution.

2. A question has been raised whether in a case where  
clause (b) of the second proviso to Article 311(2) of the  
Constitution is invoked, the disciplinary authority may  
dispense with the issuing of charge memo listing the charges.  
Clause (b) is attracted in a case where the disciplinary auth.  
concludes, "that it is not reasonably practicable to hold such  
an inquiry". The circumstances leading to such a conclusion  
may exist either before the inquiry is commenced or may develop  
in the course of the inquiry. In Tulsiram Patel case, the  
Supreme Court observed as under :-

"It is not necessary that a situation which makes  
the holding of an inquiry not reasonably  
practicable should exist before the disciplinary  
inquiry is initiated against a Govt. servant.

Such a situation can also come into existence subsequently during the course of an inquiry, for instance, after the service of a charge-sheet upon the Govt. servant or after he had filed his written statement thereto or even after the evidence had been led in part. In such a case also, the disciplinary authority would be entitled to apply clause (b) of the second proviso because the word 'inquiry' in that clause includes part of an inquiry".

3. Article 311(2) of the Constitution concerns itself with the punishment of dismissal, removal or reduction in rank, which comes in the category of major punishment under the service rules providing the procedure for disc. action against Govt. servants. The first step in that procedure is the service of a memorandum of charges or a charge-sheet, as popularly known, on the Govt. servant, listing the charges against him and calling upon him, by a specified date, to furnish a reply either denying or accepting all or any of the charges. An enquiry hence commences under the service rules with the service of the charge-sheet. Obviously, if the circumstances even before the commencement of an inquiry are such that the disciplinary authority holds that it is not reasonably practicable to hold an inquiry, no action by way of service of charge-sheet would be necessary. On the other hand, if such circumstances develop in the course of inquiry, a charge-sheet would already have been served on the Govt. servant concerned.

4. In para 6(i) of this Deptt.'s OM dt. 11.11.85, certain illustrative cases have been enumerated where the disciplinary authority may conclude that it is not reasonably practicable to hold inquiry. It is important to note that the circumstances of the nature given in the illustrative cases or other circumstances which make the disc. authority conclude that it is not reasonably practicable to hold the inquiry, should actually subsist at the time when the conclusion is arrived at. The threat, intimidation or the atmosphere of violence or of a general indiscipline and insubordination, for example, referred to in the illustrative cases, should be subsisting at the time when the disc. authority arrives at his conclusion. It will not be correct on the part of the disc. authority to anticipate such circumstances as those that are likely to arise, possibly later in time, as grounds for holding that it is not reasonably practicable to hold the inquiry and, on that basis, dispense with serving a charge-sheet on the Govt. servant.

5. Ministry of Finance etc are requested to bring the above clarifications to the notice of all the authorities serving under their control for their information, guidance and compliance.

6. Hindi version will follow.

.....

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

R.B.E.235/86

NO.E(D&A)84-RG6-44

New Delhi, dated 2 i2.1986.

The General Managers,  
All Indian Railways including CIW, DDW, ICF & W&AP.  
The General Manager (Construction),  
(i) Southern Railway, Bangalore.  
(ii) Northeast Frontier Railway, Gauhati.  
The Director General, RDSO, Lucknow.  
The CAO, Indian Railways, DCW, Patiala.  
The CAO/MTP(R), Bombay, Delhi, Madras.  
The Chairman, RRB, Allahabad, Bombay, Madras, Calcutta,  
Gauhati, Bangalore, Muzaffarpur, Jammu,  
Secunderabad, Ajmer, Ahmedabad, Chandigarh,  
Bhopal, Bhubneshwar, Malda, Patna, Trivandrum,  
Ranchi and Gorakhpur.  
The Principal, RSC - Vadodara, IRIST, IRIATT & IRIMEE.  
The Addl.G.M., Railway Electrification, Allahabad.  
The Secretary, Railway Rates Tribunal, Madras  
The Railway Liaison Officer, New Delhi  
The Managing Director, RITES & IRCON, New Delhi.  
The Director, Rail Movement, Calcutta.  
The Joint Director (I&S), 3-Koilaghat St., Calcutta  
The General Manager, Metro Railway, Calcutta  
The CAO, COFMOW, New Delhi.  
The General Secretary, IRCA, New Delhi  
The CAO, COFOIS, Delhi Safdarjung Rly. Stn. Chanakyapuri, N.Delhi  
The OSD/RCF (Kapurthala), BMC Chowk, Mahay Market, Jullundur City

Sub: Revision under Rule 25 of the Railway  
Servants (Discipline and Appeal) Rules, 1968.

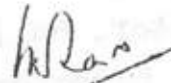
In Railway Board's letter No.E(D&A)80 RG6-59 dated 1.8.1983 it was pointed out that Rule 25 of the Railway Servants (Discipline and Appeal) Rules 1968 does not provide for a right, as such, to the affected employee to seek a review (now revision) in disciplinary cases and that the practice of conducting automatic revision on the basis of petitions by employees should be discontinued.



2. On representations from NFIR in the matter and after taking into account the position under the CCS(CCA) Rules, it was decided in Railway Board's letter of even number dated 8.1.1985 that revision applications made after exhausting the avenue of appeal or, where no appeal is preferred, after the expiry of the period of limitation for an appeal, should be dealt with in the same manner as if it were an appeal under the rules provided the application for revision is otherwise in order.

3. A doubt has been raised about the time limits applicable for preferring of revision petitions under Rule 25 by affected railway servants. It is pointed out that the same time limits as laid down for preferring of appeals under Rule 20 will equally apply to revision petitions also, i.e. within a period of 45 days from the date of delivery of the order sought to be revised. In cases where no appeal was preferred against an order of the disciplinary authority, this time limit of 45 days shall be reckoned from the date of expiry of the period of limitation for submission of appeal. The revisionary authority may entertain the revision petition after expiry of the aforesaid limitation period if it is satisfied that the petitioner had sufficient cause for not preferring the petition in time.

This has also reference to General Manager, Southern Railway's D.O. letter No.P(A)227/P/Vol.XVI dated 19.9.1986.

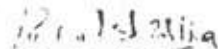


(V.K. Rao)  
Deputy Director, Establishment (D&A),  
Railway Board.

No.E(D&A)84 RG6-44                      New Delhi, dated                      .11.1986.

Copy (with 25 spares) forwarded to:-

1. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi.
2. The General Secretary, AIRF, 4 Stato Entry Road, New Delhi.
3. All Members of the National Council, Department Council and Secretary, Staff Side, National Council, 13-C, Ferozeshah Road, New Delhi.



for Secretary, Railway Board.

cc: as above.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

NO.E(D&A)86RG6-74.

New Delhi, dated 13.04.87

The General Managers,  
All Indian Railways,  
C.L.W., D.L.W., I.C.F.

Sub: Imposition of penalties under Rule 14(ii) of the Railway Servants (Discipline and Appeal) Rules, 1968 which corresponds to item (b) of the Second Proviso to Article 311(2) of the Constitution.

Attention is invited to Railway Board's letter No. E(D&A)85RG6-72 dated 6.2.86 and 16.5.86 and the Department of Personnel's Office Memoranda dated 11.11.85 and 4.4.86 enclosed therewith. General guidelines have been given in these communications regarding the types of cases where Rule 14(ii) of the R.S.(D&A) Rules can be invoked. As per the principles laid down by the Supreme Court, the disciplinary authority is not expected to dispense with the disciplinary inquiry lightly or irrelevantly or out of ulterior motive or merely in order to avoid the holding of an inquiry or because the department's case against the railway servant is weak and is, therefore, bound to fail. What is essentially required is that holding of inquiry is not reasonably practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation. The Supreme Court have also ruled that the finality given to the decision of the disciplinary authority for dispensing with the inquiry is not binding on Court (now also CAT) so far as its power of judicial review is concerned and the Court is competent to strike down the order dispensing with the inquiry as also the order imposing the punishment should such a course of action be considered necessary by the Court in the circumstances of the case.

2. Recently, a case has come to notice where Rule 14(ii) was resorted to against a Welfare Inspector in charge of a Handicrafts Centre on a Railway. In this case, the disciplinary authority had recorded that if normal procedure is followed, it is likely that the evidence may be destroyed and the lady members of the Mahila Samiti may not come up to give their evidence on account of fear of threat/harassment etc. In this case, the Supreme Court had ruled that such grounds are irrelevant and ex-facie inadequate for dispensing with the inquiry. Another case has also come to notice where Rule 14(ii) was resorted to against a

Contd..p/2.....

railway servant on the charge of collecting money from unemployed young men on the pretext of giving them jobs on the Railway. The inquiry in this case was dispensed with by the disciplinary authority mainly on the ground that the concerned unemployed young men refused to become witnesses apprehending physical intimidation, injury at the hands of the charged railway servant etc. In this case, the CAT had stated that the case could be established on the basis of even documentary evidence and the unemployed young men were actually not afraid of the charged railway servant but of only possible harassment by police/railway authorities who conduct inquiries in such cases. The C.A.T. had, therefore, set aside the removal under Rule 14(ii) in the second case. x

3. The above typical cases are brought to your notice so that all the disciplinary authorities may be asked to bear in mind the guidelines already circulated in this regard and avoid use of Rule 14(ii) where the circumstances do not warrant such action.

Please acknowledge receipt. Hindi version will follow.

Sd/-  
(V.K. RAO)  
DY. DIRECTOR ESTT. (D&A)  
RAILWAY BOARD.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(S. 113) (C. 1)

SECRETARY (S. 113)

13th July, dated 13.7.1957.

General Managers,  
of Indian Railways, C.L.W., I.S.W. and I.C.P.

Chief of Accounts and Cashier's Offices  
of all offices.

Sub: Summoning of Handwriting Expert for  
cross-examination in departmental  
enquiries.

A point has been raised whether it would be obligatory to summon the Handwriting Expert for cross-examination in a departmental enquiry in a case where his report is relied upon in coming to a decision regarding the guilt of the employee. The Board have considered the matter in consultation with the Ministry of Law and decided that it would be obligatory to summon for cross-examination the Handwriting Expert whose report is sought to be brought on the records of the enquiry and treated as evidence, only when a request is specifically made therefor by the delinquent railway employee.

*R. S. Jain*

(R. S. Jain)

Deputy Director Establishment,  
Railway Board.

Copy to L(1)J, L(1)J1 (with 10 copies), R(1),  
Vigilance I (with 5 copies), P(1)J, P(1)J, Cash I, Security (i)  
and Security (D) (with 10 copies) Branches of Board's office.



Copy of Ministry of Personnel, Public Grievances and Pensions  
(Department of Personnel and Training)'s confidential O.M.  
No.134/9/86-AVD.I dated 31st July, 1987.

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Subject: Minor Penalty proceedings initiated while in  
service - Question whether it is necessary to  
hold an oral inquiry for effecting a cut in  
pension as a result of -

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This Department's Office Memorandum No.134/10/80-  
AVD.I dated the 28th February, 1981 may be treated as  
cancelled.

Code,  
Vol.II

2. It is clarified that, in terms of Rule 2308-R.II  
of the Indian Railway Estt. Act, the Central Government has  
the power to withhold or withdrew pension even as a result  
of a minor penalty proceedings instituted while the charged  
officer was in service and which was continued after his  
retirement, provided grave misconduct or negligence is  
established.

3. The question whether the procedure followed in the  
conduct of a minor penalty proceeding would amount to  
affording a reasonable opportunity to the charged officer  
so as to impose the penalty of withholding or withdrawing  
his pension has also been considered. It is clarified that,  
even though there is no statutory requirement in Rule 2308-R.II  
ibid for giving a show cause notice, the principles of natural  
justice would have to be followed. This would require  
giving an opportunity to the pensioner to represent against  
the proposed penalty. It would, therefore, be necessary to  
issue a show cause notice to the pensioner and to take  
his representation into consideration before obtaining the  
advice of the Union Public Service Commission and passing the  
final order. However, there is no need to issue a show cause  
notice, where an oral inquiry, in which the Railway servant/  
pensioner has had a reasonable opportunity to defend his case,  
was held.

4. It is, however, reiterated that it should be the  
endeavour of the disciplinary authority to see that a minor  
penalty proceeding instituted against a Railway servant, who  
is due to retire, is finalised quickly and normally before  
his retirement so that the need for continuing such proceeding  
beyond the date of retirement does not arise.

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NO.E(D&A)87 RG6-113

New Delhi, dated 11.11.87.

The General Managers,  
All Indian Railways including CIW, DLW, ICF & W&AP.

The General Manager (Construction),  
(i) Southern Railway, Bangalore.  
(ii) Northeast Frontier Railway, Guwahati.

The Director General, RDSO, Lucknow.

The CAO, Indian Railways, DCW, Patiala.

The CAO/MTP(R), Bombay, Delhi, Madras

The Chairman, RRB, Allahabad, Bombay, Madras, Calcutta.  
Guwahati, Bangalore, Muzaffarpur, Jammu.  
Secunderabad, Ajmer, Ahmedabad, Chandigarh.  
Ehopal, Bhubneshwar, Malda, Patna,  
Trivandrum, Ranchi and Gorakhpur.

The Principal, RSC - Vadodara, IRIST, IRIATT & IRIMEE.

The Addl.G.M., Railway Electrification, Allahabad

The Secretary, Railway Rates Tribunal, Madras

The Railway Liaison Officer, New Delhi

The Managing Director, RITES & IRCON, New Delhi

The Director, Rail Movement, Calcutta.

The Joint Director (IRS), 3-Koilaghat Street, Calcutta.

The General Manager, Metro Railway, Calcutta

The CAO, COFMOW, New Delhi

The General Secretary, IRCA, New Delhi.

The CAO, COFOIS, Delhi Sadarjung Fly.Stn. Chanakyapuri,  
New Delhi.

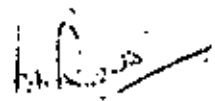
The GSB/RCF (Lapurthala), BMC Chowk, Mahay Market, Jullundur.

Sub: Minor Penalty proceedings initiated against  
Railway servants while in service - continuation  
for withholding of pensionary benefits under  
Para 2308-R.II.

Attention is invited to Board's confidential letter  
No.E(D&A)81 236-26 dated 23.7.81 circulating Department of  
Personnel's confidential O.L. No.134/10/80-AVD.I dated 28.2.81.

2. A copy of the DOP's latest confidential O.M. No.134/9/86.AVD.I dated 31.7.87 is enclosed. It will be seen therefrom that the contents of Board's letter dated 23.7.81 referred to above, circulating DOP's instructions dated 28.2.81 stand cancelled, and that it will be in order to continue even minor penalty proceedings in terms of Rule 2303-R.II provided grave misconduct or negligence is established. Issuing a show cause notice (where no oral enquiry was held) to represent against proposal to effect cut/pension and consultation with UPSC is, however, necessary in such cases.

3. The contents of the Department of Personnel's latest orders may please be brought to the notice of all concerned. Notwithstanding these orders, disciplinary authorities should endeavour to ensure that minor penalty proceedings are, in fact, concluded quickly and the need for such proceedings arising out of Minor Penalty normally do not arise.



(V.K. Rao)  
Deputy Director Establishment (D&A),  
Railway Board.

DA: As above.

Copy to E(C)I, Vigilance Dte., ERB(D), E(RB)III, Security (E), Cash IV, F(E)III, ERB-I, Branches, Railway Board

Copy to Executive Director Vigilance, and/E(D&A)  
Railway Board.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

NO.E(D&A)86 RG6-4

New Delhi, dated 5.8.1988.

The General Manager (Personnel),  
Southern Railway,  
MADRAS

Sub: Need for issuing "Reasoned" and "Speaking"  
Orders by Disciplinary/Appellate Authority  
in Discipline and Appeal cases.

A copy of letter dated 13.6.1988 received from Shri K.V. Lakshmanchar, Railway Advocate at Bangalore is enclosed. Your attention is invited in this connection to Railway Board's letters No.E(D&A)78 RG6-11 dated 3.3.78 and No.E(D&A)86 RG6-1 dated 20.1.1986, in which the need for disciplinary/appellate authorities to issue self-contained "Speaking" and "Reasoned" orders was impressed.

2. In view of the Railway Advocate's observations that the aforesaid instructions are not being followed on certain Divisions of your Railway, it is requested that the Board's instructions in the matter may be reiterated to all concerned so that occasion for the Central Administrative Tribunal to remand appeal cases back to the appellate authority for issuing fresh Speaking Orders are avoided. In addition to recording of reasons in support of the decision by the disciplinary/appellate authority, it is necessary for such authorities to give their observations on all the relevant points raised in his defence in representations/appeal submitted by the delinquent official.

Please acknowledge receipt.

  
(V.K. Rao)

Deputy Director Establishment (D&A),  
Railway Board.

DA: As above.

No.E(D&A)86 RG6-4

New Delhi, dated 5.8.1988.

Copy forwarded for information to General Managers (P), All Indian Railways(except Southern Railway), CLW, DLW, ICF & W&AP.

2. The General Manager (Construction), S.Rly. Bangalore & N.F. Railway, Guwahati.
3. The Director General, RDSO, Lucknow.
4. The CAO, Indian Railways, DCW, Patiala
5. The CAO/MUP(R), Bombay, Delhi, Madras
6. The OSD/ROF (Kaparthala), BMC Chowk, Mahay Market, Jullundur.

  
(V.K. Rao)

Deputy Director Establishment (D&A),  
Railway Board.

Copy of letter dated 13.6.1988 from K.V.Lakshmanachar,  
Railway Advocate, Bangalore addressed to Legal Adviser,  
Railway Board.

Sub: Issue of General Instructions regarding  
disposal of appeals by the Appellate  
Authorities.

In a vast majority of cases, the Appellate Authorities are passing the orders without following the Procedures prescribed under the discipline and appeal rules. In majority of the cases, a two line order is passed. The Supreme Court of India in Ramachander-VS-Union of India, (AIR.1986 S.C.1173) has clearly laid down, the Procedure to be followed by the Appellate Authorities while disposing of the appeals before them. The Tribunal, at Bangalore in several cases has remanded the applications on the sole grounds that the order of the Appellate Authority is not a speaking order, and the same is in contravention of the Judgment of the Supreme Court in the above mentioned case. In spite of it, the Appellate Authorities are passing the orders without applying their mind to the facts of the case and in contravention of the guidelines prescribed by the Supreme Court, in Ramachander's case.

This letter is addressed to you, with a request to issue appropriate instructions to the various heads of the Departments incorporating the guidelines prescribed by the Supreme Court in Ramachander's case and the Appellate Authorities may be advised to keep in mind the observations of the Supreme Court in Ramachander's case while disposing of the appeals before them.

With kind regards,

Thanking you,

Yours faithfully,

Sd/-  
(Advocate.)

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

NO.E(D&A)85 RG6/72

NEW DELHI, dated 6<sup>th</sup>, October '88

The General Managers,  
All Indian Railways, CLW, DLW, ICF & W&AP  
The General Manager (Construction),  
(i) Southern Railway, Bangalore  
(ii) Northeast Frontier Railway, Guwahati.  
The CAO, Indian Railways, DCW, Patiala  
The General Manager, Metro Railway, Calcutta  
The OSD/RCF (Kapurthala) BMC Chowk, Mohay Market, Jullunder.


Sub: Procedure for imposition of penalties under  
rule 14(ii) of the Railway Servants (D&A)  
Rules, 1963.

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Attention is invited to the detailed instructions  
contained in Board's letters No.E(D&A)85RG6/72 dated 6.2.86,  
No.E(D&A)85RG6/72 dated 15.5.86 and No.E(D&A)86RG6/74 dated  
13.4.1987 on the above subject.

In this connection please find enclosed as Annexure 'A'  
a detailed note on the above subject. Para: 3&5 may be specifi-  
cally borne in mind by the disciplinary authorities, who desire  
to take action under Rule 14(ii). These are in addition to the  
guidelines circulated in Board's three letters mentioned in para 1  
above. The specimen of the "speaking order of disciplinary  
authority" and specimen of "notice of removal from service"  
given as Annexures 'B' & 'C' may also be utilised in drafting such  
documents in cases of Rule 14(ii). These have been only given  
as guidelines and shouldnot be quoted verbatim as depending  
upon the circumstances, more amplified and specific reasons  
for dispensing with the enquiry should be given so that the  
same can carry conviction with court of law, when the orders are  
challenged.

Please acknowledge receipt.

Encl : as above

  
(V.K. RAO)  
JOINT DIRECTOR ESTT. (D&A)  
RAILWAY BOARD





Note regarding some of the important points to be borne in mind while taking action under Rule 14(ii) of the Railway Servants (D&A) Rules, 1968.

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Even though no formal enquiry is necessary, it is desirable that the Disciplinary Authority appoint an investigating officer(s) (a committee of one or two officers) who can go into the entire issue and put up an appreciation report bringing out the situation prevailing. The report should also contain the nature and magnitude of delinquency involved. The Disciplinary Authority should consider the report and all other issues connected with the situation and record the reasons in the file in support of its conclusion that it is not reasonably practicable to hold the enquiry into the allegations of misconduct and therefore the necessity of invoking Rule 14(ii).

2. In recording the reasons for dispensing the enquiry, the Disciplinary Authority can make use of the following factors, as may be applicable to the circumstances of the case :-

- (i) The mere fact that the delinquent employee participated in an illegal strike will not be a sufficient reason for removal under Rule 14(ii) of RS(D&A), 1968 unless such participation is accompanied by intimidation of co-workers and causing apprehension in the minds of co-employees that it would be hazardous to give evidence against him in case of an enquiry, in which case the enquiry will not be practicable. Such apprehension should preferably be available in writing.
- (ii) The situation may be such that if the action is delayed the delinquent employee's conduct will lead to hooligans and other unruly elements taking opportunity and time to organise further unlawful activities which may result in the aggravation of the situation which is already explosive and which may lead to disturbances to public order and tranquility and/or damage to vital installations/costly public property.
- (iii) In view of above it would be necessary to take swift disciplinary action against such a potentially dangerous employee who is directly or indirectly responsible for the above situation, to ward off, caution and deter other employees, who are intimidated by him, not to abstain from work.

3. It may be noted that the order imposing the penalty must also be a speaking order in the sense that the allegations constituting misconduct for which the employee is being removed, dismissed, etc., have to be set out in the order and the reasons for meting out the punishment in question should be indicated. A bald statement in the penalty order that it is undesirable to retain the employee in service is not sufficient.

4. After recording due reasons as per specimen of Speaking Order at Annexure 'B', the disciplinary authority can serve a notice of dismissal, removal etc. making use of the specimen enclosed as Annexure 'C'. These specimens are only illustrative for a particular type of situation.

5. The above notice may be served on the party in person or by Registered Post and by resorting to pasting the order on the door of the employee's house and the Notice Board of the office, duly taking statements of two witnesses to the events, if the employee refuses or evades service of the above notice.

A specimen of Speaking Orders of  
Disciplinary Authority.

Mr. X, Diesel Driver at 'A', while working Train No. T from A arrived at B at about 4.45 hours on 31.5.81 and refused thereafter to work the train further to C on the plea that he does not know the road from B to C even though Pilot driver was also provided for his assistance. He detained the train for \_\_\_\_\_ hours which resulted in further detention to goods trains carrying essential commodities. This affected the disruption of all trains due to stopping all other trains in the rear. Subsequently, he instigated the other co-workers available at B to make them to refuse Call Books for working trains from B. As a result of this instigation and agitation on the part of M.X, the Drivers refused Call Books to work trains from B. This also resulted in the avoidable detention of all trains on B and A Section for about nearly 13 hours commencing from 10 hours on 31.5.83 to 13.00 hours on 1.6.83. He, with the help of his assistants, also collected Railway employees by coercion at their residential places with threats etc. He refused to carry out instructions of..... and was responsible for stopping train movement involving trains carrying essential commodities for public.

I am therefore satisfied that Mr. X has absented himself from duties and deliberately failed to perform his legitimate duties inspite of repeated instructions and his activities are such as to harass the staff to disrupt work so as to paralyse the running of essential train services and thus affecting public interest. I am satisfied that it is not reasonably practicable to hold an enquiry in the tense atmosphere and no co-worker is willing to give evidence against him for fear of harassment. I, therefore, in exercise of the powers conferred upon me under Rule 14(11) of RS(D&A) Rules, 1968, have decided to impose the penalty of \_\_\_\_\_. He may be advised to hand over the railway property in his custody; he may also be advised to vacate the Railway Quarters under occupation within one month from the date of this order. If he fails to do so he will be deemed to be occupying Railway Quarters /be unlawfully and dealt with under rules for unlawful occupation.

An appeal against this order lies with the Appellate Authority, within 45 days.

DISCIPLINARY AUTHORITY

Notice of Removal from Service.

Reference Rule 14(ii) of the Railway Servants (Discipline & Appeal) Rules 1968. -----

No.

Dated:

Whereas Mr. X, Driver under Loco Foreman's Office, .....Railway,.....is absent from duties and has deliberately failed to perform his legitimate duties inspite of repeated calls and whereas the said Mr. X is taking part to mobilise the staff for disruptive work so as to paralyse the running of trains and whereas the said Mr. X was creating panic among the loyal Railway staff by intimidation and threats of harassment to them as well as to their families and his activities are considered prejudicial to the interest of Railway Administration and to the general public by causing obstruction for movement of essential commodities and whereas in the interest of the Railway as also of the general public. The Railway employees were so much intimidated that they are afraid to give evidence in case an enquiry is held. Retention of Mr. X in Railway Service any further is considered undesirable and whereas it is considered that it is not reasonably practicable to hold an enquiry in this disturbed situation in the manner provided for in the Railway Servants (D&A) Rules, 1968.

Now, therefore, in exercise of the powers conferred by Rule No. 14(ii) of the RS(D&A) Rules, 1968, the undersigned hereby removed the said Mr. X, Driver under Loco Foreman,..... Railway,.....from service with effect from.....

Mr. X is hereby advised that under Rules 18 and 19 of the Railway Servants (Discipline & Appeal) Rules, 1968, he may prefer an appeal against these orders to.....provided that :

- i). the appeal is preferred within a period of 45 days from the date on which a copy of this Memorandum is delivered to him;
- ii) the appeal is preferred in his own name and presented to the authorities to whom the appeal lies and does not contain any disrespectful and improper language.

So. DME/DRM (as the case may be)

(DISCIPLINARY AUTHORITY)

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

NO.E(D&A)85 RG6-72

NEW DELHI, dated 14th Oct'88

The General Managers,  
All Indian Railways, CLW, DLW, ICF & W&AP

The General Manager (Construction),  
(i) Southern Railway, Bangalore  
(ii) Northeast Frontier Railway, Guwahati.

The CAO, Indian Railways, DCM, Patna,

The General Manager, Metro Railway, Calcutta.

The OSD/RCF (Kapurthala) FMC Chowk, Mahay Market, Jalandhar.

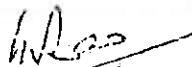
Sub: Procedure for imposition of penalties under Rule  
14(ii) of the Railway Servants (Discipline & Appeal)  
Rules, 1966.

Reference Railway Board's letter of even no. dated 6.10.88  
on the above subject.

2. In situations where Rule 14(ii) is used to deal with elements who are involved in serious agitations/cases of assault on senior supervisors or officers or involved in incidents where there is apprehension of violence or actual violence, there must be witnesses to the happenings. These witnesses would be reluctant to depose before an Enquiry Officer about what they had witnessed or heard. This reluctance would naturally be because of fear or threat of violence against themselves and/or their family members. Reluctance of the witnesses to depose before the Enquiry Officer in such cases is one of the main reasons for invoking Rule 14(ii). The same fear or threat would persist even later, if a formal enquiry is attempted to be held at the stage of consideration of appeal or revision against the penalties imposed under Rule 14(ii).

3. In aforesaid cases, written and signed statements must invariably be obtained from the concerned witnesses indicating their knowledge of the serious delinquency on the part of the persons taken up under Rule 14(ii), why the witnesses are not in a position to depose if disciplinary enquiry is held, i.e. for fear of physical injury to themselves or their families and also why it is not possible for them to depose even at a later stage as the fear or threat would not dissipate merely because of passage of time and/or the situation returning to normal.

Please acknowledge receipt.

  
(V.K. RAO)  
JOINT DIRECTOR ESTT. (D&A)  
RAILWAY BOARD





277 100 3000  
GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No.E(D&A)87 RG6-151

New Delhi, dated 10th Nov.1989

The General Managers,  
All Indian Railways including CLW, DLW, ICF & W&AP.

The General Manager (Construction),

(i) Southern Railway, Bangalore

(ii) Northeast Frontier Railway, Guwahati,

The Director General, RDSO, Lucknow.

The CAO, Indian Railways, DCW, Patiala.

The CAO/MTP(R), Bombay, Delhi, Madras.

The Principal, Railway Staff College, Vadodara.

Directors

Indian Rly. Instt. of Civil Engg., Pune

Indian Rly. Instt. of Mech. & Elect. Engg. Jamalpur.

Indian Rly. Instt. of Signal Engg. & Telecommunication, Secunderabad.

Indian Rly. Instt. of Elect. Engg., Nasik.

The Addl. G.M., Railway Electrification, Allahabad.

The Secretary, Railway Rates Tribunal, Madras.

The Railway Liaison Officer, New Delhi.

The Managing Director, RPFES & IRCON, New Delhi.

The Director, Rail Movement, Calcutta.

The Joint Director (I&S), 3-Koilaghat Street, Calcutta.

The General Manager, Metro Railway, Calcutta.

The CAO, COFMOW, Tilak Bridge, New Delhi.

The General Secretary, IRCA, New Delhi.

The CAO, COFOIS, Delhi Safdarjung Rly. Stn. Chanakyapuri, N. Delhi.

The General Manager/RCF (Kapurthala) Hussain Pur, Punjab.

Sub: Rule 10 of the Railway Servants (Discipline & Appeal) Rules, 1968 - Supply of copy of the Inquiry Report to the charged Railway servant before final orders are passed by the Disciplinary Authority.

.....

The question as to whether in cases where the disciplinary authority itself is not the Inquiry Officer, a copy of the Inquiry Report should be furnished to the charged Railway servant to enable him to make his submissions, if any, in regard to the findings of the Inquiry Officer before the disciplinary authority passes its final orders has been examined. The Constitutional requirements laid down in Article 311(2) of the Constitution of India and the provisions of Rules 10 and 12 of the Railway Servants (Discipline & Appeal) Rules 1968

and rulings of various benches of the Central Administrative Tribunal and of various Courts on the matter have been kept in view.

2. A Full Bench of the Central Administrative Tribunal in the case of Shri Prem Nath K. Sharma, an ex-employee of the Western Ry., had held that to fulfill the Constitutional requirement of affording a reasonable opportunity, it is necessary that in all cases, where the disciplinary authority is itself not the Inquiry authority, a copy of the Inquiry Report should be furnished to the charged Railway servant to enable him to make his submissions in regard to the findings of the Inquiry Officer, before the disciplinary authority passes its order imposing the penalty. Although the Special Leave Petition filed by the Railway administration against the aforesaid judgement in the case of Shri Prem Nath K. Sharma has been admitted for hearing and a stay Order has been granted by the Supreme Court against its operation, certain Benches of the Tribunal continue to follow the ratio laid down by the Full Bench in the case of Shri Prem Nath K. Sharma. In certain instances, the SLPs filed by the concerned Govt. Departments in some of the subsequent cases have not been admitted by the Supreme Court. In another similar case of Shri B. Bhashyam Vs. Department of Atomic Energy, the Supreme Court had expressed a view in favour of the principle laid down by the Tribunal in the case of Shri Prem Nath K. Sharma, but in view of the importance of the matter, they had not given a final decision and directed that the matter may be placed before a larger Bench of the Supreme Court. Final verdict of the Supreme Court is awaited.

3. In the light of the aforesaid position, the matter has been examined in consultation with the DOP and the Deptt. of Legal Affairs and it has been decided that in all cases, where an inquiry has been held, in accordance with the provisions of Rule 9 of the RS(D&A) Rules, 1968, the disciplinary authority, if it is different from the Inquiry authority shall, before making a final order in the case, forward a copy of the Inquiry report to the charged Railway servant concerned, with the following endorsement :-


"The report of the Inquiry Officer is enclosed. The disciplinary authority will take suitable decision after considering the report. If you wish to make any representation or submission, you may do so in writing to the disciplinary authority within 15 days of receipt of this letter".

3.1 In cases where the disciplinary authority proposes to disagree with the findings of the Inquiry Officer, it would not be necessary for the disciplinary authority to come to any tentative conclusion about its findings before forwarding a copy of the Inquiry Report. After giving an opportunity of representation to the charged Railway servant against the findings of the Inquiry Officer, the reasons for disagreement with the findings of the Inquiry Officer can be communicated in the final order of punishment. In such cases, the punished Railway servant can appropriately challenge the conclusions of the disciplinary authority through an appeal.

4. The instructions in the preceding two paragraphs will operate prospectively from the date of issue of this letter and accordingly will apply only in cases, where the disciplinary authority is yet to pass such orders. Past cases need not be re-opened for consideration. It may be noted that these instructions shall be reviewed after final decision of the Supreme Court in the matter.

5. The above instructions may be immediately brought to the notice of all concerned for compliance. In past cases decided before the issue of this letter, where such a procedure has not been followed and the Central Administrative Tribunal sets aside the order of punishment on the basis of the ratio laid down by the Full Bench in the case of Shri Prem Nath K. Sharma or if the Tribunal directs that de novo action may be taken to supply copy of the Inquiry Report to the charged Railway servant before final orders are passed, appropriate SLP in the Supreme Court must invariably be filed. The SLPs on this issue which are pending before the Supreme Court should continue to be pursued for having an early hearing and an authoritative ruling on the matter.

Please acknowledge receipt. Hindi version will follow.



(V.K. Rao)

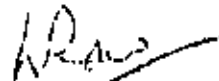
Joint Director Estt. (D&A)  
Railway Board

Copy to :-

MEM-I, MEM-II, MEM-D, MEM-V, Security-E & Vigilance-I  
Branches of the Railway Board's Office.

2. In cases where the President is the competent authority and consultation with the Union Public Service Commission is necessary, the competent authority may come to a tentative conclusion about the guilt of the charged Railway servant only after receipt of the submission, if any, made by him with reference to the Inquiry Report. Only thereafter a reference may be made to the UPSC. This position would be applicable only in future cases, where MOS(R) has not already taken tentative decision on the enquiry report.

3. In respect of those cases where the matter had already been referred to the UPSC before issue of this letter, the DOP have already advised the Commission that it is not necessary to return the papers to the Railway Board's Office merely for complying with the requirement of supply of the Inquiry Report to the charged Railway servant. This can be done separately by the competent authority, who may send a copy of the Inquiry Report to the charged Railway servant. The representation, if any, received within 15 days of receipt of the Inquiry Report by the charged Railway servant will be merely forwarded to the UPSC for tendering their advice. Similar procedure may be followed in cases where MOS(R) has already taken tentative decision on the enquiry report and the case has yet to be referred to UPSC.



(V.K. Rao)

Joint Director Establishment (LGA)  
Railway Board

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(Railway Board)

Confidential

E(L&A)90 RG6-18

NEW DELHI, dated 9.2.90

The General Managers,  
All Indian Railways and Production Units.

**Sub : Model Time Schedule for finalisation of  
disciplinary cases.**

Certain judgements of the Central Administrative Tribunal have come to notice wherein the Tribunal has quashed disciplinary action against railway employees on the ground that the concerned Railway Administration failed to complete the disciplinary action within a certain time schedule.

Your attention in this connection is invited to the Board's circular letter no. E(L&A)69 RG6-17 dated 8.1.1971, wherein a "model" time schedule of 202 days was laid down for finalisation of disciplinary proceedings. This period was subsequently reduced to 150 days in terms of EDE, Railway Board's letter no. E(L&A)86 RC -41 dated 3.4.86 following deletion of the provisions relating to issue of show cause notice etc. A detailed perusal of the circular dated 8.1.71 will reveal that it was never the Board's intention that the schedule should be made a mandatory schedule. The emphasis has always been on the fact that the suggested schedule is only a "model" one. This is also clear from the provisions of para 1325 of the Indian Railway Vigilance Manual, 1980 which states that in SPE/vigilance cases, where the Railway Administration does not find it practicable to adhere to this target rigidly, steps should be taken to minimise, as far as possible, the additional time likely to be taken over and above the target period.

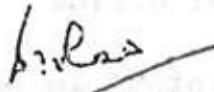
In the context in which the CATs are now apparently interpreting the aforesaid circular, whenever any such CAT's cases come to your notice, the Railway advocates may be adequately briefed and they may be asked to point out to the CAT that the schedule is not a mandatory schedule but that it is only a "model" which may not be possible to follow in each and every case as each disciplinary case has its own characteristics.



It may also be brought to the notice of the CATs that in terms of instructions which were circulated under this Ministry's letter no. E(L&A)87 RG6-151 dated 10.11.80, it is now necessary to give a copy of the inquiry report to the charged railway servant to enable him to represent against the findings of the Inquiry Officer, before a decision is taken on the penalty to be imposed. This additional process will increase the time taken for finalisation of the disciplinary proceedings by atleast 2 months. In addition, there are a large number of cases in which action is taken under Rule 2308 of the Indian Railway Establishment Code Volume II, under residential powers, with a view to making a cut in the pensionary benefits of a retired railway servant. These cases have to be referred to the UPSC for their advice. The UPSC, in a number of cases where CATs have laid down time limits for finalisation of such proceedings, have stated unequivocally that departmental proceedings against a Government servant are quasi judicial in nature and they have to consider each case carefully, not only on merits but also with regard to procedures followed, before tendering their advice. It is not, therefore possible for the Commission to adhere strictly to any time limits that may be laid down by CATs for tendering their advice in such matters. The Commission have advised that on an average it takes them five to six months from the date of receipt of the case in their office till date of communication of the advice and that it would not be possible for the Commission to convey their advice earlier than this, although Commission have agreed to expedite matters to the extent,

5. All the above aspects may please be borne in mind.  
6. In dealing with cases of this nature.

Please acknowledge receipt.



(V.K. Rao)  
Joint Director Estt. (D&A)  
Railway Board

Copy to E(O)I, E(RB)I, E(RB)D, E(RB)V, Sec(E) and Vig.I  
Branches.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

~~RBI/200/150~~

No.E(D&A)90 RG6-34

NEW DELHI, dated 18.4.90

The General Managers,  
All Indian Railways including CLW, DLW, ICF & W&P  
The General Manager (Constn.),  
(i) Southern Railway, Bangalore,  
(ii) N.F. Railway, Guwahati.  
The Director General, RDSO, Lucknow.  
The CAO, Indian Railways, DCW, Nabha Road, Patiala - 147001.  
The CAO, MTP(Rlys) - Bombay, Delhi and Madras.  
The Principal, Railway Staff College, Vadodara - 390004.  
The Directors,  
(i) Indian Railway Institute of Civil Engg., Pune 411001.  
(ii) Indian Railway Institute of Mech & Elect Engg., Jamalpur.  
(iii) Indian Railway Institute of Signal Engg & Telecom,  
Secunderabad 500017.  
(iv) Indian Instt. of Elect. Engg. Nasik.  
The Chairman, Railway Recruitment Board,  
Allahabad, Bombay, Madras, Calcutta, Guwahati, Bangalore  
Muzaffarpur, Jammu, Secunderabad, Ajmer, Ahmedabad,  
Chandigarh, Bhopal, Bhubneshwar, Malda, Patna,  
Trivandrum, Ranchi and Gorakhpur.  
The Addl. General Manager, Railway Electrification, Allahabad.  
The Secretary, Railway Rates Tribunal, 3-Victoria Crescent  
Road, Egmore, Madras - 600105.  
The Railway Liaison Officer, Jeevan Tara Building, Parliament  
Street, New Delhi 110 001.  
The Managing Director,  
(i) RITES, New Delhi House, Barakhamba Road, New Delhi 110001.  
(ii) IRCON, Palika Bhuvan, R.K. Puram, New Delhi 110022.  
The Director, Rail Movement, C/o. The G.M. Eastern Railway,  
Netaji Subhash Marg, Calcutta-700001.  
The Joint Director (Iron & Steel), 3-Koilaghat Street, Calcutta  
The CAO, COFMOW, Tilak Bridge, New Delhi 110 002.  
The General Secretary, Rail Coach Factory (Kapurthala) Hussainpur  
The General Manager, Metro Railway, 33/1, Chowringhee Road,  
Calcutta 700 071.  
The General Secretary, IRCA, Chelmsford Road, New Delhi - 55

Sub:- Disciplinary procedure to be followed in cases  
of unauthorised absence from duty/headquarters  
or cases of absconding.

.....  
In Board's letter No.E(D&A)83 RG6-47 dated 30.8.84,





It was clarified, on the basis of interpretation of sub-rules (7) and (23) of Rule 9 of the RS(L&A)/1968, that in cases of unauthorised absence from duty/headquarters or cases of absconding, if the charge memorandum sent to all available addresses are returned undelivered, recourse should be had to the provisions of Rule 14(ii) of the RS(L&A) Rules, 1968. These guidelines were issued after consultation with Department of Personnel.

2. The above mentioned guidelines have been reviewed in consultation with the Deptt. of Personnel in the light of certain recent pronouncements by the Central Administrative Tribunal and also in the light of the observation made by the Supreme Court in Tulsiram Patel's case.

3. As mentioned in item (b) of para 3 (ii) of Legal Adviser's note, enclosed with Railway Board's letter no. E(D&A)85 RG6-72 dated 6.2.86, the Supreme Court had made the following observations :-

" It will also not be reasonably practicable to afford to the civil servant an opportunity of a hearing or further hearing, as the case may be, when at the commencement of the inquiry or pending it, the civil servant absconds and cannot be served or will not participate in the inquiry. In such cases, the matter must proceed ex-parte and on the materials before the disciplinary authority. "

4. It is now clarified that the provisions of Rule 14(ii) of the RS(L&A) Rules may not be resorted to where it becomes necessary to proceed in an ex-parte manner against charged Railway servants who are absconding or are on unauthorised absence and the charge-sheets are returned undelivered. In such cases, while conducting the ex-parte proceedings, the entire gamut of the enquiry has to be gone through. The notices of all hearings must be served on the Charged officer or communicated to him. The notices to witnesses should be sent, the documentary evidences should be produced and marked, the Presenting Officer if one is appointed should examine the prosecution witnesses and the inquiring authority may put such questions to the witnesses as it thinks to be fit. The enquiring authority should record the reasons why he is proceeding ex-parte and what steps he had taken to ask the accused official to take part in the enquiry and avail of all the opportunities available under the provisions of Rule 14 of the RS(L&A) Rules. In such a case, the details of what has transpired in his absence, including depositions, should be furnished to the accused officer. During the course of enquiry, the accused is free to put in appearance and participate in the inquiry. If the accused appears in the enquiry when some business has already been transacted, it is not necessary to transact the same business again unless the accused official is able to give justification to the satisfaction of the Inquiry Officer for not participating in the enquiry earlier. The competent disciplinary authority may

thereafter proceed to pass final orders after following the prescribed procedures.

5. In view of the fresh clarification given in this letter, the Board's letter no. B(L&M)85 RG6-47 dated 30.8.84 may please be treated as cancelled.

Please acknowledge receipt.



(V.K. Rao)  
Joint Director Estt. (L&M)  
Railway Board

Copy to:

1. All Branches in Establishment and Management Services Directorates, Railway Board.
2. E(O)-I, III, ERB-I, II, III, (D), V, VI-1, II, III, IV, (C), Sec(E) Branches, Railway Board.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

Confidential

No.E(D&A)90 RG6-123

New Delhi, dated 9 Nov. '90

The General Managers (P),  
All Indian Railways including CLW, DLW, ICF & W&AP

Sub :- Procedure to be followed in cases where the disciplinary authority of a railway servant facing DAR is himself involved in the same case.

A case has recently come to notice on one of the Railways in which a Gangman was taken up for major penalty proceedings. The service of the chargesheet and issue of orders appointing Inquiry Officer/Presenting Officer were done by the Disciplinary Authority of the Gangman i.e. AEN concerned. The AEN who initiated disciplinary proceedings against the Gangman was, however, himself involved in the same case and was also facing major penalty proceedings. It was therefore not appropriate on his part to have initiated the disciplinary proceedings against his subordinate.

2. It is desired that in cases of this nature, whenever it is noticed that the Disciplinary authority of a Railway Servant is himself involved in the same case, he should not act as the Disciplinary Authority for the Railway servant concerned, but the matter should be dealt with at all stages by the next higher authority in the hierarchy. Thus, in the case in question where the AEN and the Gangman were involved in the same case, disciplinary proceedings against the Gangman should have been initiated and processed by the authority next higher to the AEN i.e. DEN or the Sr. DEN, as the case may be.

3. These instructions may be brought to the notice of all concerned for strict compliance.

Please acknowledge receipt.

*V.K. Rao*

(V.K. Rao)  
Joint Director Estt. (D&A)  
Railway Board

Copy to :-

E(O)I (with 3 spares), ERB-I, ERB-V, ERB-Desk, Security-(E)  
and Vigilance I (with 20 spares), Branches of Board's Office.

*(-3) to JDE (D&A)*



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

R.B.E. NO. 31/92

NO.E(D&A)91RG6-122.

New Delhi, dated 21.2.92

The General Manager (P),  
All Indian Railways, etc.  
(As per standard List I & II).

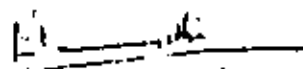
Sub: Need for issuing "Reasoned" and  
"Speaking" orders by Disciplinary/  
Appellate Authority in Discipline  
and Appeal cases.

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Extracts from a judgement dated 19.07.1991 of  
CAT/Allahabad Bench in O.A. No.965 of 1987 filed by  
Brij Bhan Sharma is enclosed. The CAT have observed  
therein that in a large number of cases, Railway  
authorities are repeatedly disregarding the requirement  
of recording the "reasons" while imposing the punishment  
or passing the appellate order.

2. Your attention is invited in this connection to  
Railway Board's letters No.E(D&A)78RG6-11 dated 03.03.1978,  
No.E(D&A)86RG6-1 dated 20.01.1986 and No.E(D&A)86RG6-4  
dated 05.08.1988 in which the need for disciplinary/  
appellate authorities to issue self-contained "speaking"  
and "reasoned" orders was impressed upon. In view of  
CAT's observations, it is requested that the Board's  
instructions in the matter may be reiterated to all  
concerned. In addition, during the periodic lectures  
as envisaged in Adviser (Staff)'s D.O. letter No.E(D&A)  
91RG6-110 dated 13.12.1991, the imperative need for  
application of mind and passing reasoned speaking  
orders by the Disciplinary and Appellate and Revisionary  
authorities should be stressed.

3. Please acknowledge receipt.

  
(Elias Kullu)  
Joint Director, Estt. (D&A)  
Railway Board

D.A.: CAT/ALD  
Judgement dated 19.07.1991.





GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

R.B.E. NO. 53/92.

NO.E(D&A)92RG6-48.

New Delhi, dated 06.04.92.

The General Managers (P),  
All Indian Railways, etc.  
(As per Standard List I & II)

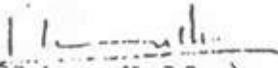
Sub: Imposition of penalties under Rule  
14(11) of Railway Servants  
(Discipline & Appeal Rules 1968).

Attention is invited to Board's letter No.E(D&A) 85RG6-72 dated 06.02.1986 and 16.C5.1986 and No.E(D&A)86 RG6-74 dated 13.04.1989 on the above subject. It was advised in these letters that in terms of the principles laid down by the Supreme Court the Disciplinary Authority was not expected to dispense with the disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case is weak and therefore bound to fail and that recording in writing the reasons for dispensing with the inquiry was a constitutional obligation. It was also mentioned that the circumstances which make the disciplinary authority conclude that it was not reasonably practicable to hold the inquiry should actually subsist at the time when the conclusion is arrived at and that it would not be correct on the part of the disciplinary authority to anticipate such circumstances as those are likely to arise. Merely recording that if normal procedure is followed it is likely that evidence may be destroyed or witnesses may not come up to give evidence on account of fear of threat/harassment etc. would not be adequate for dispensing with the inquiry.

2. In this connection, extracts from the judgement dated 27.11.1990 of the Supreme Court in the case of Jaswant Singh Vs. State of Punjab (AIR 1991 SC 385) are given in the Annexure. Accordingly it is essential that the reasons recorded by the Disciplinary Authority for dispensing with the inquiry are supported by objective facts and/or independent material.

3. Since the decision of the Disciplinary authority to dispense with inquiry is challengeable in a Court of Law, including the CAT, all disciplinary authorities may be asked to bear in mind the above mentioned guidelines while applying Rule 14(11) of Railway Servants (Discipline & Appeal) Rules.

D.A.: One.

  
-(Elias Kullu)  
Joint Director, Estt. (D&A)  
Railway Board



5. The impugned order of April 7, 1981 itself contains the reasons for dispensing with the inquiry contemplated by Article 311(2) of the Constitution. Paragraph 3 of the said order, which we have extracted earlier, gives two reasons in support of the satisfaction that it was not reasonably practicable to hold a departmental enquiry against the appellant. These are (i) the appellant has thrown threats that he with the help of other police employees will not allow holding of any departmental enquiry against him and (ii) he and his associates will not hesitate to cause physical injury to the witnesses as well as the enquiry officer. Now as stated earlier after the two Revision Applications were allowed on October 13, 1980, the appellant had rejoined service as Head Constable on March 5, 1981 but he was immediately placed under suspension. Thereafter, two show cause notices dated April 4, 1981 were issued against him calling upon him to reply thereto within 10 days after the receipt thereof. Before the service of these notices the incident of alleged attempt to commit suicide took place on the morning of April 6, 1981 at about 11.00 a.m. In that incident the appellant sustained an injury on his right arm with a knife. He was in hospital the two show cause notices were served on him at about 10.00 p.m. on April 6, 1981. Before the appellant could reply to the said show cause notices the third respondent passed the impugned order on the very next day i.e. April 7, 1981. Now the earlier departmental enquiries were duly conducted against the appellant and there is no allegation that the department had found any difficulty in examining witnesses in the said inquiries. After the Revision Applications were allowed the show cause notices were issued and 10 days time was given to the appellant to put in his replies thereto. We, therefore, enquired from the learned counsel for the respondents to point out what impelled respondent No.3 to take a decision that it was necessary to forthwith terminate the services of the appellant without holding an inquiry as required by Article 311(2). The learned counsel for the respondents could only point out clause (iv)(a) of sub-para 29(A) of the counter which reads as under:

" The order dated 7.4.81 was passed as the petitioner's activities were objectionable. He was instigating his fellow police officials to cause indiscipline, show insubordination and exhibit disloyalty, spreading discontentment and hatred, etc. and his retention in service was adjudged harmful."

This is no more than a mere reproduction of paragraph 3 of the impugned order. Our attention was not directed to any material existing on the date of the impugned order in support of the allegation contained in paragraph 3 thereof that the appellant had thrown threats that he and his companions will not allow holding of any departmental enquiry against him and that they would not hesitate to cause physical injury to the witnesses as well as the enquiry officer if any such attempt was made. It was incumbent on the respondents to disclose to the Court the material in existence at the date of the passing of the impugned order in support of the subjective satisfaction recorded by respondent No.3 in the impugned order. Clause (b) of the second proviso to Article 311(2) can be invoked when the authority is satisfied from the material placed before him that it is not reasonably practicable to hold a departmental enquiry. This is clear from the following observation at p.270 (of 1985 (Supp) 2 SCR 131): (at 1479 of AIR 1985 SC 1416) of Tulsī Ram's case:

"A disciplinary authority is not expected to dispense with a disciplinary authority lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and must fail."

The decision to dispense with the departmental enquiry cannot therefore be rested solely on the ipse dixit of the concerned authority. When the satisfaction of the concerned authority is questioned in a Court of law, it is incumbent on those who support the order to show that the satisfaction is based on certain objective facts and is not the outcome of the whim or caprice of the concerned officer. In the counter filed by the third respondent it is contended that the appellant, instead of replying to the show cause notices, instigated his fellow police officials to disobey the superiors. It is also said that he threw threats to beat up the witnesses and the inquiry officer if any departmental inquiry was held against him. No particulars are given. Besides it is difficult to understand how he could have given threats, etc., when he was in hospital. It is not shown on what material the third respondent came to the conclusion that the appellant had thrown threats as alleged in paragraph 3 of the impugned order. On a close scrutiny of the impugned order it seems that the satisfaction was based on the ground that he was instigating his colleagues and was holding meetings

: 3 :

other police officials with a view to spreading  
and dissatisfaction towards his superiors. This  
information is based on his alleged activities at Jullundur.  
On April 3, 1981 reported by SHO/GRP, Jullundur. That  
fact is not forthcoming. It is no one's contention  
that the said SHO was threatened. The third respondent's  
statement also does not reveal if he had verified the  
correctness of the information. To put it tersely the  
subjective satisfaction recorded in paragraph 3 of the  
impugned order is not fortified by any independent  
material to justify the dispensing with the inquiry  
prescribed by Article 311(2) of the Constitution. We are,  
therefore, of the opinion that on this short ground alone  
the impugned order cannot be sustained.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

R.B.E. No. 171/93

No. E(D&A) 93RG6-83

New Delhi, dated 1.12.1993

The General Manager (P),  
All Indian Railways etc.

Sub: Issuing fresh charge Memorandum after  
cancellation/withdrawal of original  
charge Memorandum or after dropping  
disciplinary proceedings.

...

It has come to the notice of the Railway Board that on one of the Zonal Railways, the Memorandum of charges issued to an employee was withdrawn by the disciplinary authority with the intention of issuing fresh detailed charge Memorandum. However, while withdrawing the chargesheet, no reasons therefor were given and it was only stated that the charge sheet was being withdrawn. The issue of a fresh charge/subsequently was challenged by the employee before CAT/Bombay. The Central Administrative Tribunal on hearing the case have quashed the said charge Memorandum holding that unless there is a power in the disciplinary authority by virtue of the rules or administrative instructions to give another chargesheet on the same facts after withdrawing the first one, the second chargesheet will be entirely without authority.

2. The matter has been examined and it is clarified that once the proceedings initiated under Rule 9 or rule 11 of RS(D&A) Rules, 1968 are dropped, the disciplinary authorities would be debarred from initiating fresh proceedings against the delinquent officers unless the reasons for cancellation of the original charge Memorandum or for dropping the proceedings are appropriately mentioned and it is duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. It is, therefore, necessary that when the intention is to issue a fresh chargesheet subsequently, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such an action indicating the intention of issuing chargesheet afresh appropriate to the nature of the charges.

Please acknowledge receipt.



( A.V.M. Kobby )  
Deputy Director, ESTI. (IWA)  
Railway Board.

Copy to :

1. J(O)I, ERB-I, ERB-D, ERB-V, Sec. (E) and Vig. I Branches of Railway Board.
2. DS(E) II, DDE(R) - II, DDE(R) I, DS(E), Railway Board.





GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

CONFIDENTIAL

No.E(DCA)93 RG6-65

New Delhi, dated 6.6.1994

The General Manager (P),  
All Indian Railways etc.  
(as in Standard List I & II)

Sub : Action to be taken in cases where  
Government servants are convicted by  
Criminal Courts.

In Board's Confidential letter No.E(DCA)76RG6-4 dated 4.3.1976, it was clarified that the disciplinary authority may, if it comes to the conclusion that an order, with a view to imposing a penalty on a railway servant on the ground of conduct which has led to his conviction on a criminal charge, should be issued, issue such an order without waiting for the period of filing an appeal or, if an appeal has been filed, without waiting for the decision in the first court of appeal.

2. Doubts have been expressed whether disciplinary action against a Government servant could be taken if there is -

- (i) a stay of the sentence awarded to the Government servant, or
- (ii) a stay of the conviction of the public servant, in cases where he has gone in appeal and challenged the conviction.

The matter has been considered by the Department of Personnel and Training in consultation with the Ministry of Law and the Central Vigilance Commission and the position as clarified by DOP&T, vide their C.R.No.371/25/92-IVD.III dated 4.3.1994 is as follows.

3. Legally speaking, when a person is convicted by a Criminal Court, the same shall remain in force until and unless it is reversed or set aside by a competent court in appeal. The mere filing of an appeal and/or stay of the execution of the sentence do not take away the effect of conviction, unless the appeal is allowed and the conviction is set aside by the appellate court. In the case of Om Prakash Varung Vs. Union of India and Ors.(1990) 12 ATC 365, the full bench of CAT held

that during pendency of appeal in a criminal case, only the sentence is suspended and not the conviction itself. In view of this, the competent disciplinary authority may proceed with the institution/completion of disciplinary proceedings, including imposition of the penalty as prescribed in the relevant disciplinary rules, on the basis of conviction imposed on a public servant by a criminal court, notwithstanding the fact that a higher court on an appeal filed by the public servant concerned, may order suspension of the "sentence" passed by the trial court till the final disposal of the appeal.

4. The above clarification may be brought to the notice of all the disciplinary authorities for their guidance.

*V. Vaidoni*

( V. VAIDONI )

Deputy Director Establishment(DCA)  
Railway Board.

No.B(DCA)93 RCB-65

New Delhi, dated 0.6.1994

Copy to :- The Department of Personnel and Training,  
(C.P.Singh, Deputy Secretary), North Block,  
New Delhi.

*V. Vaidoni*

( V. VAIDONI )

Deputy Director Establishment(DCA)  
Railway Board.

Copy to :- (1) A(O)I, ERB-I, ERB-D, ERB-V, Sec(B) and  
Vig-I Branches of Railway Board.

(2) JDE(DCA), LDE(DCA) Railway Board.



NO.E(D&A)94/RG 6-11

R.B.E.No. 68/94

New Delhi, dated 31.8.94

The General Manager,  
All Railways.

Sub: Revision under Rule 25 of Railway Servants (D&A) Rules

Attention is invited to Board's letter No.E(D&A)79/RG6-40 dated 18.8.81 & 19.3.1982, under which it was clarified that Rule 25 envisages revision by any of the specified authorities only once and does not provide for further revisions, either of the original order or of the order made on revision.

2. Board would, like to clarify that while further revision under Rule 25 is not possible, Rule 18 of D&A Rules provides for Appeal against the revisionary orders in the following types of cases:

- (i) If, as a result of suo-moto revision, the revising authority imposes any of the penalties under Rule 6 where no penalty had earlier been imposed, further appeal will lie to the authority to which the revising authority is immediately subordinate, in terms of Rule 18(ii) read with Rule 19 (1) (i).
- (ii) If the revising authority enhances the penalty already imposed further appeal will lie to the next higher authority under Rule 18(iii) and 19(1) (ii).

3. It is, therefore, clear from Rules 18 & 25 that while revision is provided for only once by any one of the specified authorities, Appeals are provided for whenever there is imposition of a penalty where no penalty exists or where penalty already imposed is enhanced.

This is in partial modification of the clarification contained in d.o. letter No.E(D&A)81 RG6-5 dated 17.11.81 from DE/Railway Board addressed to CPO/Western Railway and copies to CPOs of other Railways. (This disposes off Western Rly's letter E/DAR/308/43/4/267 dated 3.5.1.94.).

*V. Vaidehi*

( V. VAIDEHI )  
Deputy Director Estt. (D&A)  
Railway Board.



GOVERNMENT OF INDIA  
Ministry Of Railways  
(Railway Board)

R.R.F.No. 54/95

No.E(D&A) 95 RG 6-4

New Delhi, dated 7.6.95

The General Manager,  
All Indian Railways etc.,  
(As per list I & II).

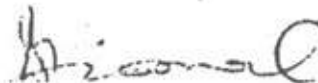
Sub: Review of decision taken in departmental proceedings on acquittal of a railway servant in a court on the same charges.

Arising out of a demand made by AIRF in the PNM meeting the question whether a decision taken in departmental proceedings need to be reviewed following acquittal of the railway servant by a Court in a criminal case on the same charges has been examined.

2. It is clarified that there is no legal bar to the initiation of departmental disciplinary action where criminal prosecution is already in progress and generally there should be no apprehension of the outcome of the one affecting the other, because the ingredients of delinquency/misconduct in criminal prosecution and departmental cases, as well as the standards of proof required in both cases are not identical. Thus, the departmental and criminal proceedings can be initiated simultaneously against the delinquent employee and the disciplinary proceedings can also be continued and concluded without waiting for the conclusion of criminal case against the employee on the same charges.

1. However, if the facts, circumstances and the charges in the Departmental proceedings are exactly identical to those in the criminal case and the employee is exonerated/acquitted in the criminal case on merit (without benefit of doubt or on technical grounds), then the departmental case may be reviewed if the employee concerned makes a representation in this regard.

Please acknowledge receipt.



( K. BISWAL )  
Joint Director Estt.(D&A)  
Railway Board.

Copy to:

1. DDE(R)II (for E(G) Branch).
2. ERB-I, ERB-D, ERB-V, E(O)I and Sec(E) Branches of Board's office.
3. E(LR)I Branch (60 copies) with reference to DDE(LR)I's note No.E(LR)I/95/NM1-4 dated 9.5.95.
4. The General Secretary, AIRF (40 copies).



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

RBE NO: 33/96

No.E(D&A)87 RG 6-151

4.4.1996

The General Manager (P),  
All Indian Railways etc.  
(As per standard list).

Sub: Rule 10 of Railway Servant (Discipline & Appeal) Rules, 1968 - Supply of copy of the Inquiry Report to the charged railway servant before final orders are passed by the disciplinary authority.

Attention is invited to Board's letter of even No. dated 10.11.1989 on the above subject, wherein it had been prescribed that in all cases, where an inquiry has been held in accordance with the provisions of Rule 9 of Railway Servants (Discipline & Appeal) Rules, 1968, the disciplinary authority, if it is different from the Inquiring authority shall, before making a final order in the case, forward a copy of the Inquiry report to the railway servant concerned, requiring him to submit, within 15 days, his representation if any, on the report of the inquiry authority.

2. It was also prescribed that in cases where the disciplinary authority proposes to disagree with the findings of the Inquiry Officer, it would not be necessary for the disciplinary authority to come to any tentative conclusions about its findings before forwarding a copy of the Inquiry report, and that, the reasons of disagreement with the findings of the Inquiry Officer may be communicated in the final order of punishment.

3. It was also stated that the said instructions would be reviewed after the final decision of the Supreme Court in the matter. The Supreme Court has since decided the matter in its judgement dated 1.10.1993 in the case of Managing Director (ECIL), Hyderabad Vs. B. Karunakar (JT 1993 (6)SC-I) and it has been held that wherever the Service Rules contemplate an inquiry before a punishment is awarded and when the inquiry officer is not the disciplinary authority, the delinquent employee will have a right to receive the Inquiry Officer's report notwithstanding the nature of the punishment.

4. The matter has been considered in consultation with the Department of Personnel and it has been decided that where an inquiry has been held, in accordance with the provisions of Rule 9 of Railway Servants (Discipline & Appeal) Rules, 1968, the disciplinary authority, before making a final order in the case, shall forward a copy of the report of the inquiry held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority to the charged railway servant, who shall be required to submit, if he so desire, his written representation or submission to the disciplinary authority within 15 days, irrespective of whether the report is favourable or not to the charged railway servant. Thus a copy of the Inquiry Report


is to be sent to the charged official irrespective of whether the inquiry is conducted by the Disciplinary Authority himself or by a nominated inquiring authority.

5. It has also been decided that where the Inquiring Authority holds a charge as not proved and the disciplinary authority takes a contrary view, the reasons for such disagreement must be communicated, in brief, to the charged officer along with the report of Inquiry so that the charged officer can make an effective representation. This procedure would require the Disciplinary Authority to first examine the report as per the laid down procedure and formulate its tentative views before forwarding the Report of Inquiry to the Charged Officer.

6. The instructions in the preceding paragraphs will operate prospectively from the date of issue of this letter and accordingly will apply only in cases where the disciplinary authority is yet to forward a copy of the Report of Inquiry to the Charged railway servant.

7. The above instructions may be immediately brought to the notice of all concerned for compliance.

8. Please acknowledge receipt.

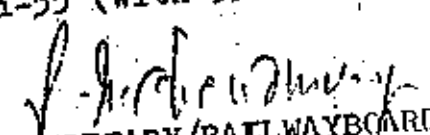
  
( K. BISWAL )  
Joint Director Estt. (D&A)  
Railway Board.

New Delhi, dated 4<sup>th</sup> 1996

No.E(D&A)87 RG 6-151

Copy to:-

1. The General Secretary, All India Railwaymen's Federation, 4, State Entry Road, New Delhi-55 (with 35 spare copies).
2. The General Secretary, National Federation of Indian Railwaymen, 3, Chelmsford Road, New Delhi-55 (with 35 spare copies).

  
for SECRETARY/RAILWAYBOARD.

Copy to:

PEs to Adv(Staff), Adv(Vig).  
EDE, DS(E)II, US(D&A)I, US(D&A)II  
JDE(D&A), DDE(D&A).

ERB-I, E(O)I, ERB(D), ERB(V), Security-E & Vigilance I  
Branches of Railway Board's office.



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

R.B.No. 02/21.

No. E(D&A) 94RG6-69

New Delhi, dated 4.8.77

The General Manager (P),  
All Indian Railways, etc.

Sub: Disciplinary powers of Divisional Safety  
Officers (DSOs) in respect of Operating Staff.

Attention is invited to Board's letter No. E(D&A) 72RG6-13 dated 16.10.73, wherein, while reiterating instructions contained in Board's letter No. E(D&A) 60 RG6-30 dated 20.7.62 to the effect that the disciplinary action should be initiated and finalised by the authorities under whose administrative control the delinquent employes may be working, the Commercial Officers were specifically excluded from exercising disciplinary powers in respect of Operating Staff like ASMs/SAs etc. These instructions tacitly permitted the Safety Officers to exercise the disciplinary powers in respect of Operating Staff since the Safety Officers also belong to the operating department, unlike Commercial Officers.

2. Arising out of discussion with AIRF in the PNM Meetings, the Board have reviewed the existing practice of Safety Officers simultaneously exercising disciplinary powers in respect of Operating Staff who are under the administrative control of Operating Managers.

3. After taking into account all the relevant aspects of this issue, including orders of the Hon'ble Supreme Court in the SLPs filed before it, Board have decided that henceforth, only Sr.DOs/DOMs will exercise disciplinary powers in respect of Operating Staff, even in matters relating to violation of safety norms. Any practice contrary to the above that may be in force on the Zonal Railways, may be discontinued forthwith.

4. Please acknowledge receipt.

*V. Valdehi*  
( V. VALDEHI )  
Deputy Director Estt. (D&A)  
Railway Board.



No. E(R&A)94RG6-69

New Delhi, dated 17.6.97

Copy to :

1. The General Secretary, A.I.R.I., 4-State Entry Road, New Delhi - 55, with reference to item No. 40/94 of PNM-AIRF Meeting.
2. The General Secretary, M.I.I.R., 3-Cholmsford Road, New Delhi - 55.
3. All Members, Departmental Council and National Council and Secretary, Staff Side, National Council, 13-C, Feroz Shah Road, New Delhi.
4. The Secretary General, Indian Railway Promoted Officers' Federation, Room No. 260, Rail Bhavan, New Delhi.
5. The Secretary General, Federation of Railway Officers' Association, Room No. 256-A, Rail Bhavan, New Delhi.

*[Handwritten Signature]*  
for SECRETARY / RAILWAY BOARD.

Copy to : ED(Safety), DIC(G), E(LR)1 Branch (with 60 copies).



22/11/98



Comp/Recd/Gen

S.No

Issue/Adm/2001 (P/L)  
Production units

भारत सरकार

रेल मंत्रालय (रेलवे बोर्ड)  
GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

G. RAMAKRISHNAN  
ADDL. MEMBER (STAFF)

D.O. NO. E (D&A) 97 R (16-Monitoring (I)) New Delhi, dated, 20.07.1998

My dear Sir, (CPOs of all Zonal Railways, Production Units, etc.)

Sub: Disciplinary cases continuing under Rule-9 of Pension Rules- cases in respect of non-gazetted staff.

It is seen from the proposals received from the Zonal Railways for imposition of a cut in the pensionary benefits of retired employees that, generally, there is considerable delay in finalisation of disciplinary cases initiated before the retirement of the charged official and continuing under the pension rules after their retirement. The proposals are generally received after a period of two to three years from the date of retirement of the charged official and in some cases the delay is of many years.

2. In cases of this type where departmental proceedings are continued under the pension rules after the retirement of the charged official, payment of DCRG is withheld in accordance with the extant rules. If the proceedings continue for unduly long periods after the retirement, this causes resentment amongst the charged officials and they tend to file applications before Tribunals for early finalisation of their case and release of DCRG. In this context, it is observed that in many cases, the Tribunals direct that the proceedings should be finalised within a specified time, which is generally not more than 3 months and in some cases there is an added direction that failure to finalise the proceedings within the specified time would result in setting aside of the entire proceedings. Since the proposals on pension cut received from the railways require a long period for finalisation and issue of orders with the sanction of the President in consultation with the UPSC, such direction received from the Tribunals force the administration to drop the proceedings even if such cases are nearing finalisation.

3. In view of the position explained above, all disciplinary cases of non-gazetted staff nearing retirement should be monitored effectively at sufficiently higher level to ensure their finalisation before the date of retirement. In a few cases where the proceedings have to be continued after the retirement, the following schedule may be adopted so that undue delay does not occur in finalising disciplinary cases after the charged official retires:

Contd. 2/

i) In case the proceedings were initiated one year prior to the date of superannuation of the charged official, special efforts should be made to finalise the case and to send a proposal for pension cut, if warranted, to Board's office at least within 3 months of the date of retirement of the charged official.

ii) In cases where the chargesheet had been issued within the last year of the service of the charged official, the case should be finalised and proposal for pension cut, if warranted, should be sent to Board's office within a period of six months from the date of retirement of the charged official.

It is expected that all out and sincere efforts would be made to adhere to the above time schedule by and large.

A review may please be undertaken in respect of already pending cases and the outcome thereof may be advised to Board.

Yours sincerely,

  
(G. RAMAKRISHNAN)

Sh. ....  
Chief Personnel Officers,  
All Zonal Railways, Production Units, etc.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

RBE NO. 123 /99

Dated: 3.6.1999

No.E(D&A)99 RG 6-6

The General Managers (P),  
All Indian Railways and  
Production Units, etc.

Sub: Offer of reappointment to dismissed-removed employees  
on consideration of their appeal/revision - regarding.

It has been observed in many cases that the Appellate/Revising Authorities on Railways have ordered reappointment as a fresh entrant of dismissed/removed employees, on consideration of their appeal/revision petition. It is advised that such a practice, wherever in vogue, should be discontinued forthwith.

It is clarified that the Appellate/Revising Authorities can only confirm, set-aside or modify a penalty on consideration of an appeal/revision and that authority cannot order reappointment of the dismissed/removed employee while disposing of the appeal/revision petition.

If the Appellate/Revising Authority, on consideration of an appeal/revision petition of a dismissed/removed Railway employee, is of the view that the reinstatement of the appellant/petitioner in Railway service (with or without a lesser penalty) is not warranted but that there is a case for offering him reappointment in Railway service as a fresh entrant, the proper course for the Appellate/Revising Authority would be to reject the appeal/revision petition and communicate its orders in this regard to the appellant/petitioner. Thereafter, the question of reappointment as a fresh entrant should be examined subject to the provisions contained in Rule 402-RI. The action of ordering reappointment, if need be, should thus be independent of the orders passed on the appeal/revision petition. The above position may be impressed upon the concerned authorities on your Railways for compliance.

Please acknowledge receipt.

V Vaidehi

( V. VAIDEHI )  
Deputy Director Estt. (D&A)  
Railway Board.

Dated: 3.6.1999.

No.E(D&A)99 RG 6-6

1. The General Secretary, AIRF, 4-State Entry Road, New Delhi-55  
(with 35 spare copies).
2. The General Secretary, NFIR, 3-Chelmsford Road, New Delhi-55  
(with 25 spare copies). This also disposes of their letter  
No. II 50 dated 19.2.99
3. All Members, Departmental Council and National Council and  
Secretary, Staff Side, National Council, 13-C, Feroz Shah  
Road, New Delhi.

4. The Secretary General, Indian Railway Promotee Officers Federation, Room No.268, Rail Bhavan, New Delhi.
5. The Secretary General, Federation of Railway Officers Association, Room No.256A, Rail Bhavan, New Delhi.
6. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110006. P.O. Box No.2032.

For SECRETARY/RAILWAY BOARD.

Copy to:-

E(O)I, ERB-1, ERB-D, ERB-V, Vigilance-1, E(Rep)-1, E(Rep) II  
E(Rep)-III, E(G) and E(P&A) Branches of Board's Office for  
information.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
No. E(D&A)93 RG6-61 (RAILWAY BOARD)

RBE No. 5/2000  
Date: 11.1.2000

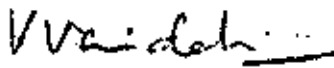
The General Manager(P),  
All Indian Railways etc.  
(As per standard list).

Sub: Revision of a disciplinary action after the  
retirement of Railway employee from Service.

Attention of the Railways is invited to item (v) of the clarifications to the RS(D&A) Rules issued under Board's letter No. E(D&A)96 RG6-22 dated 3.10.96 regarding permissibility of revision under rule 25 of RS(D&A) Rules after retirement of the railway employee. The matter has since been considered in consultation with the Department of Personnel and Ministry of Law and it has been decided that revision/review of cases already finalised before retirement of the Railway employee cannot be initiated after his retirement with a view to impose a cut in his pensionary benefits. There is however, no bar to continuing under rule 9 of RS(Pension) Rules, 1993, the revisionary proceedings initiated by way of suo moto revision provided showcause notice had been issued before retirement or where a revision petition submitted by the employee was pending on the date of his retirement from service.

Please acknowledge receipt of this letter.

(This also disposes of South Central Railway's letter No. P.90/USL/SGC/2300/97 dt: 14.9.99).

  
( V. VAIDHI )  
BY, DIRECTOR ESTABLISHMENT (D&A)  
RAILWAY BOARD.

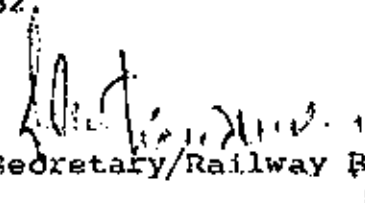
(Contd...2/-)

No. E(D&A)93/RG 6-61

dated: 11.1.2000

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi w.r.t. letter No.AIRF/44/(WR-6/96) (253) dated 23.7.99 ( with 35 spare copies )
2. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi-55 (with 35 spare copies )
3. All members, Departmental Council and National Council and Secretary, Staff Side, National Council 13-C, Feroze Shah Road, New Delhi.
4. The Secretary General, Indian Railway Promotee Officers Federation, Room No. 268, Rail Bhawan, New Delhi.
5. The Secretary General, Federation of Railway Officers Association, Room No. 256A, Rail Bhawan, New Delhi.
6. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-  
PIN: 110 006, P.O.Box. No. 2032.

  
for Secretary/Railway Board.

Copy to:

PPS to MS, AM(Staff), PS to ELE, ELE(IR), JS(E),  
ED(PR), E(O)I, ERB-1, ERB(D), ERB(V), E(REP)I,II&III,  
E(SCT)I&II, Vig-I and E(G) Branches of railway Board.

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A.S.GUPTA  
ADDL.MEMBER(STAFF)

NO: E(D&A) 97 RG 6-MONITORING(1)

Dated: 28.1.2000

My dear

(CPOs of all zones, Prod. units etc)

**Sub: Disciplinary cases continuing under Rule 9 of Pension Rules -  
Cases in respect of non-gazetted staff.**

Kindly refer to my predecessor's D.O. letter of even number dt: 20.7.98, emphasizing the need for early finalisation of disciplinary cases initiated against non-gazetted staff before their retirement and continued thereafter under Rule 9, of Pension Rules. A time limit for sending proposals for pension cut in such cases to the Board was also laid down.

2. Despite various steps taken to finalise such cases early, it is seen that considerable delay still takes place even after the proposals are sent to the Board. One of the major factors which contribute to such delays is that the proposals received from the Railways have to be sent back to the Railways, not just once but several times in almost all the cases, for want of complete papers/information relating to the case. I also find that, quite often, the papers are arranged in a haphazard manner, necessitating return of the case back to the Railways first on this account alone.

3. It is, therefore, desirable that, in future, all proposals relating to pension cut of non-gazetted staff are sent per bearer and are accompanied with the documents relating to the case, arranged in the manner indicated in Annexure-I, to facilitate effective and expeditious examination of these cases in Board's office and UPSC. A broad view with regard to the documents etc. of the case will be taken in Board's office. In case the documents etc. are not complete or there are apparent deficiencies in the case, the same will be returned alongwith the bearer, pointing out the deficiencies to be resolved and case to be sent again after doing the needful.

4. It may also be ensured that the covering letter containing the proposal specifically indicates the position in respect of the following points, wherever applicable;

- (i) Whether it is a case on which the CVC has given some advice. If so, a copy of advice should also be enclosed.
- ii) Whether an O.A. filed by the employee on the subject is pending in any CAT and whether any orders have been passed by the Tribunal, especially in regard to some time limit for finalisation of the case. A copy of such orders should also be enclosed.

Contd.

7c

iii) If there are other employees also against whom disciplinary action has been taken on same /related charges, the position of such cases including penalty imposed, if any, should be indicated.

5. A brief summary of the punishments imposed on the C.O. during his service may invariably be sent as an Annexure to the covering letter. The summary may merely list the types of penalties imposed on the C.O. and the no. of times the said penalty has been imposed.

6. The following points may also be kept in view while sending the proposals for pension cut:

- i) The documents taken on record as evidence during the inquiry have to be sent in original, as required by UPSC. Only in the rare cases where the originals are not available, authenticated copies thereof may be sent. If neither the original is available nor is it possible to produce an authenticated copy of any document, the D.A.'s views on whether the charges can be held as proved even in the absence of the said document or the extent to which the charges can be held as proved may invariably be sent since UPSC do not accept cases without the documents relied upon in the inquiry.
- ii) It is noticed that, in certain cases, the inquiry proceedings/inquiry report contain certain obvious flaws, but the same are not set right at the Railway's level before the proposal for pension cut is sent to the Board. Some of the common lacunae noticed in this respect are:-
  - a) C.O. is examined first and the PWs later without giving further opportunity for defence to the C.O. Or, PWs have been examined in the absence of C.O. (other than in an ex-parte inquiry)
  - b) If inquiry has been held ex-parte, the reasons therefor have not been brought out in the inquiry report.
  - c) Defence brief from the C.O. is obtained by the Inquiry Officer before getting the P.O.'s brief, or P.O.'s brief has been obtained but not sent to the C.O. at all, or the defence brief has been obtained from the C.O. in accordance with the rules but the inquiry report does not reflect its consideration by the Inquiry Officer.
  - d) The Inquiry Report is sketchy, either containing no analysis whatsoever of the evidence taken on record, or contains an incomplete analysis of such evidence

(Note: Such cases have to be returned by the Personnel department to the Disciplinary Authority for getting the defects removed by holding further inquiry, if necessary, and/or getting the inquiry report re-written).

Contd.

iii) In case of ex-parte inquiry, if copies of the day to day proceedings had not been sent to the C.O. by the I.O., a complete copy of the entire proceedings is to be sent by the D.A. to the C.O. alongwith the inquiry report.

7. It is expected that the Personnel Deptt. examines all cases of pension out critically with reference to the above points so that a complete and comprehensive proposal is sent to the Board for obtaining Presidential sanction. I sincerely hope that, if the above guidelines are kept in view, cases of back references would be reduced substantially and this would be a positive step towards early finalisation of such cases.

With best wishes,

Yours sincerely,

*(Signature)*  
28.1.2000  
(A.S.GUPTA)

9/c

- 1) Shri A.P. Nagrath  
Chief Personnel Officer, N. Rly. New Delhi.
- 2) " S.S. Gadbole, C.O., W. Rly. Mumbai
- 3) " R.R. Bandari, C.O., S.E. Rly. Calcutta
- 4) " T.N. Puri, C.O., C. Rly. Mumbai
- 5) " B. Bhattacharya, C.O., E. Rly. Calcutta
- 6) " P. Prasad, C.O., S. Rly. Chennai
- 7) " V.S. Singh, C.O., S. Rly. Secunderabad
- 8) " Ram. Rao, C.O., N.E. Rly. Guwahati
- 9) " V.D. Sharma, C.O., N.E. Rly. Maligaon, Guwahati
- 10) " Pankaj Kumar, C.O., W.A. Bangalore
- 11) " Siddhanta Gupta, C.O., Chh. Chh. Railway
- 12) " P.K. Gupta, C.O., B.W. Varanasi
- 13) " R.V. Pathy, C.O., P.O. Chennai
- 14) " N.P. Srivastava, C.O., C.A.R. Allahabad
- 15) " P.K. Sen, C.O., N.W. Rail, Calcutta
- 16) " L.V. Maithe, C.O., RCF, Kharakhele
- 17) " Dev Raj, C.O., B.W. Patna

**ANNEXURE****DOCUMENTS TO BE SENT ALONG WITH THE PROPOSAL FOR PENSION CUT****A. DAR file containing the documents in the following sequence.**

1. Vigilance Investigation Report with complaints, if any, Fact Finding Report etc.
2. Order of Suspension
3. Order of revocation of suspension
4. Chargesheet
5. Acknowledgement of chargesheet and reply to chargesheet.
6. Nomination of defence helper and consent of defence helper
7. Order of appointment of Inquiry Officer
8. Order of appointment of Presenting Officer, if any.
9. Notices of Inquiry
10. Daily Order sheets
11. Correspondence between D.A., C.O. and I.O.
12. Inquiry proceedings
13. P.O.'s brief
14. C.O.'s defence brief
15. Inquiry Report
16. Letter to C.O. sending Inquiry Report and Memorandum of disagreement, if any.
17. Representation of C.O. with reference to Inquiry Report.
18. Parawise comments on representation
19. D.A.'s views on the disciplinary case.
20. Views of CPO & PHOD on DA's proposal

**B. Folders**

Folder I – RUDs and Defence Documents with proper identification

Folder-II – UPSC proforma (Pension and DCRG should be with reference to V Pay Commission's recommendation and should also indicate whether pension is paid provisionally and whether DCRG has been withheld or paid)

Folder III- Service Record (Personal file not to be sent)

GOVERNMENT OF INDIA  
 MINISTRY OF RAILWAYS  
 (RAILWAY BOARD)

No. E(D&amp;A)2000 RG 6-41

21.11.2000

The General Managers(P),  
 All Indian Railways etc.,  
 (As per standard list)

Subj: Continuation of departmental proceedings against retired railway servants who were under suspension on the date of their retirement.

\*\*\*

A case has come to the notice of this Ministry where a railway servant was under suspension on the date of his retirement and chargesheet was issued to him after his retirement from service by the General Manager under Rule 9 of RS(D&A) Rules. A question has arisen whether the chargesheet in the above case should have been issued under Rule 9 of RS(D&A) Rules or Rule 9 of RS(Pension) Rules and also whether the sanction of the President was not required as the chargesheet was proposed to be issued to a retired railway servant.

2. The matter has been examined in consultation with Finance Directorate and Legal Adviser of this Ministry. Attention of the Railways in this connection is drawn to the provisions contained in sub-rule 5(a) of Rule 9 of RS(Pension) Rules, 1993. These provisions stipulate that for the purpose of Rule 9 of these rules, the departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the railway servant or period of if the railway servant has been placed under suspension from an earlier date, on such date. In other words, in respect of a railway servant who was under suspension on the date of his retirement, the departmental proceedings are deemed to be instituted on the date he was placed under suspension. Approval of the President for issue of chargesheet in such cases is therefore, not required as the departmental proceedings were already instituted before the retirement of the charged official and the charge memorandum can be issued by the Disciplinary Authority who would have issued the charge memorandum had the charged official been in service. In such cases, however, the proceedings continue under Rule 9 of Pension Rules. Since the power to continue the proceedings after retirement of the charged official is drawn from Rule 9 of Pension Rules, this fact, therefore, should also find a mention in the chargesheet issued in such cases.

3. It has, therefore, been decided that in cases where the railway servant was under suspension on the date of his retirement and the departmental proceedings are continued after his retirement from service and a charge memorandum is proposed to be issued to him in this connection, the first paragraph of the charge memorandum should read as under:

(Contd...2/-)

In terms of order No. \_\_\_\_\_ dt \_\_\_\_\_  
Sh \_\_\_\_\_ was suspended from service w.e.f. \_\_\_\_\_ while  
he was still in service. In terms of Sub-rule (2) (a) read with Sub-rule 5(a) of Rule 9 of  
Railway Services (Pension) Rules, 1993, departmental proceedings instituted before the  
retirement of Shri \_\_\_\_\_ are deemed to be proceeding under Rule 9 of  
the Railway Services (Pension) Rules, 1993.

4. The rest of the charged memorandum should be in the standard format with para 1  
renumbered as para 2 and so on, except that para 7 of the standard format should also not be  
included in these cases since this paragraph refers to conduct rules which are not applicable to  
retired railway employees.

Please acknowledge receipt.

*V. Vaidehi*

( V. Vaidehi )  
Jt. Director Estt. (D&A) II  
Railway Board

No. E(D&A)2000/RG 6-41

New Delhi, dated 21.11.2000

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi ( With 35 spare copies).
2. The General Secretary, NFER, 3 Chemsford Road, New Delhi ( With 35 spare copies).
3. All Members, Departmental Council & National Council and Secretary, Staff Side,  
National Council, 13-C, Ferozshah Road, New Delhi.
4. The Secretary General, IRPOF, Room No. 268, Railway Bhawan, New Delhi.
5. The Secretary General, FROA, Room No. 256-A, Railway Bhawan, New Delhi.
6. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O.Box, No. 2032.

*[Signature]*  
For Secretary/Railway Board

Copy to:

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Branch of Railway Board's Office.



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&amp;A)2000 RG 6-24

20.2.2001

The General Managers(P),  
All Indian Railways and Production Units etc.,  
(As per Standard List).

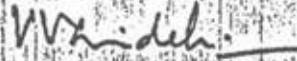
Sub: Status of the Inquiry Officer.

\*\*\*

Attention of the Railways is invited to the instructions contained in Board's letter No. E(D&A)71/RG 6-4 dated 27.2.71. It has been laid down therein that the departmental inquiry should be conducted by an officer who is sufficiently senior to the officer whose conduct is being inquired into.

2. The matter has been examined further in consultation with the DOP&T and the Ministry of Law and it is clarified that the departmental inquiry conducted by a CDI of the CVC is excluded from the scope of the above instructions. The status of a CDI of the CVC vis-à-vis the charged official is not material because he belongs to an independent organisation outside the department of the charged official and cannot therefore be suspected of having any bias in the case.

Please acknowledge receipt.



( V. Vaidehi )

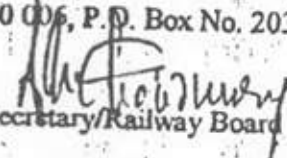
Jt. Director Establishment (D&A)II  
Railway Board

No. E(D&amp;A)2000 RG 6-24

20.2.2001

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi (with 35 spare copies)
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5. The Secretary General, FROA, Room No. 256-A, Rail Bhawan, New Delhi. (2 copies)
6. M/S Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P. O. Box No. 2032.

  
For Secretary/Railway Board

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of Railway Board's Office.





GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A)2000 RG 6-24

20.2.2001

The General Managers(P),  
All Indian Railways and Production Units etc.,  
( As per Standard List ).

Sub: Appointment of Board of Inquiry in disciplinary proceedings.

\*\*\*

As per Rule 9(2) of Railway Servants (D&A) Rules, 1968, Board of Inquiry can be appointed by the Disciplinary Authority to inquire into the charges against a Railway Servant. Rule 9(3) of the said Rules further provides that where a Board of Inquiry is appointed, it shall consist of not less than two members, each of whom shall be higher in rank than the Railway Servant against whom the inquiry is being held and none of whom shall be subordinate to the other member(s) of the Board.

2. While examining whether the Commissioner of Departmental Inquiries/Central Vigilance Commission, who are generally appointed as Inquiry Officers by the CVC in cases where CVC is consulted, can act as Inquiry Officers even if they are lower in rank to the charged official, the provisions contained in Rule 9(3), referred to in para 1 above, also came up for a comparative examination.

3. It is clarified that the appointment of a Board of Inquiry and that of a CDI/CVC as Inquiry Officer are on different footings altogether. It has already been clarified under Board's letter of even number dated 20.2.2001 (RBE No. 36/2001) that the status of a CDI of the CVC vis-à-vis the charged official is immaterial, since he belongs to an independent organisation outside the department of charged official. As regards the Board of inquiry, which is generally appointed in complicated cases involving technical aspects relating to more than one department, as in the case of railway accidents etc., the members of Board are Railway employees and hence as per the provision of Rule 9(3), the members should be higher in rank than the charged official.

4. The above position may be brought to the notice of all concerned for information and guidance.

*V. Vaidehi*

( V. Vaidehi )  
Jt. Director Establishment (D&A)II  
Railway Board

(Contd...2/-)

No. E(D&A)2000 RG 6-24

20.2.2001

Copy to:

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6. M/S Bahri Brothers, 742, Lajpat Rai Market, Delhi-110006, P.O. Box.No. 2032.

  
For Secretary/Railway Board

Copy to: E(O), ERB-I, ERB-D, ERB-V, E(Rep)I, II & III, E(SCT) I & II, Vig.-I and PR  
Branch of Railway Board's Office.

\*\*\*

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&amp;A)2000 RG 6-60

9.5.2001

The General Managers(P),  
All Indian Railways/Production Units etc.,  
(As per standard list)

Sub: Procedure to be followed in conducting departmental inquiries and the role of the Inquiry Officer regarding.

\*\*\*

A case has come to the notice of this Ministry where, while conducting the inquiry in a disciplinary case, the Inquiry Officer examined the charged official in regard to the charges during the preliminary hearing(s) itself before examination of the Prosecution Witnesses. Also, though no Presenting Officer had been appointed, the Inquiry Officer prepared a written brief himself, purported to have been prepared by the Presenting Officer, and sent a copy of the brief to the charged official under his own signature. In the inquiry report also, under the heading "Oral arguments given from the Prosecution Side", the Inquiry Officer actually gave details of the questions put by him. The general conduct of the Inquiry Officer was also not befitting his role as an impartial authority, as he subjected the charged official to a searching cross-examination. In the said case, the appeal had to be disposed of in favour of the charged official solely on account of the improper manner in which the inquiry was conducted in gross deviation of the prescribed procedure, which had vitiated the proceedings.

2. Railways are aware that the procedure for conducting departmental inquiries has been laid down in detail in Rule 9 of RS(D&A)Rules. It is evident from sub-rules(11) and (12) of Rule 9 that a preliminary hearing has to precede the regular hearings. The

(Contd...2/-)

combined effect of the above two sub-rules is that, before the regular inquiry is held, a preliminary meeting may be arranged between the parties concerned viz., the Inquiry Officer, the Charged Official and the Presenting Officer, if any, with a view to ascertain what evidence they shall be producing during the inquiry and the modalities which may be adopted to ensure expeditious disposal of the inquiry. The Inquiry Officer may also use this opportunity to inquire from the Charged Official regarding the receipt of the charge memo/listed documents etc., the nomination of defence helper by the Charged Official, the additional document(s), if any, that he requires, and also regarding his admission or denial of the charge(s), so that the time is not wasted in holding an inquiry on the admitted charge(s).

2.1 The regular inquiry involving actual presentation of the case on behalf of the disciplinary authority and the charged official will naturally commence only after the above preliminaries to the inquiry are completed. What procedure should be followed once the regular inquiry has started, has also been brought out clearly in sub-rules (17) to (22) of Rule 9. In brief, the case on behalf of the disciplinary authority shall first be presented and only then shall the charged official be called to present his defence.

2.2 The principles of natural justice demand that the charged official should not be called upon to disclose his defence before the prosecution has completed the presentation of its case. It is emphasised here that the sequence laid down in the above sub-rules should be strictly adhered to, as violation of this sequence may cause a serious flaw in the proceedings.

3. It is also emphasised here that the Inquiry Officer is not a prosecutor and therefore, it is not his duty to somehow prove the charge(s). He has been appointed to assist the disciplinary authority in taking a correct and impartial decision on the basis of the evidence on record. For this purpose, the Inquiry Officer may ask questions from the witnesses with a view to elucidating answers for a proper understanding of the facts before him. However, he

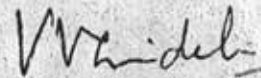


should obviously avoid searching cross examination.

3.1 The most crucial facet of the personality of the official conducting the departmental inquiry is his impartial approach, as he is performing a quasi-judicial function. His conduct must be above board so much so that he should not merely be impartial but also seen to be so, to ensure that the inquiry commands the confidence it deserves. This aspect assumes greater significance when there is no Presenting Officer. As it is not feasible to appoint Presenting Officers in majority of the inquiries, the Inquiry Officer has to examine/cross examine the witnesses including the defence witnesses to find out the truth in the charges.

4. It is desired that the position brought out in paras 2 and 3 above is brought to the notice of all concerned for their guidance and strict compliance so that the types of situation brought out in para 1 above is avoided in future.

5. Please acknowledge receipt.



( V. Vaidehi )  
Jt. Director Establishment (D&A)II  
Railway Board

(Contd...4/-)

- 1. General Secretary, IPR, 3, Sansad Bhawan Road, New Delhi (With 35 spare copies)
- 2. General Secretary, NIPR, 3, Champsford Road, New Delhi (With 35 spare copies)
- 3. All Members, Departmental Council & National Council and Secretary, Staff Side, Union Council, 3, Berozeshah Road, New Delhi (90 copies)
- 4. Secretary General, IREOR, Room No. 268, Rail Bhawan, New Delhi (copies)
- 5. The Secretary General, FROA, Room No. 256-A, Rail Bhawan, New Delhi (2 copies)
- 6. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O.Box, No. 2032

For Secretary/Railway Board

Cop / to:

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E(O)I, ERB-I, ERB-D, ERB-V, E(Rep)I, II & III, E(SCT) I & II, Vig-I, F(E)III and PR Branch of Railway Board's Office.



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A)2000 RG 6-30

16.5.2001

The General Managers(P),  
All Indian Railways and Production Units etc.,  
(As per Standard List).

Sub: Procedure for non-CVC vigilance cases pertaining to Group 'C' and Group 'D' employees.

\*\*\*

The role of Vigilance Organisation in the non-CVC disciplinary cases, which arise out of their investigations, was one of the items in the agenda of the JCM/DC meeting held with the staff side in June, 2000. Pursuant to the discussions in the meeting and after further examination of the issues raised by the staff side, Board would like to clarify/specify as under:-

- (i) Appointment of Inquiry Officer is the prerogative of the Disciplinary Authority. In majority of the cases, the Vigilance Organisation will leave the choice of Inquiry Officer completely with the Disciplinary Authority. In such a case, while appointing Inquiry Officer, Disciplinary Authority may ensure that the officer being appointed by him for conduct of Inquiry is of sound integrity and possesses adequate knowledge of rules and procedures in regard to conduct of inquiry, which is a quasi-judicial proceeding.
- (ii) However, in some cases, the Vigilance would forward a panel of Inquiry Officers, indicating the number of inquiries pending with each one of them. The Disciplinary Authority in that case may choose one out of panel and appoint him as Inquiry Officer. In cases involving more than one charged official, special care may be taken by all the concerned DAs to appoint the same inquiry officer out of the panel of I.O's sent by Vigilance.
- (iii) In terms of this Ministry's letter No. 78/V-1/CVC/1/2 dated 17.3.89, the disciplinary authority may give due regard to the advice of the Vigilance Organisation and strive to remove/reduce areas of disagreement, if any, with the Vigilance, by mutual consultation and discussion. However, if there is still a disagreement, the disciplinary authority is free to take an independent decision on the case.

(Contd...2/-)

In partial modification of the Ministry's aforesaid letter dated 17.3.89, it has been decided that if, in a case, the vigilance has recommended a major penalty and the disciplinary authority proposes to exonerate or impose a minor penalty, the disciplinary authority should first record his provisional order and then consult Vigilance Organisation once. However, if, after such consultation, the Disciplinary Authority is not in agreement with the views of Vigilance, then he/she is free to proceed and pass speaking order about the penalty. The Vigilance Organisation may, if they so consider, seek revision of the penalty by the appropriate authority.

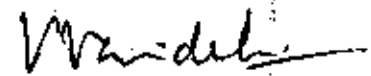
Likewise, where a major penalty has been imposed by the disciplinary authority in agreement with the recommendations of the Vigilance but the appellate/revisionary authority proposes to exonerate or impose a minor penalty, the appellate/revisionary authority may first record provisional decision and consult the Vigilance Organisation once. After such consultation, the appellate/revisionary authority is free to take a final decision in the matter and record his/her views about penalty through speaking order.

2. It has been observed that, in many cases, disciplinary/appellate/revisionary authorities invariably refer all the disciplinary cases arising out of vigilance investigation to the vigilance organisation, before taking a final decision in the case. It is advised that consultation with Vigilance is required only in those cases where they intend to impose/modify the penalty at variance with Vigilance's advice of major penalty.

3. The Disciplinary Authority may ensure that the copy of 'Notice Imposing Penalty(NIP)' is sent to Vigilance promptly on issue so that they can take necessary action to process for revision, if considered necessary.

4. There will be no change in the extant procedure for dealing with cases involving CVC's advice.

5. Please acknowledge receipt.



( V. Vaidehi )

Jt. Director Establishment(D&A)II  
Railway Board

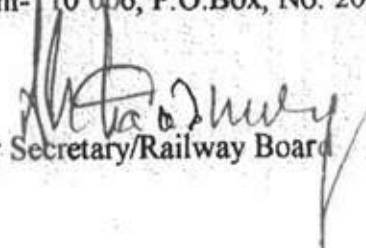
(Contd...3/-)

No. E(D&A)2001DRG 6-30

16.5.2001

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi ( With 35 spare copies with reference to Item No. 12 of the /JCMDC Meeting held in June, 2000.
2. The General Secretary, NFIR, 3 Chemsford Road, New Delhi ( With 35 spare copies) with reference to Item No. 12 of the /JCMDC Meeting held in June, 2000.
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozeshah Road, New Delhi.
4. The Secretary General, IRPOF, Room No. 268, Railway Bhawan, New Delhi. (2 copies)
5. The Secretary General, FROA, Room No. 256-A, Railway Bhawan, New Delhi. (2 copies)
6. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O.Box, No. 2032.

  
For Secretary/Railway Board

Copy to:

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GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A)97 RG 6-72

28.5.2001

The General Managers (P),  
All Indian Railways and  
Production Units, etc.  
(As per the Standard list)

**Sub: Decisions taken on file in disciplinary cases – question whether such decisions are to be treated as final even though not communicated to the charged officials.**

\*\*\*

Attention of the railways is invited to instructions contained in this Ministry's letter No. E(D&A)88 RG6-103 dated 9.8.88 on the above subject which inter alia provide that the decision recorded on the file by the disciplinary authority is not final and can be changed by his successor if the previous incumbent has relinquished the charge before communicating his decision to the charged official.

2. The matter has since been examined further in consultation with the Department of Personnel & Training and the Ministry of Law and it is clarified that the principle laid down in this Ministry's letter of 9.8.88 as brought out above will be applicable only in those cases where the disciplinary authority is the Head of the State, i.e., the President of India or the Governor of the State concerned, as the case may be. In cases where the disciplinary authority is the one prescribed under the RS(D&A) Rules (other than the President), the decision recorded on the file by that authority, even if not communicated, shall be final and cannot be changed by that authority himself or by his successor-in-office. The decision taken by the disciplinary authority (other than the Head of the State) is a judicial decision and once it is arrived at, it is final.

3. It is clarified that if the decision recorded on the file could not be communicated to the charged official by the authority who had recorded the said decision, the successor disciplinary authority will merely act in the role of a communicator of the decision already taken by his predecessor.

(Contd...2/-)

4. It is also clarified that the principle laid down in para 2 above shall be applicable only to the decision recorded at the conclusion of the disciplinary proceedings i.e., the final orders passed in the case by the disciplinary authority. It shall not apply where the disciplinary authority proposes to disagree with the advice of the CVC or to the decision recorded by the disciplinary authority before referring the case to the UPSC for advice. These decisions are provisional in nature and can therefore, be modified by the same authority or the successor disciplinary authority, before a final decision is recorded and communicated to the charged official.

5. Please acknowledge receipt.



( V. Vaidehi )  
Jt. Director Establishment(D&A)II  
Railway Board

No. E(D&A) 97 RG 6-72

28.5.2001

Copy to:

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E(G)PR & E(P&A) Branches of Board's Office for information.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD

No. E(D&A)2000 RG 6-30

New Delhi, dt. 23/9/2002

The General Manager (P),  
All Indian Railways and  
Production Units etc.,  
(As per standard list).

Sub: Procedure for non-CVC vigilance cases pertaining to Group 'C' and  
Group 'D' employees - Consultation with vigilance regarding.

\*\*\*

Attention is invited to Board's letter of even no. dated 16.5.2001 on the above subject. This letter inter alia provides that if in a case Vigilance has recommended imposition of a major penalty and the Disciplinary Authority proposes to exonerate or impose a minor penalty, the Disciplinary Authority would first record his provisional order and then consult Vigilance Organisation once. Likewise, where a major penalty has been imposed by the Disciplinary Authority in agreement with the recommendation of the Vigilance but the appellate/revisionary authority proposes to exonerate or impose a minor penalty, the appellate/revisionary authority would first record provisional decision and consult the Vigilance Organization once. After such consultation, the disciplinary/appellate/revisionary authority, as the case may be, is free to take final decision in the matter.

Board has considered the matter further and has decided that the procedure brought out above will be followed in those cases also where the vigilance has recommended imposition of a "Stiff Major Penalty" namely compulsory retirement/removal/dismissal/ from service, but the Disciplinary/Appellate/Revisionary Authority, as the case may be, wishes to disagree and proposes to impose any of the other major penalties.

Please acknowledge receipt.

*K. Shankar*  
(K. Shankar)  
Dy. Director Establishment(D&A)  
Railway Board



No. 1 (DIA) 200 RG 6-30  
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*M. S. Singh*  
For Secretary/Railway Board

Copy to:

E(O) I, Vig-I, ERB-I, ERB-D, ERB-V, E(Rep) I, II & III, E(SCT) I & II and PR  
Branches of Railway Board's Office.

DDE(R) II (with 2 spare copies).

R.B.E. No. 168 /2002

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A)2002/RG 6-27

New Delhi, dated 24.9.2002

The General Manager (P),  
All Indian Railways and  
Production Units etc.  
(As per standard list).

Sub: Need for issuing 'Reasoned' and Speaking Orders by  
Disciplinary/Appellate Authority in Discipline and Appeal cases.

CAT/Allahabad Bench have brought to notice of this Ministry, a disciplinary case handled on a railway, where the tribunal have to quash the orders of both the Disciplinary and Appellate Authorities because these orders were cryptic and non-speaking ones. The judgement of the CAT brings out that the order of the Appellate Authority in the case was practically a single line order stating that the 'grounds of appeal are unsatisfactory and punishment stands'. Further, the Tribunal pointed out that the orders of the Disciplinary Authority were also issued on a printed form where not only a few lines were left for the Disciplinary Authority to record the reasons for its orders, but it was also printed on this form that - "I do not find your representation to be satisfactory due to the following reasons..... I, therefore, hold you guilty of the charges". This printed form was considered highly objectionable by the Tribunal as it pre-empts that all explanations submitted by the charged official shall be found to be unsatisfactory irrespective of what the charged official states in his defence. The Tribunal also observed that the referred case is not an isolated one and there is a general trend on the railways not to pass detailed speaking orders while imposing punishments or while disposing of appeals/revision against the punishments.

2. It is advised that while exercising disciplinary powers, the Disciplinary and Appellate Authorities etc perform quasi-judicial functions. The need for passing "reasoned and speaking orders" by them thus hardly needs to be emphasized. Attention in this connection is also invited to Board's letters No. E(D&A)78 RG 6-11 dated 3.3.1978, No. E(D&A)86 RG 6-1 dated 20.1.1986, No. E(D&A)86 RG 6-4 dated 5.8.1988 and No. E(D&A)91 RG 6-122 dated 21.2.92 in which the need for Disciplinary/Appellate Authorities to issue self-contained "speaking" and "reasoned" orders was impressed upon. Instructions contained in these letters should be widely circulated on your railway and their compliance ensured in future cases. Railways

(Contd...2/-)

should also forthwith discontinue the practice, if any, on their system of passing disciplinary orders in printed forms as these printed forms militate against the very concept of passing of "reasoned and speaking orders" in disciplinary cases.

3. Please acknowledge receipt.

*K. Shankar*

(K. Shankar)

Deputy Director Establishment (D&A)  
Railway Board

New Delhi, dated 14.9.2002

No. E(D&A)2002/RG 6-27

Copy to:

1. The General Secretary, AIRF, 4, State Entry Road, New Delhi (with 35 spare copies)
2. The General Secretary, NFIR, 3, Chelmsford Road, New Delhi (with 35 spare copies)
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozshah Road, New Delhi.
4. The Secretary General, IRPOF, Room No.268, Rail Bhawan, New Delhi (6 copies)
5. The Secretary General, FROA, Room No.256-A, Rail Bhawan, New Delhi (6 copies)
6. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O. Box No.2032.

*K. Shankar*  
For Secretary/Railway Board

Copy to:

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GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&amp;A) 2002 RG 6-36

25.11.2002

The General Managers (P),  
All Indian Railways and  
Production Units, etc.  
(As per the Standard list)

Sub: Imposition of the penalties of dismissal, removal or compulsory retirement - Determination of appointing authority reg.

It has been brought to the notice of the Board by the NFIR, that on the railways disciplinary powers as appointing authority for the purpose of imposing the penalties of dismissal, removal or compulsory retirement are even exercised by the authorities who have merely issued the offer of appointment or order of promotion.

The contents of Rule 2(1)(a) of RS (D&A) Rules, 1968 relating to definition of 'Appointing Authority' as elaborated vide Board's letter No.E(D&A) 88 RG 6-12 dated 7.5.1990 are reiterated. The gist of the rule and the said instructions is also explained below for easy understanding.

As the railways are aware, in terms of Rule 2(1)(a) of RS(D&A) Rules, appointing authority in relation to a railway servant means the authority empowered to make appointment to the service of which the railway servant is, for the time being a member or to the grade of the service in which the railway servant is, for the time being included or the authority empowered to make appointment to the post which the railway servant for the time being holds or the authority which actually appointed the railway servant to such service, grade or post as the case may be, whichever is the highest authority. It is advised that the authority empowered to make appointment, referred to in Rule 2(1)(a) above, means the authority empowered to make appointment to the grade or post which the railway servant is holding, at the time of imposition of penalty. This authority may be higher or lower in rank than the authority which was empowered to make appointment at the time of induction of the railway servant to the relevant grade or post or the authority which actually appointed him to that grade or post. The intention of the rule is that the penalties of dismissal, removal or compulsory retirement from service on a railway servant should be imposed only by the highest of these authorities i.e., either by the authority which actually appointed the railway servant to the relevant grade or post or the authority which is empowered to make appointment to that grade or post at the time of imposition of penalty, whichever is the higher authority. The penalty of

(Contd...2/-)

dismissal, removal or compulsory retirement from service should obviously not be imposed by an authority which have merely issued the offer of appointment or order of promotion, with regard to the appointment or promotion ordered by a competent authority higher to that authority.

Please acknowledge receipt.

*Inder Mohan*  
(Inder Mohan)  
Jt. Director Establishment(D&A)  
Railway Board

No. E(D&A) 2002 RG 6-36

25.11.2002

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi (with 35 spare copies)
2. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi (with 35 spare copies) w.r.t. Item No.36/2002 of PNM Meeting to be held in December, 2002.
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozeshah Road, New Delhi.
4. The Secretary General, IRPOF, Room No. 268, Rail Bhawan, New Delhi. (6 copies)
5. The Secretary General, FROA, Room No.256-A, Rail Bhawan, New Delhi. (6 copies)
6. M/S Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O. Box No. 2032.

For Secretary/Railway Board

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Copy to: E(16) Division (with 60 spares)



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&amp;A)2001 RG 6-58

28.11.2002

The General Managers(P),  
All Indian Railways and Production Units etc.,  
( As per Standard List ).

Sub: Imposition of penalty of reduction to a lower time scale of pay, grade, post or service for a specified period – Effect of penalty in the higher grade or post etc. on restoration of the railway servant to that higher grade or post on expiry of the penalty.

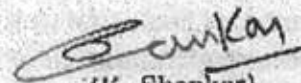
It has been brought to the notice of the Board by the NFIR that while imposing the penalty of 'reduction to a lower grade, post etc.,' for a specified period, the authorities use the terms 'cumulative or recurring effect', to convey the effect of the penalty in the higher grade or post, on restoration of the railway servant to that higher grade or post, on expiry of the penalty.

2. It has been alleged that in such cases the railway administration(s) also denies seniority in the higher grade or post in addition to the effect of the penalty on the future increments of the railway servant though the authority imposing the penalty has not given any specific direction that seniority shall also be affected on restoration of the railway servant to that higher grade or post after expiry of the penalty. Attention in this connection has been drawn to the instructions contained in Board's letter No. E(D&A)73 RG 6-5 dated 22.2.1974. These instructions which were issued in pursuance to discussions in the forum of JCM/DC lay down that in cases where the penalty of reduction to a lower grade or post etc. is imposed for a specified period and the order does not specify whether it has effect on seniority and increments in the higher grade or post on restoration of the railway servant to that higher grade or post, it should be assumed that the order will not have the effect on seniority or increments.

3. As the Railways are aware, in terms of Rule 6(vi) of RS (D&A) Rules, while imposing penalty of reduction to a lower grade or post etc., on a railway servant for a specified period, the authority imposing the penalty has also to pass directions regarding the effect of the penalty on the seniority and pay in the higher grade or post, on restoration of the railway servant to that higher grade or post after expiry of the penalty. The directions on seniority and pay are two separate ones and have to be passed independent of each other. For example, the authority imposing the penalty may order that the penalty will have the effect of postponing the future increments of pay of the railway servant in the higher grade or post on his restoration to that higher grade or post but will not affect his seniority in the higher grade or post and *vice versa*. Likewise, the authority imposing the penalty may order that the penalty will have effect on both the seniority and pay of the railway servant or that the penalty will have no effect either on seniority or pay of the railway servant in the higher grade or post on his restoration to the higher grade or post. However, in each case these two directions should be distinct and unambiguous. Where the authority imposing the penalty has not passed any specific directions regarding seniority or pay or both, of the railway servant in the higher grade or

post, it will be held that the penalty will have no effect on seniority or increments or both, as the case may be, in the higher grade or post on restoration of the railway servant to that higher grade or post as laid down in Board's letter of 22.2.1974, referred to above. In view of the above, the railway administrations should also discontinue the practice, if any, on their system of using the terms 'cumulative or recurring' effect in the orders imposing the penalty of reduction to lower grade or post for a specified period as these terms are liable to mis-interpretation by the authorities responsible for implementing these penalties. The above position may please be brought to the notice of all concerned on your railway for information and compliance. Still, in spite of the position stated above, if any authority uses the term 'cumulative or recurring effect' while passing orders, the case may be resubmitted to the said authority advising him to pass fresh orders strictly in accordance with the provisions of Rule 6(vi) brought out above.

Please acknowledge receipt.

  
(K. Shankar)

Dy. Director Establishment(D&A)  
Railway Board

No. E(D&A)2001/RG 6-58

New Delhi, dated 22.11.2002

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi ( With 35 spare copies).
2. The General Secretary, NFIR 3 Chemsford Road, New Delhi ( With 35 spare copies) with reference to Item No.33 of the PNM Meeting to be held in December 2002.
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozeshah Road, New Delhi.
4. The Secretary General, IRPOF, Room No. 268, Rail Bhawan, New Delhi. (6 copies).
5. The Secretary General, FROA, Room No.256-A, Rail Bhawan, New Delhi. (6 copies).
6. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O.Box, No. 2032.

  
For Secretary/Railway Board

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**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

RBE NO. 36/2003

**NO. E(D&A)2003/RG 6-6**

**New Delhi, dated 19.02.2003**

**The General Manager(P)  
All Indian Railways and  
Production Units etc.  
(As per Standard list)**

**Sub : Procedure for dealing with safety related  
Disciplinary cases.**

One of the essential measures to improve safety is to ensure that exemplary punishment is given to railway servants found guilty of violating safety rules/norms or causing accidents. It is also necessary that different departments adopt uniform punitive action, which can be ensured only if such actions are monitored at appropriate level. Further, it is also observed that railway servants found responsible for causing accidents or violating safety norms are dealt with by concerned authorities as laid down in Railway Servants (Discipline and Appeal) Rules 1968. However, there are instances where the punishment imposed on the railway servant found guilty of violating safety rules/norms or causing accidents has been found to be inadequate.

Board have considered the matter in detail and have observed that there is an urgent need to empower the Safety department so that the disciplinary cases of Railway Servants found guilty of causing accidents or violating safety norms/rules related to maintenance and operation not necessarily leading to accidents are properly dealt with. Board have therefore decided that in such disciplinary cases, the following procedure should be adopted :

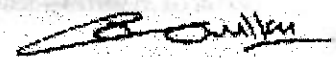
- i) Based on the recommendation of the Safety department for initiation of disciplinary proceedings, the Disciplinary Authority should initiate disciplinary proceedings by way of issue of charge sheet etc.
- ii) The disciplinary proceedings should be concluded in accordance with the provisions laid down in the Railway Servants (Discipline and Appeal) Rules, 1968 and the Disciplinary Authority may impose any punishment after full application of the mind, if the same is in conformity with the advice/suggestion given by Safety department. It is hereby emphasized that the Disciplinary authority should strive to remove/reduce areas of disagreement, if any, by mutual consultation/discussions.

- iii) In case the Safety department has recommended a major penalty and the Disciplinary Authority proposes to exonerate or impose a minor penalty, the Disciplinary Authority should first record his provisional order and then consult Safety department. Reasons for disagreement should be recorded and communicated to Safety department. Consultation will be only once and if even after this the Disciplinary Authority is not in agreement with the views of the Safety department, then the Disciplinary Authority is free to proceed and pass speaking orders for imposing the penalty. In all cases, a copy of the Notice Imposing Penalty (NIP) must be sent to the Safety department, who may close the case, if its views have been accepted or if it is satisfied with the conclusions drawn by the Disciplinary Authority.
- iv) Where the Disciplinary Authority has not followed the advice of the Safety department, then the latter shall put up such cases to the Competent Authority who can do *suo motu* revision, with their comments.
- v) Likewise, where a major penalty has been imposed by the Disciplinary Authority in agreement with the recommendations of the Safety department but the appellate / revisionary authority proposes to exonerate or impose a minor penalty, the appellate / revisionary authority may first record provisional decision and consult the Safety department. Reasons for disagreement should be recorded and communicated to Safety department. Consultation will be only once and after such consultation, the appellate / revisionary authority is free to take a final decision in the matter and record his/her views about penalty through speaking orders.
- vi) As far as action against the Railway Servants where General Manager or Railway Board are the Disciplinary/Appellate/ Revisionary Authority, the Safety department's comments may be obtained for proper appreciation of the case by the Disciplinary/Appellate/Revisionary Authority. Likewise, in those cases where the Disciplinary/Appellate/Revisionary Authority being the President, the comments from the Safety department may be called for because in such cases, the provision for mandatory consultation with UPSC already exists.

These instructions should be widely circulated for strict compliance.

Please acknowledge receipt.

(Hindi version will follow)



(K Shankar)  
Deputy Director Establishment(D&A)  
Railway Board

No. E(D&A)2003/RG 6-5

New Delhi, dated 19.2.2003

Copy to:

Chief Safety Officer, All Indian Railways.

  
( K. Shankar )  
Deputy Director Establishment(D&A)  
Railway Board

No. E(D&A)2003/RG 6-5

New Delhi, dated 19.2.2003

Copy to:

1. The General Secretary, AIRF, 4, State Entry Road, New Delhi (with 35 spare copies).
2. The General Secretary, NFIR, 3, Chelmsford Road, New Delhi (with 35 spare copies)
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozshah Road, New Delhi.
4. The Secretary General, IRPDF, Room No.268, Rail Bhawan, New Delhi (6 copies)
5. The Secretary General, FROA, Room No.255-A, Rail Bhawan, New Delhi (6 copies).
6. The Secretary RBSS Group 'A' Officers' Association, Room No.506, Railway Board.
7. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O. Box No.2032.

  
For Secretary/Railway Board

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GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

RBE NO. 155 /2003.

No.E(D&A)2002/RG6-36. New Delhi, dated 2-9-2003.

The General Manager (P),  
All Zonal Railways etc.

Sub: Imposition of penalties of Dismissal, Removal or  
Compulsory retirement on non-gazetted staff -  
notification of Appointing Authority.

In the PNM meeting held between the Railway Board and NFIR on 20<sup>th</sup>/21<sup>st</sup> May, 2003, the staff side pointed out that there have been cases where the authorities lower than the appointing authority have imposed the penalties of dismissal, removal or compulsory retirement, in violation of the RS(D&A) Rules. It was brought out that at present there is ambiguity in regard to the authorities specified to act as appointing authority in so far as imposition of penalties of dismissal, removal or compulsory retirement from service is concerned.

In this connection, attention is invited to Board's letter of even number dated 25.11.2002 wherein clarification have been issued regarding determination of Appointing Authority for the purpose of imposing the above referred penalties. The matter has been considered by the Board further and it has been decided that the Railway Administrations may also notify a 'Schedule of Power' which should clearly specify the Authorities authorised to make appointments in respect of each grade/category of staff. This may be done on priority basis and a copy of the order so issued may also be endorsed to this office.



(K. Biswal)  
Executive Director, Estt.  
Railway Board.

No. E(D&A)2002/RG6-35

New Delhi, dated 2.9.2003

Copy to:

1. The General Secretary, AIRF, 4, State Entry Road, New Delhi (with 35 spare copies).
2. The General Secretary, NPIR, 3, Chemsford Road, New Delhi, w.r.t. Item No.36/2002 of PNM meeting (with 35 spare copies).
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozshah Road, New Delhi (with 60 spares).
4. The Secretary General, IRPOF, Room No.268, Rail Bhawan, New Delhi (5 copies)
5. The Secretary General, PROA, Room No.256-A, Rail Bhawan, New Delhi (5 copies).
6. The Secretary, RBSS 'Group A' Officers' Association, Room No.506, Rail Bhawan, New Delhi.
7. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O. Box No.2032.

  
For Secretary/Railway Board

Copy to:

Secretary, AdV.(C), IS(G), IS(E), JS, EDE(N), JDE(N)II, DS(G), DS(E)II, E(NG)II, ERB-I, ERB-D, E(O)II, E(O)I, Vig.-I, Sec(E) and E(G) Branches of Board's Office.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
( RAILWAY BOARD)

No. E(D&A)2003/RG 6-37

New Delhi, dated 13.2.2004

The General Manager (P),  
All Indian Railways/Production Units etc.  
(as per mailing list).

Sub: Revisionary powers in disciplinary cases.

The provisions regarding revisionary powers in disciplinary cases are contained in Rule 25 of Railway Servants (Discipline & Appeal) Rules, 1968. Doubts in this respect have been raised by various railways from time to time particularly regarding the exercise of revisionary powers by an appellate authority. The position in regard to Rule 25 is clarified in the succeeding paragraphs.

2. In terms of Rule 25(1)(v), an officer of the rank of Deputy HOD can also exercise revisionary powers, provided he is otherwise competent to conduct revision in the case. Revisionary powers can be exercised both suo-moto or on consideration of a revision petition. However, suo-moto revision can be done subject to the time limits prescribed in Rule 25(5).

2.1 Appellate authority can also exercise revisionary power when in a case no appeal has been preferred in terms of Rule 25(1)(iv). However, for an appellate authority to exercise revisionary power, this authority has to be of the rank of DRM and above. In other words, an authority upto the rank of ADRM cannot exercise revisionary powers if it happens to be the appellate authority in the case. Revisionary powers will be exercised by the appellate authority only for conducting suo moto revision. The time limits laid down in Rule 25(5) also apply in cases of revision done by the appellate authorities.

3. The provision of para 20(d) in the Master Circular No.67 may accordingly be read as under :-

"(d) The revising authority has to be higher in rank than the Appellate Authority where:-

- (I) an appeal has been preferred; or
- (II) where the time limit prescribed for 'revision to be made by the Appellate Authority', as laid down in Rule 25(5) of RS(D&A) Rules has expired.

The above stipulation does not apply to the revisions made by President.

(Rule 25(4) of RS (D&A) Rules, 1968)".

4. Please acknowledge receipt.



(R. Vijayan Nair)  
Dy. Director Establishment(D&A)  
Railway Board.



No. E(D&amp;A)2003/RG 6-37

New Delhi, dated 13.2.2004

Copy to:

1. The General Secretary, AIRF, 4, State Entry Road, New Delhi (with 35 spare copies)
2. The General Secretary, NFIR, 3, Chelmsford Road, New Delhi (with 35 spare copies)
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozshah Road, New Delhi.
4. The Secretary General, IRPOF, Room No.268, Rail Bhawan, New Delhi (6 copies)
5. The Secretary General, FROA, Room No.256-A, Rail Bhawan, New Delhi (6 copies).
6. The Secretary, RBSS 'Group A' Officers' Association, Room No.506, Rail Bhawan, New Delhi.
7. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 005, P.O. Box No.2032.

*R. Ch.*  
For Secretary, Railway Board

Copy to:

PS/MR, PS/MSR(B)

Sr.PPSs to CRB, FC, MS, MT, ME, ML, MM, Secy, DG/RPF, DG/RHS

All A.Ms &amp; Advisers

All Executive Directors &amp; JSs

DE(G), D(E), JDE(D&A), JDE(L), JDE(LL), JDE(Rep), DS(G), DS(A), US(D&A)I, ERB-I, ERB-II, ERB-D, ERB-V, E(O)I, E(O)II, E(O)III, E(SCT) II, E(Rep) I, II, III, Vig.-I, Sec(E) and E(G) Branches of Board's Office.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

R.B./Estt. No. 106 /2005

No.E(D&A) 2005/RG 6-19

New Delhi, dated 24.6.2005

The General Manager (P),  
All Zonal Railways, PUs etc.  
(As per standard lists)

Sub: Disciplinary Authority In respect of Group 'B' Railway officers  
officiating in Senior Scale.

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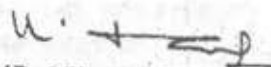
It has come to the notice of this Ministry that disciplinary powers in respect of Group 'B' officers, officiating in Senior Scale, are being exercised by the authorities mentioned in Schedule-III to RS(D&A) Rules, 1968, by treating these officers as Group 'B' officers.

2. The above procedure is not correct. In this connection, attention is invited to provisions contained in Rule 7(3) of RS(D&A) Rules which clearly state that the Disciplinary Authority in the case of a Railway servant officiating in a higher post, shall be determined with reference to the officiating post held by him at the time of taking action. Thus, in terms of the above provisions, the Disciplinary Authority in the case of a Group 'B' officer officiating in Senior Scale is required to be determined with reference to the officiating post (i.e., Senior Scale) held by the delinquent officer at the time of taking action. The delegation of powers under Schedule-III has to be read with the provisions in the main rules as brought out above and not in isolation.

3. It may please be ensured that the correct procedure is followed in the above types of cases.

Please acknowledge receipt.

(This also disposes of North Western Railway's letter No.E/DAR/307/5/448 dated 29.4.2005)

  
(R. Vijayan Nair)  
Dy. Director Establishment (D&A)  
Railway Board.

(Contd...2/-)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. E(D&amp;A) 2005/RG 6-23

New Delhi dated 18.7.2005

The General Manager (P),  
All Zonal Railways/Production Units etc.  
(As per Standard Lists)

Sub: Exercise of disciplinary powers in respect of railway servant transferred from one Railway/Division to another Railway/Division or Unit etc. - Clarification regarding.

A case has come to the notice of this Ministry where disciplinary proceedings against a Railway officer working in Railway Claims Tribunal was instituted by the General Manager of the parent Railway because the alleged misconduct was committed by the officer while working on the zonal Railway. The exercise of disciplinary powers as above was not correct because at the time of taking disciplinary action the concerned officer was working under the control of the Chairman, Railway Claims Tribunal who has also been vested with the disciplinary powers in respect of staff/officers working in the Railway Claims Tribunal, in terms of Notification bearing No. GSR 845/E dated 19.9.1989. Since the disciplinary proceedings had been instituted by an authority who was not competent to do so, the proceedings against the concerned officer had to be dropped subsequently.

2. In this connection, attention is invited to instructions contained in Board's letter No.E(D&A) 60/RG 6-30 dated 26.7.1962 read with their letters No.E(D&A) 65/RG 6-6 dated 1.3.1967 and No.E(D&A) 72/RG 6-13 dated 15.10.1973 wherein it had, inter-alia, been laid down that it would be procedurally wrong for an authority to initiate and finalise the disciplinary proceedings against an employee who is not under its administrative control. These instructions also deal with the situations where a Railway servant commits an offence while working in one Railway administration but the same comes to light only after his transfer to another Railway administration or another division and it becomes necessary to take disciplinary action against him for the offence. Disciplinary action in such cases should be taken by the Railway/Division on which the person concerned might be working at the time of taking disciplinary action in consultation with the Railway/Division where the offence was committed. The consultation with the parent Railway however, would be limited to obtaining the relevant information/documents which may be required for processing the disciplinary action. In a rare case where it is considered necessary that action should be taken by the Railway/Division where the offence was committed, the Railway servant concerned should be transferred to that Railway/Division which should thereafter only initiate and finalise the disciplinary action. In other words, disciplinary action by an authority in the parent Railway should be taken only after the Railway servant concerned has been brought under the administrative control of the authority proposing to take action.

3. Further, Rule 15 of RS(D&A) Rules, 1968 specifically provides about the course of action to be taken in respect of Railway employees who are on deputation to Central/State/Local Government or other authority. Similarly, Rule 16 makes provision about officers on deputation from other Central/State Governments, etc. to the Railways. Roles of Lending Authority and the Borrowing Authority have been clearly specified in these rules. Provisions contained in these Rules should be kept in view while initiating disciplinary proceedings against the Railway employees on deputation to other departments, etc. or employees belonging to other departments taken on deputation to the Railways.

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD

RB/Estt.No.120/2005

No. E(D&A) 2005/RG 6-23

New Delhi dated 18.7.2005

The General Manager (P),  
All Zonal Railways/Production Units etc.  
(As per Standard Lists)

Sub: Exercise of disciplinary powers in respect of railway servant transferred from one Railway/Division to another Railway/Division or Unit etc. - Clarification regarding.

A case has come to the notice of this Ministry where disciplinary proceedings against a Railway officer working in Railway Claims Tribunal was instituted by the General Manager of the parent Railway because the alleged misconduct was committed by the officer while working on the zonal Railway. The exercise of disciplinary powers as above was not correct because at the time of taking disciplinary action the concerned officer was working under the control of the Chairman, Railway Claims Tribunal who has also been vested with the disciplinary powers in respect of staff/officers working in the Railway Claims Tribunal, in terms of Notification bearing No. GSR 845/E dated 19.9.1989. Since the disciplinary proceedings had been instituted by an authority who was not competent to do so, the proceedings against the concerned officer had to be dropped subsequently.

2. In this connection, attention is invited to instructions contained in Board's letter No.E(D&A) 60/RG 6-30 dated 28.7.1962 read with their letters No.E(D&A) 65/RG 6-6 dated 1.3.1967 and No.E(D&A) 72/RG 6-13 dated 16.10.1973 wherein it had, inter-alia, been laid down that it would be procedurally wrong for an authority to initiate and finalise the disciplinary proceedings against an employee who is not under its administrative control. These instructions also deal with the situations where a Railway servant commits an offence while working in one Railway administration but the same comes to light only after his transfer to another Railway administration or another division and it becomes necessary to take disciplinary action against him for the offence. Disciplinary action in such cases should be taken by the Railway/Division on which the person concerned might be working at the time of taking disciplinary action in consultation with the Railway/Division where the offence was committed. The consultation with the parent Railway however, would be limited to obtaining the relevant information/documents which may be required for processing the disciplinary action. In a rare case where it is considered necessary that action should be taken by the Railway/Division where the offence was committed, the Railway servant concerned should be transferred to that Railway/Division which should thereafter only initiate and finalise the disciplinary action. In other words, disciplinary action by an authority in the parent Railway should be taken only after the Railway servant concerned has been brought under the administrative control of the authority proposing to take action.

3. Further, Rule 15 of RS(D&A) Rules, 1968 specifically provides about the course of action to be taken in respect of Railway employees who are on deputation to Central/State/Local Government or other authority. Similarly, Rule 16 makes provision about officers on deputation from other Central/State Governments, etc. to the Railways. Roles of Lending Authority and the Borrowing Authority have been clearly specified in these rules. Provisions contained in these Rules should be kept in view while initiating disciplinary proceedings against the Railway employees on deputation to other departments, etc. or employees belonging to other departments taken on deputation to the Railways.

4. The above instructions may please be brought to the notice of all concerned authorities for their guidance and compliance and it may be impressed upon them that they should carefully ascertain their jurisdiction before instituting disciplinary proceedings in a case so that the unfortunate type of situation as has occurred in the case referred to in Para 1 above, could be avoided.

Please acknowledge receipt.



(R. Vijayan Nair)  
Dy. Director Establishment(D&A)  
Railway Board

No. E(D&A) 2005/RG 6-23

New Delhi dated 18.7.2005

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi (with 35 spares).
2. The General Secretary, NFIR, 3, Chokrasford Road, New Delhi (with 35 spares)
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozshah Road, New Delhi (with 60 spares).
4. The Secretary General, IRPOF, Room No.268, Rail Bhawan, New Delhi (6 copies)
5. The Secretary General, FROA, Room No.256-A, Rail Bhawan, New Delhi (6 copies).
6. The Secretary, RBSS 'Group B' Officers' Association.
7. The Secretary, Railway Board Ministerial Staff Association.
8. The Secretary, Railway Board Group 'D' Employees Association.
9. The Secretary General, AIRPFA, Room No.256-D, Rail Bhawan, New Delhi.
10. The Secretary, RBSS 'Group A' Officers' Association. Room No.506, Rail Bhawan, New Delhi.
11. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O. Box No.2032.

  
For Secretary/Railway Board

Copy to:

PS/MR, PS/MSR(V), PS/MSR(N)

Sr.PPSs to CRB, FC, MS, MT, ME, ML, MM, DG/RHS, DG/RPF, Secretary.

AM(Commi.), Adv(S), Adv(IR), Adv(Vig), Adv(Conf.), EDV(E), EDE, EDE(Res.), EDE(RRB), EDE(N), EDPG, JS, JS(ESP), JS(G), DV(M), DV(A) DE(N), DE(G), DE(D&A), DS(D&A), DS(EO)I, JDE(GP), JDE(L), JDE(LL), JDV(S), JDV(ABP), DS(G), US(E), US(A), US(Conf.), DD(RCT), ODE(D&A), DDE(LR)I, US(D&A), E(O)I, E(O)II, E(O) III, E(O)III(Spl.), ERB-I, ERB-II, ERB-D, ERB-V, E(GP), Vig.-I, E(NG)I, E(SCT) I & II, E(Rep) I, II & III, Security(E) and E(LR)I branches of Railway Board.

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GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A) 2003/RG6-25

New Delhi, 27/11/2007

The General Manager(P)  
All Indian Railways and Production Units etc.  
(As per standard list).

Sub: Review of an order by the same authority which had passed original order in the case and conduct of such review during the pendency of the case before a court of law regarding.

.....

A case has come to the notice of this Ministry where the disciplinary proceedings had been instituted against a Railway servant on the charge of unauthorized absence from duty. On consideration of the case, the disciplinary authority imposed a penalty which was upheld in appeal. An O.A. (No. 14/2001) was filed by the Railway servant concerned before CAT, Jabalpur. It was then noticed that while the charge sheet was issued for unauthorized absence, the penalty has been imposed on the charge of leaving Headquarters without permission. Since penalty was imposed on a charge other than that mentioned in the chargesheet, the disciplinary authority passed fresh orders in the case bringing out the correct charge. The penalty imposed vide fresh orders was later modified by the appellate authority.

2. The Hon'ble Tribunal vide orders dated 6.5.2003 allowed the O.A. and set aside the orders passed in the disciplinary case of the applicant with consequential benefits to him. The Hon'ble Tribunal inter alia held that :

- i) There is no evidence that the applicant was unauthorisedly absent because leave for 2 days was sanctioned to him by the Station Master and further period was covered by medical certificates issued by railway medical officer;
- ii) The penalty was imposed on the basis of charges foreign to the charge sheet;
- iii) The disciplinary authority was not competent to review its own orders and as such the subsequent orders of the disciplinary authority are without jurisdiction;
- iv) Revised order was passed during pendency of the O.A. and was thus not valid.



3. In this case, the Railway servant concerned had been sanctioned leave for two days only but he remained absent for about 3-1/2 months without intimation. At the time of joining, he produced medical certificate from railway doctor. Still the fact remains that he had not given any intimation about his illness and thus remained unauthorisedly absent. The findings of CAT to the extent that it was a case of no evidence thus were not correct. The disciplinary authority passed a cryptic order and to compound the matter also cited in the penalty order the allegations which were different from the charges. He should have been careful and should have put the case records in proper perspective while passing orders. The appellate authority's orders in the case were also vague in nature. This apparently led the Hon'ble Tribunal to conclude that it was a case of no evidence which could have easily been avoided by passing a reasoned and speaking order. Utmost care should therefore be exercised while passing final orders in the disciplinary cases. These orders should also be self-explained, reasoned and speaking as has already been emphasized on a number of occasions in the past. In any case, printed proforma should not be used by the Disciplinary/Appellate/Revisionary Authorities while passing final orders in the disciplinary case.

4. The observation made by CAT, Jabalpur in their orders dated 6.5.2003 in O.A. 14/2001 about passing of order when the matter is sub-judice has been considered taking into account the legal advice in the matter. It is clarified that once an order has been challenged before a court of law it should not be interfered with during the pendency of the case. The impugned order(s) has to be taken as it is and nothing can be reduced or added to it. In such situation, any proposed fresh order should be passed only with the leave of the court.

5. As regards review of orders, it is clarified that an order, if found to be containing some patent error, can be reviewed by the same authority who had passed the original order. Some of the circumstances in which the orders can be reviewed and fresh orders passed are given below:

- i) where the original order was not in conformity with the provisions of Rule 6 of RS(D&A) Rules, 1968 e.g. the penalty of withholding of increments was imposed on a Railway servant who was at the maximum of the scale and could not draw any further increments; or the penalty of withholding of promotion or reduction to a lower stage in the time scale of pay was imposed on permanent basis whereas as per rules these penalties can be imposed for a specified period only. In such cases an effective penalty may be imposed by means of a fresh order by the same authority who had originally passed those orders in the disciplinary case;
- ii) where the authority who passed the order was not competent to impose the penalty. In such case the punishing authority will withdraw its orders and refer the papers to the authority which is competent to impose the proposed penalty;
- iii) where there is a patent error in the original order e.g. the date or reference number or name/designation etc. was shown incorrectly in the order. Fresh orders may be passed by the same authority to correct these inaccuracies in the original order.



It may please be noted that even in the circumstances cited above, an order which has been challenged before a court of law can be reviewed only with the permission of the court.

6. This should be given wide publicity.

Please acknowledge receipt.

Sd/-  
(Harish Chander)  
Dy. Director Estt. (D&A) III  
Railway Board



GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A) 2006 RG6-38

New Delhi, 16 /10/2008

The General Manager (P),  
All Zonal Railways and Production Units etc.

Sub: Appointment of retired officials as Inquiry Officer for  
conducting departmental inquiry reg.

.....

A number of cases have recently come to the notice of this Ministry where the Courts have set aside the inquiry reports in the departmental disciplinary cases on the ground that the inquiry had been conducted by a retired railway servant. It has been held that the term "other authority" mentioned in Rule 9 (2) of Railway Servants (Discipline And Appeal) Rules, 1968 does not include a retired railway servant and that if the Railways wants that retired railway servants should also be brought within the scope of "other authority", suitable amendment in the Rule itself be required. Reliance has also been placed on Supreme Court judgment in the case of Ravi Mallick Vs. National Film Development Corporation Ltd. & Ors. reported in (2004) 13 SCC 427. It has also been observed that a retired railway servant has no administrative control over his subordinates or an authority to carry out the purposes of taking evidence under the Rules.

2. The matter has been examined by the Ministry of Railways in consultation with the Department of Personnel & Training. Existing rules as such do not prescribe any condition or prohibit any one from being made inquiry authority. Therefore, any person including a retired railway servant may be appointed as inquiry authority in a departmental disciplinary inquiry. Any inference that the rules exclude retired railway servants from being made the inquiry authority in the departmental inquiries has no basis. Since the rules already do not lay down any condition or prohibit any one from being made inquiry authority, there is also no cause for making any specific mention of retired railway servants therein. The inquiry authority is only the delegate of the disciplinary authority whenever the disciplinary authority itself is not enquiring into the matter. The question of his exercising or not exercising administrative control over a person or persons involved in the departmental disciplinary inquiry therefore, is not relevant. His appointment by the disciplinary authority automatically enables him to exercise powers required to conduct the inquiry.

3. The reliance of the Courts on the Supreme Court judgment in the Ravi Mallick case mentioned in Para 1 above, is also not appropriate. Extracts of the above judgment as brought out in the relevant Court orders shows that the judgment had been delivered by the apex court in the context of particular service rules viz. NFDC Service Rules and Regulations. These rules stipulated that only public servants can be appointed as inquiry officers. The apex court had merely ruled that a retired officer would not come up within the definition of Public Servant for the purpose of these rules. There is however, no stipulation either in the Railway Servants (Discipline And Appeal) Rules, 1968 or in the Public Servants (Inquiries) Act, 1850 mentioned in Rule 9 (2) of these rules that the inquiry can be conducted by the

Public Servants only. The above referred judgment of the apex court thus, is inapplicable to the railway servants.

4. Ministry of Railways have therefore, decided that Railways should challenge the orders of the Central Administrative Tribunal or of the High Court, as the case may be, which rules against appointment of a retired railway servant as the inquiry officer in a departmental disciplinary inquiry. The position brought out in Para 2 and 3 above may be appropriately used while contesting/arguing cases before the Court. Vigilance Directorate, Railway Board Office have under their letter, No. 94/V-1/CVC/1/4 dated 29.7.2008, circulated a few judgments where the Courts have upheld the appointment of retired railway servant as inquiry officer in departmental disciplinary inquiry. Subsequently, a copy of Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) O.M. dated 15.4.87 which permits engagement of retired Government servants to conduct departmental inquiries in individual cases was also circulated under their letter No. 2007/V-1/DAR/1/9 dated 23.9.2008 for information and guidance. Contents of the above referred letters may also be utilized by the Railways to strengthen their cases pending before the Hon'ble CAT/Hon'ble High Courts in which the appointment of a retired railway servant as inquiry officer has been challenged.

5. Please acknowledge receipt.

Sd/-  
(Harish Chander)  
Dy. Director Estt. (D&A)III  
Railway Board

GOVERNMENT OF INDIA  
 MINISTRY OF RAILWAYS  
 (RAILWAY BOARD)

No. E(D&amp;A) 2008 RG6-41

New Delhi, 6/2/2009

The General Manager(P)  
 All Indian Railways and Production Units etc.  
 (As per standard list).

Sub: Railway Servants (Discipline And Appeal) Rules, 1968 -  
 Observance of provisions thereof for conducting disciplinary  
 proceedings reg.

.....

It has been brought to the notice of the Board by the AIRF that the extant provisions of Railway Servants (Discipline And Appeal) Rules, 1968 are not being followed on the railways, as brought out below:

- i) The time limit of 15 days laid down in rule 10 for obtaining representation of the charged official against the inquiry report is rarely followed. Mostly the authorities arbitrarily allow either 7 days or 10 days time to the charged official for the purpose.
- ii) Inquiry officer is appointed without considering the reply of the charged official to the charge sheet.
- iii) Where the disciplinary authority proposes after consideration of the reply of the charged official to the major penalty charge sheet that a minor penalty will suffice in the case, instead of passing an order for imposing a minor penalty straightaway, the major penalty charge sheet is first cancelled and a fresh minor penalty charge sheet is issued; thus prolonging the case and consequent sufferings of the charged official.
- iv) All the three clauses of Rule 3 (1) of the Railway Services (Conduct) Rules, 1966 are indiscriminately mentioned in the charge sheet without regard to their relevance to the particular case.
- v) Inquiry officers straightaway fix a date for regular inquiry without conducting the preliminary hearing.
- vi) All concerned authorities should pass speaking orders in the disciplinary cases.

2. The matter has been examined. Clause (a) of Rule 10 (2) of Railway Servants (Discipline And Appeal) Rules, 1968 clearly provides that a period of 15 days may be allowed to the charged official to submit his representation, if any, against the inquiry report. In view of the categorical provisions in the rules, the charged official should be given clear 15 days' time to submit his representation against the Inquiry Report. If the Disciplinary Authority proposes to disagree with the findings of the inquiry officer, a disagreement memorandum along with the Inquiry officer's report should also invariably be served on the charged official calling for his representation thereagainst. Similarly, there is a clear provision in Sub rule

(9) (a) (i) of rule 9 that on receipt of the written statement of defence, the disciplinary authority shall consider the same and decide whether the inquiry should be proceeded with under the rules. In other words, decision whether to remit the case for inquiry or not may be taken only after the statement of defence has been considered. Accordingly, inquiry officer may be appointed only after statement of defence has been considered and decision has been taken to remit the case for inquiry.

3. Attention of the railways is also invited to instructions contained in Board's letter, No. E(D&A) 2001 RG6-37 dated 13.12.2001 which deals with cases where action is taken under sub rule (9) (a) (iv) of rule 9 i.e. where the disciplinary authority after consideration of the written statement of defence with reference to a major penalty charge memorandum, is of the opinion that imposition of a major penalty is not necessary and proposes to impose a minor penalty other than the penalty of withholding of increment attracting the provisions of sub rule (2) of rule 11. It will be noticed that the instructions dated 13.12.2001 mentioned above, clearly states that a single speaking order should be passed to cover both the dropping of the major penalty proceedings and imposition of the minor penalty. In other words, issuance of a fresh minor penalty charge sheet is not required in such cases. These instructions may please be kept in view while dealing with cases which involves application of provisions of sub rule (9) (a) (iv) of rule 9.

4. Railways will also appreciate that each of the three clauses of Rule 3 (1) of Railway Services (Conduct) Rules, 1966 has a different connotation. Care should therefore, be taken while framing the charges and only the rule(s) applicable to the specific case should be mentioned in the charge sheet. Mention of both clause (i) relating to lack of integrity and clause (ii) relating to lack of devotion of duty which broadly signifies negligence with respect to the same charge, for example, would be quite misleading and give an impression that the disciplinary authority itself is not clear about the misconduct committed by the charged official. It becomes difficult to defend such a situation especially when challenged in a Court of Law and should therefore, be avoided.

5. Railways may also please ensure that the inquiry officer invariably conduct preliminary hearing after giving due notice as specified in Rule 9 (11), before the regular inquiry is commenced. In this preliminary hearing, the charged official may be asked by the inquiry officer inter alia whether he has received the charge sheet, understood the charges and accept these charges or not. As brought out in item (vii) of Board's letter No. E(D&A) 85 RG6-21 dated 30.5.85, this opportunity could also be used to lay down a time bound programme for inspection of listed documents, submission of the lists of defence documents and defence witnesses and charged official's requirement of additional documents etc. which will also facilitate speedy finalization of regular inquiry.

6. Needless to say, the authority exercising disciplinary powers should invariably pass a reasoned and speaking order in the case. Passing of such an order not only demonstrates that justice has been done but also enables the charged official to appreciate his mistake and to rectify it for future. Instructions impressing upon the need for passing reasoned and speaking orders in disciplinary cases have already been issued from time to time in the past.

7. Board desire that all provisions contained in the Railway Servants (Discipline And Appeal) Rules, 1968 and the related instructions issued thereunder should be followed scrupulously.

8. Please acknowledge receipt.

Sd/-  
(Harish Chander)  
Dy. Director Estt. (D&A)  
Railway Board





RB. Estt. No.106/2009

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No. E(D&A) 2009 RG6-18

New Delhi, 16/6/2009

The General Manager(P)  
All Indian Railways and  
Production Units etc.  
(As per standard list).

Sub: Withdrawal/withholding/recovery of pension/gratuity in the case of  
minor penalty proceedings.

A copy of Department of Personnel and Training's O.M. dated 110/9/2003-AVD-1 dated 13.4.2009 on the above subject is sent herewith. Contents of O.M. dated 13.4.2009 mentioned above, may please be brought to the notice of all concerned on your railway for their information and compliance. O.M. No. 134/10/80-AVD-1 dated 28.2.81 and O.M. No. 134/9/86-AVD-1 dated 31.7.87 mentioned in the aforesaid O.M. dated 13.4.2009 have been circulated on the railways under Board's letter No. E(D&A) 81 RG6-26 dated 23.7.81 and No. E(D&A) 87 RG6-113 dated 11.11.87.

2. Please acknowledge receipt.

Sd/-  
(Harish Chander)  
Dy. Director Estt. (D&A)  
Railway Board

Immediate

No.110/9/2003- AVD-I  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
(Department of Personnel and Training)

New Delhi Dated the 13<sup>th</sup> April, 2009

Office Memorandum

Subject: Withdrawal/withholding/recovery of pension/gratuity in the case of minor penalty proceedings.

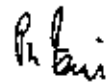
The undersigned is directed to refer to this Department's OM no 134/9/86-AVD-I dated 31<sup>st</sup> July 1987 wherein it was clarified that the Central Government has the power to withhold or withdraw pension even as a result of minor penalty proceedings instituted against a charged officer during his service and which had continued after his retirement provided grave misconduct or negligence is established. The underlying basis for this OM was that there can be circumstances wherein proceedings initiated for minor penalty could result in establishment of grave misconduct or negligence on conclusion of the proceedings warranting a cut or withholding of pension or recovery of pecuniary loss. The OM of 31<sup>st</sup> July 1987 was issued in cancellation of the earlier OM no 134/10/80-AVD-I dated 28<sup>th</sup> Feb 1981 which interalia, stated that 'grave misconduct or negligence' cannot be established as a result of minor penalty proceedings.

2. The OM of 31.7.1987 came for scrutiny before the Central Administrative Tribunal (CAT), Principal Bench, Delhi in OA no 2068 of 2002 (R.S Sagar, NOIDA,UP Vs Union of India), pertaining to the Ministry of Urban Development and Poverty Alleviation. The Hon'ble Tribunal was considering an application against the order of withholding of gratuity of a charged officer who had retired from service. The Tribunal, while considering the said case set aside the said OM of 31<sup>st</sup> July 1987 of this Department holding it ultra vires the CCS(Pension) Rules 1972. The ratio of the decision in this OA was applied to OA no 112 of 2003 (I.K Rastogi Vs Union of India) by Principal Bench, Delhi. This Department was neither a party nor impleaded in the said OAs at any stage.

3. The implication of the judgement of Hon'ble CAT on this Division's O.M. of 31.7.87 was considered in consultation with Department of Pension & Pensioners' Welfare and Department of Legal Affairs and it was noted that the matter has attained legal finality.

4. In view of the above and in the light of said order of Hon'ble CAT Principal Bench setting aside the OM of 31<sup>st</sup> July 1987 this Department's OM no 134/10/80 -AVD-1 dated 28<sup>th</sup> Feb 1981 stands restored and the OM of 31<sup>st</sup> July 1987 stands withdrawn.

Hindi version will follow.



(P.K Ravi)

Under Secretary to the Government of India

To  
All Ministries /Departments  
(As per list attached)

No. 110/9/2003-AVD-1

Dated the 13<sup>th</sup> April, 2009

Copy forwarded to:-

1. The Secretary, Central Vigilance Commission, Satarkia Bhawan, INA, GPO Complex, Lodhi Road, New Delhi.
2. The Secretary, Union Public Service Commission, Shahjahan Road, Dholpur House, New Delhi.
3. All Sections/Desk of DOPT.



RBE No. 36/2012

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD

No.E(D&A) 2012 RG 6-5

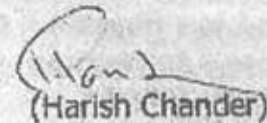
New Delhi, dated: 20.3.2012

The General Managers (P),  
All Indian Railways and  
Production Units etc.,  
(As Per Standard List).

Sub: Action on inquiry report - communicating tentative reasons for disagreement with the findings of the Inquiry Officer etc.

A copy of Department of Personnel and Training's O.M. No.11012/12/2010/Estt.A dated 12.11.2010 in the above mentioned matter is enclosed. Please bring the contents of the enclosed O.M. to the notice of all concerned on your Railway/Units for their information and strict compliance. The provisions corresponding to rule 15(2) of CCS(CCA) Rules, 1965 mentioned therein are contained in rule 10(2) of Railway Servants (Discipline And Appeal) Rules, 1968.

Please acknowledge receipt.



(Harish Chander)  
Dy. Director Establishment (D&A)  
Railway Board

No.E(D&A) 2012 RG 6-5

New Delhi, dated: 20.3.2012

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi (with 35 spares)
2. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi (with 35 spares).
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C Ferozshah Road, New Delhi (with 60 spares).
4. The Secretary General, FROA, Room No. 256-A, Rail Bhavan, New Delhi (with 6 spares).
5. The Secretary General, IRPOF, Room No. 268, Rail Bhavan, New Delhi (with 6 spares).

(contd..2/-)

6. The Secretary, RBSSS 'Group A Officers' Association', Room No. 462, Rail Bhavan, New Delhi.
7. The Secretary, RBSS 'Group A' Officers' Association, Room No.506, Rail Bhawan, New Delhi.
8. The Secretary General, AIRPFA, Room No. 256-D, Rail Bhavan, New Delhi.
9. The Secretary, RBSS 'Group B Officers' Association.
10. The Secretary, Railway Board Ministerial Staff Association.
11. The Secretary, Railway Board Group D Employees Association.
12. M/s Bahri Brothers, 742, Lajpat Rai Market, Delhi-110 006, P.O. Box No. 2032.
13. Adviser (Safety), Railway Board, New Delhi.
14. Chief Commissioner of Railway Safety, Lucknow.
15. The General Secretary, All India SC/ST Railway Employees Association, Room No.7, Ground Floor, Rail Bhavan, New Delhi-110001.
16. The General Secretary, Retired Railway Employees' Welfare Association (Regd.), 490A/16, Gurudwara Road, Gurgaon.
17. The Manager(HRD), Rail Land Development Authority, Near Safdarjung Railway Station, Motibagh-1, New Delhi-110021.
18. The Chief Mechanical Engineer, Indian Railways Organisation for Alternate Fuels, 12<sup>th</sup> Floor, Core-I, Scope Minar, District Centre, Laxmi Nagar, Delhi-110092.
19. Office of Chief Administrative Officer, Indian Railways (Workshop Projects), Chamber Bhawan, Judge's Court Road, Anta Ghat, Patna-800001, Bihar.
20. Adviser (Projects), Room No.548, M/o Railways, Rail Bhawan, New Delhi.
21. Chief Administrative Officer, Rail Coach Factory/Raebareilly Project, Kishanganj, Delhi-110007.

  
for Secretary, Railway Board

Copy to:

PS/MR, PS/MSR(B), PS/MSR(M)  
Adv(Vig.), Adv(IR), Adv(Conf)  
JS, JS(G), JS(E), EDE, EDE(Res),  
DE(D&A), Dir.(E)II, DS(D&A), DSE(O)I, USE(O)I, US(A)IV,  
E(O)I, V-I, ERB-I, ERB-VI, ERB-V, E(Rep)I, E(Rep)II, E(Rep)III,  
E(SCT)I, E(SCT)II and  
E(O)I CC branches in Board's Office.



23-11-11

F.No.11012/12/2010-Estt. (A)

Government of India

Ministry of Personnel, Public Grievances and Pensions  
(Department of Personnel & Training)

North Block,  
New Delhi

Dated the 12<sup>th</sup> November, 2010

**OFFICE MEMORANDUM**

Subject : Communicating tentative reasons for disagreement under rule 15(2) of the CCS (CCA) Rules, 1965

The undersigned is directed to say that rule 15(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 states that 'The Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiry Authority on any article of charge to the Government Servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not, to the Government Servant.

2. The necessity of following the aforementioned rule 15(2) both in letter and spirit is reiterated. The communication forwarding the IO's report alongwith the tentative reasons for disagreement, if any, seeking comments/representation of the Charged officer should reflect this position. All Ministries/Departments are, therefore, requested to ensure that the communication forwarding 'the IO's report etc. does not contain phrases such as 'Article of charge is fully proved' or 'Article of charge is fully substantiated' which could be construed to mean that the disciplinary authority is biased even before considering the representation of the charged officer and this would be against the letter and spirit of the CCS (CCA) Rules, 1965.

3. Ministry of Finance etc. may bring the contents of the above OM to the notice of all concerned.

*A. Balaram*

(A. Balaram)

Deputy Secretary to the Government of India

All Ministries/Departments of the Government of India

02/11/11

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instructions and compliance.

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GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

No.E(D&A) 2008 RG 6-29

dated 23.12.2014

The General Manager (P),  
All Indian Railways and Production Units etc.,

Sub: Introduction of Single Window System in Railway Board for receiving disciplinary cases of non-gazetted Railway Servants.

Please refer to Board's letter of even no. dated 4.8.2009 wherein the attention of the Railways was invited to the issue of pendency of disciplinary cases for prolonged periods which results in unnecessary hardship to the Railway servants, especially the retired Railway servants, whose pensionary benefits are withheld due to non finalization of the disciplinary cases.

1.1 It was emphasized therein that disciplinary cases may be finalized speedily, for which Railways may develop a monitoring mechanism both at headquarters and division/workshop levels to avoid unnecessary delays. Further, a checklist was circulated to avoid back references of cases and consequent delays. It is, however, noticed that many Railways are still sending the disciplinary cases to Board's office without complete documents. While in some cases the checklist is not sent at all, in other cases it is not filled in properly leaving out vital information. This creates difficulty in scrutiny and verification of the records in Railway Board's office leading to prolonged and avoidable correspondences with the Railways resulting in further delay.

2. With a view to expedite scrutiny of disciplinary cases in the Railway Board, it has been decided that a **Single Window System** be implemented for receipt of the disciplinary cases of **non-gazetted Railway Servants** in Railway Board's office, as per the revised checklist, enclosed herewith. The cases should be accompanied with the check list, duly filled in, and signed by Group 'A' officer of the Personnel Department of the Railway headquarters.

3. Under the Single Window System, a gazetted officer of the Personnel Department of the Railway headquarter will be required to personally hand over the **disciplinary cases of non-gazetted Railway Servants** with all the relevant documents/records in E(D&A) branch, Room No.359-F (Third Floor), Rail Bhavan with prior appointment on Telephone Nos.011-23303959, 030-43959 (Rly), 011-23303276 and 030-43276 (Rly) on any working day.

(Contd...2/-)

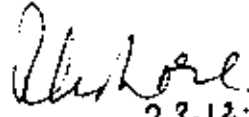
4. The cases received from the zonal Railways/Production Units etc. would initially be scrutinized on receipt at the Single Window, in terms of information provided in the check list. Only such cases which are complete as per the check list would be accepted for further detailed scrutiny and examination. Incomplete cases shall be returned to the bearer, pointing out the deficiencies. A list of Do's and Dont's is also enclosed for guidance. The Single Window System shall come in force from 01.01.2015. Zonal Railways/Production Units etc. may therefore send all the disciplinary cases in respect of non-gazetted railway servants to the Railway Board's office only in accordance with Single Window System. The Single Window System will also be applicable for those disciplinary cases of non-gazetted Railway servants which have been referred back to the concerned Railway/Production Unit due to incomplete documents/information/clarification etc.

5. It is reiterated that:

- (a) Disciplinary cases of non-gazetted Railway servants received in Board's office after 01.01.2015 will not be accepted unless sent as per the Single Window System.
- (b) The checklist should be filled in properly and signed by a Group 'A' officer of Personnel Department of Railway HQ.
- (c) The cases should be handed over personally at the Single Window by a gazetted officer of Personnel Department of Railway HQ to facilitate attestation of any document, if required.

6. Please acknowledge receipt.

DA: Check list and list of Do's & Don'ts

  
23.12.14  
(Rajiv Kishore)  
Executive Director (ERP)  
Railway Board

**DO's and DON'T's for the zonal Railways/Production Units in respect of disciplinary cases of non-gazetted Railway Servants being referred to the Railway Board**

1. The check list must be signed by a Group 'A' officer of the Personnel Department of the Railway Headquarters.
2. The cases should be handed over personally at the Single Window by a gazetted officer of Personnel Department of Railway HQ to facilitate attestation of any document, if needed.
3. The documents indicated in checklist should be duly referenced with page number, folder name etc.
4. No column of the checklist should remain unfilled. Avoid use of '\_\_\_' or '-do-' in the checklist, instead the column should be filled using the terms 'Not applicable' or 'nil'.
5. The DAR case file and other records of the case referred may be sent in original to the Board without disturbing/changing any folios. In other words, the original DAR file, Inquiry file etc. should not be tampered with by way of bifurcating/trifurcating etc. or by way of consolidating them or by removing some correspondence/notings.
6. All the documents should be forwarded either in original or duly authenticated copy thereof. Photocopied documents should preferably be signed in blue ink and duly stamped to enable cross-checking of authentication.
7. The exhibits and all other documents should be legible. In case a document is not legible, duly attested clean typed copy of the same may also be sent.
8. If any document is in regional language, its authenticated translation in English should be provided.
9. The full form of abbreviations used, if any, should be mentioned. The abbreviated terms for technical terms should be avoided.
10. In case of retired Charged Officers, the information like last pay drawn, monthly pension and gratuity must be mentioned in the check list. In case pension and/or gratuity is withheld, the same should clearly be indicated.
11. The group (i.e. A,B,C or D) in which the Charged Officer is working, or had retired from should invariably be indicated along with designation in column 2(a) of the checklist.
12. The statement of defence as per Rule 9 (19), reply to the charge sheet as per rule 9(7) and the written brief of the Charged Officer as per Rule 9(22) of RS (D&A) Rules should not be inferred as the same document.

(Contd. 2/-)

13. The feeder grade and its scale of pay in respect of Charged Officer should be indicated.
14. Daily order sheets, if maintained, should be available for all dates of hearing.
15. The position of disciplinary cases of co-accused Railway servants, if any, may be indicated in the covering letter as also in the checklist.
16. In minor penalty cases, the relied upon documents referred in the statement of imputation should be available and properly referenced.
17. The charge sheet issued (and its corrigendum, if any) must contain all its parts/annexures.
18. The records regarding proof of the delivery of the charge sheet to the Charged Officer must be available.
19. The column relating to general examination of the Charged Officer in the check list (item No.25) should invariably indicate the folio/folder of the papers. In case, general examination is not done, it should specifically be mentioned in the check list alongwith reasons therefor.
20. In case of disagreement of Disciplinary Authority with Inquiry Officer's report, a note of disagreement of the Disciplinary Authority which was forwarded to the Charged Officer must be sent.
21. The para-wise comments of the Disciplinary Authority should address all the points raised by the Charged Officer in his reply and should not be vague or general in nature.
22. In case of proposals for cut in pension, the recommendation of the Disciplinary Authority for cut in pension/pensionary benefits is necessary. However, the quantum of cut in pension/pensionary benefits need not be indicated.
23. It is desirable that a list of duty of the Charged Officer/channel of submission of cases by the Charged Officer should be forwarded with case records where situation demands it.
24. The letter should contain priority indication, if any Court case/ directions are involved.
25. All exhibits taken on record by the Inquiry Officer including RUD, Additional documents, defence documents should be available with the records.
26. The records of oral inquiry should be available with the records of the case.
27. The orders of appointment of Inquiry Officer (IO) and Presenting Officer (PO) should be available in respect of all the succeeding officers also, if the IO/PO has been changed.



**CHECK LIST FOR HANDING OVER CASES THROUGH SINGLE WINDOW SYSTEM IN RESPECT OF NON-GAZETTED RAILWAY SERVANTS**

**PART-I SERVICE AND RELATED PARTICULARS**

1		Name of the Charged Officer (CO) :	
2		Post last held by CO:	
	(a)	Group A, B, C or D	
	(b)	Designation:	
	(c)	Pay Band:	
	(d)	Grade Pay (GP):	
	(e)	Basic Pay last drawn by him (Including GP) :	
	(f)	Date from which pay shown against (e) drawn:	
	(g)	Date of next increment :	
3	(a)	Name of the next lower post:	
	(b)	Pay band and grade pay:	
4		Date of Birth:	
5		Date of Appointment:	
6		Due date of retirement or actual date of retirement, if already retired:	
7	(a)	Date of Superannuation:	
	(b)	Mode of retirement (Tick the correct option):	Superannuation Voluntary Compulsory
	(c)	Amount of monthly pension due to the CO:	
	(d)	Amount of monthly pension being paid to the CO:	
	(e)	Amount of Gratuity admissible to the CO:	
	(f)	Payment position of Gratuity (Tick the correct option):	Paid Not Paid Partly paid
	(g)	If partly paid, amount that remains unpaid :	
	(h)	If the Gratuity amount has been paid either in full or in part, the reasons therefor :	
8		Whether the CO was under suspension at the time of retirement (Tick the correct option):	Yes No
9		Appointing Authority w.r.t the post last held by the CO:	
10		Whether complete upto date folder containing ACRs/APAR of last 5 years of the CO is enclosed (Tick the correct option):	Yes No
11		Whether complete upto date Service Records of the CO are enclosed (Tick the correct option):	Yes No

(Contd... 2/-)



**CHECK LIST FOR HANDING OVER CASES THROUGH SINGLE WINDOW SYSTEM IN RESPECT OF NON-GAZETTED RAILWAY SERVANTS**

**PART-I SERVICE AND RELATED PARTICULARS**

1	Name of the Charged Officer (CO) :	
2	Post last held by CO:	
	(a) Group A, B, C or D	
	(b) Designation:	
	(c) Pay Band:	
	(d) Grade Pay (GP):	
	(e) Basic Pay last drawn by him (including GP) :	
	(f) Date from which pay shown against (e) drawn:	
	(g) Date of next increment :	
3	(a) Name of the next lower post:	
	(b) Pay band and grade pay:	
4	Date of Birth:	
5	Date of Appointment:	
6	Due date of retirement or actual date of retirement, if already retired:	
7	(a) Date of Superannuation:	
	(b) Mode of retirement (Tick the correct option):	Superannuation Voluntary Compulsory
	(c) Amount of monthly pension due to the CO:	
	(d) Amount of monthly pension being paid to the CO:	
	(e) Amount of Gratuity admissible to the CO:	
	(f) Payment position of Gratuity (Tick the correct option):	Paid Not Paid Partly paid
	(g) If partly paid, amount that remains unpaid :	
	(h) If the Gratuity amount has been paid either in full or in part, the reasons therefor :	
8	Whether the CO was under suspension at the time of retirement (Tick the correct option):	Yes No
9	Appointing Authority w.r.t the post last held by the CO:	
10	Whether complete upto date folder containing ACRs/APAR of last 5 years of the CO is enclosed (Tick the correct option):	Yes No
11	Whether complete upto date Service Records of the CO are enclosed (Tick the correct option):	Yes No

(Contd. 2/-)

17**		All orders of the DA appointing the Presenting Officer(s):	
18	(a)**	All the notices of the IO to the CO and Prosecution Witness(es) intimating them the holding of the inquiry	
	(b)	Whether the notices were delivered/deemed delivered to the CO / DH for all the days (Tick the correct option):	Yes No
19	(a)	Whether ex-parte proceeding has been held on any day (Tick the correct option):	Yes No
	(b)	If yes, whether the proper procedure as laid down in Board's Letter No. E(D&A)90 RG 6-38 dated 18.4.1990 has been followed (Tick the correct option):	Yes No
20	(a)	Whether any representation has been received from the CO for additional documents and/or defence witnesses(Tick the correct option):	Yes No
	(b)**	If yes, the representations of the CO and letter/noting vide which they disposed of	
	(c)	Whether additional/defence documents as demanded by the CO were allowed by the IO (Tick the correct option)	Yes No
	(d)**	If yes, description of Defence/Additional documents allowed. <b>(Details of the same in respect of each document may be given with proper folio number and Folder, if necessary, in a separate sheet)</b>	
21**		Correspondence of the IO with the DA, if any:	
22	(a)	Whether all the Prosecution Witness(es) listed in Annexure-IV of the chargesheet have been examined by the IO (Tick the correct option)	Yes No
	(b)**	If no, the reasons therefor may be indicated:	
	(c)**	Deposition/oral statements recorded from all the Prosecution witness(es) (Details may be given w.r.t. each witness(es) with proper folio number and Folder, if necessary, in a separate sheet):	
23	(a)	Whether all the Defence Witness(es) have been examined by the IO (Tick the correct option)	Yes No
	(b)**	Deposition/oral statements recorded from all the Defence witness(es), if any (Details may be given w.r.t. each witness(es) with proper folio number and Folder, if necessary, in a separate sheet)	
24**		Statement of defence submitted by the CO during the inquiry proceedings under rule 9(19) of RS(D&A) Rules :	
25	(a)	Whether general examination of the CO is done(Tick the correct option):	Yes No
	(b)**	If yes, folio/folder at which general examination of CO is placed:	
	(c)**	If no, the reasons therefor may be indicated:	

(contd...4/-)

26**		Description of all the Relied Upon Documents (RUD) mentioned in the Annexure-III of the chargesheet. <b>(Details of the same in respect of each document may be given with proper folio number and Folder, if necessary, in a separate sheet):</b>	
27	(a)**	Written brief, if any, submitted by the Presenting Officer:	
	(b)**	Records of supply of PO brief to the CO:	
28**		Written brief, if any, submitted by the CO under rule 9(22) of RS(D&A) Rules :	
29	(a)	Whether CO has submitted any representation regarding biasness of the IO (Tick the correct option):	Yes No
	(b)**	If yes, representation of the CO regarding biasness of the IO:	
	(c)**	Competent Authority's letter/order vide which the CO's representation regarding biasness of the IO has been disposed of:	
30	(a)**	Inquiry Report :	
	(b)**	Records of supply of the inquiry report to the CO:	
31	(a)	Is there any disagreement of the DA with the inquiry report (Tick the correct option):	Yes No
	(b)**	If yes, reasons of disagreement of the DA with the findings of the IO:	
	(c)**	Records of communication of the reasons for disagreement to the CO alongwith the inquiry report :	
32	(a)	Whether the CO has submitted representation against the inquiry report/Disagreement memorandum (Tick the correct option):	Yes No
	(b)**	If yes, the CO's representation against the inquiry report/disagreement memorandum:	
33**		Parawise comments of the DA, on the CO's representation against the inquiry report/disagreement memorandum :	
34**		Findings and recommendations of the DA for imposing cut in pension on the CO:	
35**		Views of CPO and PHOD on the DA's recommendation:	

**\*\*Folio number and folder number should be indicated.**

**(B) For Appeal/Revision petition/Petition/Review petition to the Board/President:**

**(Where the order of penalty has been passed by a subordinate authority and an appeal/revision petition/petition/review petition lies to the Board/President)**

1	(a)**	Final order passed by the DA together with a note, if any, containing the conclusion arrived at by him in respect of each charge:	
	(b)**	Proof of delivery of the DA's order:	
2	(a)**	Appeal submitted by the CO:	

(contd ..5/-)

	(b)	Whether appeal lies to Board/President (Tick the correct option):	Yes No
	(c)**	If yes, parawise comments of the DA on the appeal at 2(a) above :	
	(d)**	If no, order passed by the Appellate Authority:	
	(e)**	Proof of delivery of the AA's order:	
3	(a)	Whether Revising Authority has conducted suo moto revision in this case (Tick the correct option):	Yes No
	(b)**	If yes, show cause memorandum issued to the CO:	
	(c)**	CO's reply to the show cause memorandum:	
	(d)**	Order passed by the Revising Authority:	
	(e)**	Proof of delivery of RA's order:	
4	(a)**	Revision petition, if submitted by the CO:	
	(b)	Whether revision petition lies to the Board (Tick the correct option):	Yes No
	(c)**	If yes, parawise comments of the AA on the revision petition at 3(a) above (only in cases where the revision lies to Railway Board) :	
	(d)**	If no, order passed by the Revising Authority:	
	(e)**	Proof of delivery of RA's order:	
5	(a)**	Appeal submitted by the CO against the enhanced penalty imposed on him by RA :	
	(b)	Whether appeal against the enhanced penalty lies to the Board/President (Tick the correct option):	Yes No
	(c)**	If yes, parawise comments of the RA on the appeal at 4(a) above against the enhanced penalty (only in cases where such appeal lies to the Railway Board) :	
	(d)**	If no, order of such Appellate Authority :	
6	(a)**	Petition submitted by the CO to the President under Rule 31 of RS(D&A) Rules, 1968:	
	(b)**	Parawise comments on the petition at 6(a) above:	
	(c)**	Recommendations of the Prescribed Authority for Presidential consideration of the petition at 6(a) above :	
7	(a)**	Review petition submitted by the CO to the President under Rule 25-A of RS(D&A) Rules :	
	(b)**	Comments of the Railway as whether any new facts/evidence fulfilling the requirement of rule 25-A has been brought out by the CO in the review petition:	
	(c)**	Parawise comments on the review petition at 7(a) above:	

**\*\*Folio number and folder number should be indicated.**

**(C) INFORMATION REGARDING COURT CASES AND CO-ACCUSED(ES)**

1	(a)	Whether there is any court case filed by the CO (Tick the correct option):	Yes No
	(b)**	If yes, orders (including interim orders) passed by the Hon'ble Court, if any	

(Contd ... 6/-)



	(c)	Whether there is any time limit fixed by the Hon'ble Court for finalisation of the disciplinary proceedings (Tick the correct option):	Yes No
	(d)	If yes, what is the target date for passing final orders:	
	(e)	Whether any Misc. application for seeking extension of time has been filed by the Railway before the Hon'ble Court (Tick the correct option):	Yes No
	(f)**	Copy of Misc. application so filed and present position/any orders passed by Court thereon:	
	(g)	Whether any contempt petition has been filed by the CO (Tick the correct option):	Yes No
	(h)**	If yes, outcome/present position of the contempt petition alongwith its copy:	
2	(a)	Whether any other official(s) is also involved in this case (Tick the correct option)	Yes No
	(b)**	If yes, list of co-accused(es) alongwith outcome/present position of the disciplinary action initiated against them:	

**\*\*Folio number and folder number should be indicated.**

**(D) FOR DISCIPLINARY CASES WHERE ACTION HAS BEEN INITIATED UNDER RULE 14(I) OF RS(D&A) RULES, 1968 OR PROPOSED TO BE INITIATED ON ACCOUNT OF CONVICTION OF CO**

1**		Copy of the judgment passed by Hon'ble Court vide which CO was convicted:	
2	(a)	Whether this is a CBI case (Tick one option) :	Yes No
	(b)**	If yes, CBI Investigation Report (together with depositions recorded, if any):	
	(c)**	A copy of FIR:	
3	(a)	Whether this is a vigilance case (Tick one option):	Yes No
	(b)**	If yes, Vigilance Investigation Report (together with depositions recorded, if any) :	
4		Whether action under rule 14 (i) of RS(D&A) Rules, 1968 has already been initiated (Tick one option):	Yes No
5**		If yes, show cause notice issued to the CO:	
6**		Reply of the CO to the aforesaid show cause notice:	
7**		Parawise comments on factual or procedural points raised by the CO in his reply:	
8		Whether any appeal has been filed by the CO against his conviction (Tick one option):	Yes No
9**		If yes, outcome/present position of the appeal alongwith copy of orders passed therein:	

**\*\*Folio number and folder number should be indicated.**

(Contd... 7/-)

(E) FOR INITIATION OF DISCIPLINARY PROCEEDINGS UNDER  
RULE 9 OF RAILWAY SERVICES (PENSION) RULES,1993

1**		Copy of the preliminary explanation called for from the CO, if any:	
2	(a)**	Self contained note/comments of the Administrative authority on the reply of the CO:	
	(b)**	Preliminary investigation report, if any:	
3**		Draft charge sheet containing Article(s) of charge in clear and definite terms alongwith statement of imputations of charges, list of relied upon documents and List of witnesses:	
4		Date/period of misconduct:	
5		The date on which the 4 years time limit for initiation of disciplinary proceedings will expire:	
6**		All the relied upon documents in original or as duly authenticated copy which should be duly page numbered and indexed (2 sets):	
7	(a)	Whether the case involves vigilance/CVC/CBI:	Yes No
	(b)**	If Yes, Vigilance investigation report/CVC's 1st stage advice/CBI's report:	
8**		Action taken against co-accused, if any:	
9**		Extracts of relevant rules, codes, manuals, acts, judgments etc.	

**\*\*Folio number and folder number should be indicated.**

I have checked the information given in the check list and ensured that the disciplinary case files in original is being sent and have ensured that folio numbers mentioned in the checklist is complete in all respects.

Signature\*:

Name in Block letters of the  
Officer signing this Statement:

Designation:

Telephone No.:

Date:

\* To be signed by a Group 'A' Officer of the Personnel Department of the Railway Headquarters.





**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. E(D&amp;A) 2012 RG6-34

New Delhi, 30.09.2015

The General Manager(P)  
All Indian Railways and  
Production Units etc.  
(As per standard list).

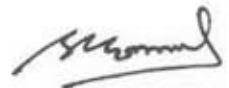
Sub: Imposition of penalties of dismissal, removal or compulsory retirement -  
Determination of appointing authority reg.

Attention is invited to Railway Board's letter no. E(D&A) 2002 RG6-36 dated 25.11.2002 on the above subject relating to determination of appointing authority for the purpose of imposition of the penalties of dismissal, removal or compulsory retirement on a Railway servant.

2. It was clarified in the above referred instructions that the intention of Rule 2(1)(a) of RS(D&A) Rules, 1968 is that the penalties of dismissal, removal or compulsory retirement from service should be imposed on a Railway servant only by the highest of the following authorities viz. the authority which actually appointed the railway servant to the relevant grade or post, or the authority which is empowered to make appointment to that grade or post at the time of imposition of penalty. It was further emphasized that the penalty of dismissal, removal or compulsory retirement from service should not be imposed by an authority which has merely issued the offer of appointment or order of promotion with regard to the appointment or promotion ordered by a competent authority higher to that authority.

3. In a PNM meeting with the NFIR, the Federation has stated that inspite of the above mentioned instructions, in some instances, the penalties of dismissal, removal or compulsory retirement were imposed on a Railway servant by an authority lower than the authority which had actually ordered the appointment/promotion of the Railway servant. It is therefore reiterated that a lower authority who has merely issued/signed the order regarding appointment/promotion which has been ordered by a higher authority, is not competent to impose the penalty or dismissal, removal or compulsory retirement from service on such Railway servant. Such action is not only violative of the RS(D&A) Rules but also unlikely to withstand judicial scrutiny. Railways may therefore impress upon all concerned to adhere to the provisions of Railway Board's letter no. E(D&A) 2002 RG6-36 dated 25.11.2002, as brought out in para 2 above.

4. Hindi version will follow. Please acknowledge receipt.



**(S. Modi)**  
**Dy. Director Estt. (D&A)**  
**Railway Board**



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

**No. E(D&A) 2017 RG6-21**

**New Delhi, 18.09.2017**

The General Manager(P)  
All Indian Railways and  
Production Units etc.  
(As per standard list).

**Sub: Rule 14(ii) of Railway Servants (D&A) Rules, 1968 -  
Following of proper procedure regarding**

\*\*\*\*\*

Rule 14(ii) of the Railway Servants (Discipline and Appeal) Rules, 1968, which emanates from the provisions contained in clause (b) of the second proviso to Article 311 (2) of the Constitution of India, lays down special procedure for imposition of penalties in situations where the disciplinary authority is satisfied, for reasons to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules.

2. The scope and ambit of the special procedure under the aforesaid Rule 14(ii) and the protections embodied therein for the Railway servants have been explained in Circulars issued by this Ministry from time to time. It is to be noted that (i) the conditions precedent to application of the aforesaid special procedure, (ii) the action taken thereunder being subject to judicial review and (iii) permissibility of the claim by the penalized person for holding of inquiry at the stage of appeal, revision etc, have been explained in paragraphs 6, 7 and 8 respectively of Department of Personnel & Training OM No. 11012/11/85-Estt(A) dated 11.11.1985 as circulated vide this Ministry's letter No. E(D&A) 85 RG6-72 dated 06.02.1986. A Note regarding some of the important points to be borne in mind while taking action under the aforesaid Rule 14(ii) and specimens of speaking order and notice imposing penalty thereunder were also circulated vide this Ministry's letter no. E(D&A) 85 RG6-72 dated 06.10.1988. Further thereto, the requirement that the reasons recorded by the Disciplinary Authority for dispensing with the inquiry should be supported by objective facts and/or independent material, was emphasized vide this Ministry's letter no. E(D&A) 92 RG6-48 dated 06.04.1992.

3. Notwithstanding above, instances of non-adherence to the aforesaid instructions/clarifications have been brought to notice of this Ministry.

*Contd.. 2/-*

4. In view of above, the afore-mentioned Instructions/clarifications are emphatically reiterated. All Zonal Railways/Production Units etc. are directed to bring it to the notice of the disciplinary/appellate/revisionary authorities that, whenever it is proposed to invoke action under the aforesaid Rule 14(ii), it is imperative that all the instructions mentioned above in this regard are followed scrupulously so as to ensure that the action is not found wanting in compliance of:

- (i) the mandate under the clause (b) of the second proviso to the Article 311 (2) of the Constitution of India,
  - (ii) of the provisions contained in the aforesaid Rule 14 (ii), and
  - (iii) of the related subsidiary instructions/clarifications.
5. Hindi version will follow. Please acknowledge receipt.

  
(Sunil Kumar)  
Director Estt. (W&D&A)  
Railway Board