

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E(D&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.

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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