

RAILWAY BOARD CIRCULARS AND REFERENCES CONNECTED WITH RAILWAYS DISCIPLINE AND APPEAL RULES 1968

MARCH 29, 2013

COLLECTION OF RAILWAY BOARD CIRCULARS AND REFERENCES CONNECTED WITH RAILWAYS DISCIPLINE AND APPEAL RULES 1968.

A PRACTICAL MASTER CIRCULAR ON DAR.

(Before taking a decision based on the above Circular please confirm with the original Circulars / letters issued by Railway Board.)

1) Ref: Railway Board's D.O.letter No. E(D&A) 66RG6-9 dated 27-08-1968

The Railway Servants Discipline & Appeal Rules, 1968 – preamble.

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the President hereby makes the following rules namely: " The Railway Servants (Discipline & Appeal) Rules 1968". The rule come into force on the 1st October, 1968.

(The Railway Servants Discipline & Appeal Rules was separated from Chapter 17 of Indian Railway Establish Code Vol I and the revised rules were issued as a "Supplement to Fortnightly Gazette No. 18 dated 15-09-1968.)

2) Railway Board's letter No. E(D&A) 66 RG6 -29 dated 05-12-1966

Sub: Standard Form for Major and Minor penalty charge Memorandums :

Standard Form for Major penalty and Minor penalty charge memorandums issued vide Railway Board's letter No. E(D&A) 66 RG6 -29 dated 05-12-1966 with the following points:

The charged employee should submit his written statement of defence within 10 days and also to state whether he desires to be heard in person. (Para 3)

The charged employee should specially admit or deny each article of charge. (Para 4)

3) Railway Board's order No. E(D&A) 67 RG-8 dated 21-03-1967.

Sub: Serving of Charge Memorandum to Running Staff:

The Railway employees concerned with the running of trains should not be served with charge sheet when they are going to start their duty, but only when they are going to sign off duty.

4) Railway Board's order No. E(D&A) 65R46-6 dated 25-03-1967.

Sub: Transfer of staff whose conduct is under investigation:

Non-gazetted staff should not normally be transferred from one Railway /Division till after the finalization of the departmental or criminal procedure, irrespective of whether the charges merit imposition of a major penalty or a minor penalty.

5) Railway Board's letter No. F(P) 67 PN-17 dated 22-07-1967.

Sub: Withholding and withdrawal of Pension :

The matter has been considered in consultation with the Ministry of Home Affairs and the Law Ministry and it is clarified that the function of the Disciplinary Authority is only to reach a finding on the charges and to submit a report recording its findings to the President. It is then President to consider the findings and take a final decision.

6) Railway Board's D.O. letter No. F(E) 67 LE2/2 dated 07-08-1967.

Sub: Termination of service of Railway servant as a result of continued absence:

The matter has been considered in consultation with the Ministry of Law, Finance and Home Affairs, and has decided that so far as permanent Railway servants are concerned, there cannot be any automatic termination of service in the event of the absence from duty exceeding the specific limit.

7) Railway Board's letter No.E(D&A) 67 RG6-13 dated 28-02-1968.

Sub: An Inquiry should be mandatory in certain types of penalties:

withholding of increments is likely to affect adversely the amount of pension or special contribution to Provident Fund payable to the Railway Servant or to withhold increments of pay for a period exceeding three years or to withhold increments with cumulative effect for any period, an inquiry shall invariably be held.

8) Railway Board's letter No.E(D&A) 64 RG6-36dated 08-03-1968.

Sub: Status of Presenting Officer from vigilance branch:

The Presenting Officer should not be the Railway Servant who investigated the case.

9) Railway Board's letter No.E(D&A) 68 RG6-26dated 29-06-1968.

Sub: Supply of Vigilance Inspectors Report along with Charge sheet:

Report made after a preliminary inquiry or the report made by the Police after investigation are usually confidential and intended only to satisfy the competent authority whether further action is called for or not. As such Vigilance Inspectors Report shall not be enclosed along with Charge sheet.

10) Railway Board's letter No.E(D&A) 68 RG6-31 dated 18-07-1968.

Sub: Endorsement of orders of Compulsory Retirement / Removal or Dismissal from service:

When the Railway servant is Compulsorily Retired / Removed or Dismissed from service, it should be ensured that the settlement dues, if any admissible to him are sanctioned in time, all Government dues are recovered from him. Copies of orders of Compulsory Retirement / Removal or Dismissal from service should invariably be endorsed to the authorities concerned for prompt action.

11) Railway Board's letter No.E(D&A) 68 RG6-39 dated 08-10-1968.

Sub: Forwarding of applications for Deputations:

Government Servants involved who are under suspension or against whom departmental proceedings are pending, application for Deputation, foreign assignment etc should not be forwarded.

Cases of Government servants on whom the Penalty of withholding of increments or reduction to a lower stage in a time scale or to a lower time scale or to a lower service, grade or post has been imposed, Applications of such Government servants should not be forwarded, nor should they be released during the currency of the penalty.

12) Board's letter No. E(D&A)83 RG 6-17 dated 31.5.1983

Sub: Headquarters of a suspended Railway Servants & Attendance of the employee under suspension :

An officer under suspension is subject to all other conditions of service applicable generally to Railway servants and cannot leave the station without prior permission. As such the headquarter of a railway servant should normally be assumed to be his last place of duty. However, where an individual under suspension request for change of headquarter, there is no objection to a competent authority changing the Headquarter, if it is satisfied that such a course will not put the Railway Administration to any extra expenditure like grant of T.A. etc. or other complications.

An employee under suspension is not required to attend to his work but he cannot leave his Headquarters without prior permission of the competent authority. There is, however, no question of his giving daily attendance and marking his presence.

13) Railway Board's letter No.E(D&A) 66 RG 6-7 dated 31-12-1968.

Sub: Conducting of Departmental Inquiries 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. The principle of natural justice require that the delinquent employee must have reasonable opportunity to defend himself and if he is not able to understand English the statement of allegations must be supplied to him in Hindi.

The inquiry officer should also explain to the delinquent Officer in a language known to the delinquent the purport of the proceedings.

14) Railway Board's letter No.E(D&A) 67 RG 6-1 dated 11-06-1969.

Sub: Railway Servant cannot assist a Civil Servant in (D&A) Rule:

The matter has been considered in consultation with the Ministry of Home Affairs, and Law it has been decided that a Government Servant governed under CCS Rules 1965 cannot take the assistance of a Railway Servant. Therefore, the question of granting any facilities to a Railway Servant for the purpose of assisting the question of granting any facilities to a Railway servant for the purpose of assisting a non-railway servant in a disciplinary case.

15) Railway Board's letter No.E(D&A) 69 RG 6-8 dated 19-06-1969.

Sub: Authority competent to deal with Appeal or Review in case of transferred to other Railway:

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 the imposition of the penalty.

In review cases only authority under, whose control the Railway servant is presently working.

16) Railway Board's letter No.E(D&A) 70 GS-1/13 dated 06-06-1970.

Sub: Need for proper application of mind by the Disciplinary Authority at the time of initiating Disciplinary Proceedings:

The Board, therefore desire that it should be brought to the notice of all disciplinary authorities that at the time of initiating disciplinary proceedings, they should apply their minds fully and properly with a view to see whether the material before them justifies initiation of proceedings for a major penalty or the ends of justice would be met if action is taken for imposition of only a minor penalty or other administrative action. It is needless to add that such application of mind is also equally necessary at all the subsequent stages of the disciplinary proceedings to avoid delays in their finalization. (Discussion in the conference of General Managers held with the Railway Board in November 1969 communicated vide Railway Board's letter No.E(D&A) 70 GS-1/13 dated 06-06-1970.)

17) Railway Board's letter No.E(D&A) 66 RG 6-7 dated 05-09-1970

Sub: Standard forms for use in Disciplinary cases:

With the introduction of the Railway Servants (Discipline a7 Appeal) Rules 1968 from 01-10-1968 the revision of the old forms for use at various stages in disciplinary proceedings forwarded to the Railway administration by Railway Board's letter No.E(D&A) 61 RG 6-62 dated 15-7-1963 and revised from time to time has been revised.

1	Order of Suspension
2	Order of Deemed Suspension
3	Certificate to be furnished by Suspended Official about non employment
4	Order of Revocation of Suspension
5	Charge Memorandum for Major Penalty
6	Refusing permission to inspect Relied upon Documents
7	Appointment of Inquiry/Board of Inquiry
8	Appointment of Presenting Officer
9	Show cause notice for imposition of major penalties
10	Disciplinary action in common proceedings
11	Charge Memorandum for Minor Penalties

(Railway Board's letter No.E(D&A) 66 RG 6-7 dated 05-09-1970.)

From the above, Standard Form No. 5 and 11(b) revised vide (Railway Board's letter No.E(D&A) 78 RG 6-11 dated 16-10-1980.)

18) Railway Board's letter No.E(D&A) 69 RG 6/29 dated 19-11-1971.

Sub: Serving of Notice of Imposition of Penalty:

In cases where the last noted address of the employee who proceeded on leave is in a distant town /village, the proper mode of serving would be to sent the Order / Notice by Registered Post and the question of pasting it in that place does not arise.

19) Railway Board's letter No.E(D&A) 71 RG 6-57 dated 07-02-1972.

Sub: Action against Railway Staff alleged to have made different statement:

In a number of cases Railway servants give one statement during a preliminary inquiry or a proper DAR inquiry and later retract from it in a court of law, either of their own or by temptation from the opposite parties. In such cases the railway servants concerned are guilty of deliberate provocation with the object of spoiling the case of the Railway Administration and, therefore disciplinary action would be justified.

20) Railway Board's letter No.E(D&A) 72 RG 6-13 dated 16-10-1973.

Sub: Disciplinary Authorities for imposition of penalties for various types of irregularities:

The matter has been carefully considered by the Board and in consultation with their legal Advisor, it is clarified that a Railway Servant essentially belongs to only one Department even though, in the course of the performance of his day to day duties, he may violate certain rules/ regulations administrated by some other Department. In these cases, the Disciplinary action should be initiated and finalized by the authorities under whose administrative control the delinquent employee is working.

21) Railway Board's letter No.E(D&A) 73 RG 6-5 dated 22-02-1974.

Sub: Regulation of Seniority and Pay in Reduction cases:

In cases where the penalty of Reduction to a lower service, grade, or post or lower time scale for a specified period imposed and the order does not specify whether has effect on seniority and increments in the higher service, grade, posts etc., on restoration to that higher service, grade, posts, etc., it would be assumed that the order will not have the effect of seniority or increments.

22) Sub: Appeal against Inquiry Officer on the ground of Bias:

Whenever an application is made by the Railway servant against, whom disciplinary proceedings are initiated against the Inquiry Officer, on grounds of bias, the proceedings should be stayed and the application of the delinquent along with the other relevant material, forwarded to the appropriate Reviewing Authority for considering the application and passing appropriate orders thereon expeditiously.

(Railway Board's letter No.E(D&A) 70 RG 6-14 (1) dated 19-06-1974.)

23) Railway Board's letter No.E(D&A) 73 RG 6-34 dated 04-09-1974.

Sub: Minor Penalty cases where inquiry is to be held Form No. 11(b):

After considering the reply statement submitted by the Delinquent employee, if the Disciplinary Authority tentatively decides to impose any one of the penalty which is withholding of increment for more than 36 months, penalty with cumulative effect or penalty which effects the pensionary benefits, an inquiry is to be held and the Form No 11(b) is circulated.

24) Railway Board's letter No.E(D&A) 74 RG 6-31 dated 11-11-1974.

Sub: Nomination of Railway staff under suspension to act as Defence helper:

It is clarified that a Railway Servant ,on being placed under suspension does not cease to be a Railway servant and this being so, there is no bar to his acting as a defence helper to another Railway Servant in disciplinary cases.

25) Railway Board's letter No.E(D&A) 76 RG 6-49 dated 20-08-1977.

Sub: Appointing Authority in cases where is no mention in Service Records:

The Railway Board has decided that in cases where records or actual appointment authority are not available, the General Manager should be treated as the "Appointing Authority" and it would not be safe to follow any other course.

26) Railway Board's letter No.E(D&A) 78 RG 6-6 dated 10-07-1978.

Sub: Issue of Passes to officials prosecuted in SPE etc.:

The grant of duty passes to officials prosecuted in SPE etc to attend law courts is not admissible. Such facilities are admissible to the accused railway servants in the departmental proceedings only in terms of Railway Board's letter No.E(D&A) 64 RG 6-22 dated 23-07-1966.)

27) Railway Board's letter No.E(D&A) 77 RG 6-30 dated 29-12-1979.

Sub: Issue of Passes to Retired Railway servants to assist railway servants involved in DAR cases:

The Ministry of railway has clarified that Retired Railway servants when engaged for assistance to defend by the Railway servant involved in disciplinary proceedings may be issued passes of the class for which they were eligible at the time of retirement on privilege account, but not higher than 1st class in any case.

28) Board's letter No.E(D&A) 78 RG 6-11 dated 6-2-80

Sub: Procedure for imposing major penalties:

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following Rules further to amend the Railway Servants (Discipline and Appeal) Rules 1968 namely:-

1. (1) These Rules may be called the Railway Servants (Discipline and Appeal) First Amendment Rules, 1980:-

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Railway Servants (Discipline and Appeal) Rules, 1968 (hereinafter referred to as the said Rules) for Rule 9 the following Rule shall be substituted, namely

" Rule 9. Procedure for imposing major penalties – (1) No order imposing any of the penalties specified in clauses, (v) to (ix) of Rule 6 shall be made except after an inquiry held, as far as may be, in the manner provided in this' Rule and Rule 10. or in the manner provided 'by the Public Servants (Inquiries) Act, 1850 (37 of 1850) where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a railway servant, it may itself inquire into, or appoint under this Rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, a Board of Inquiry or other authority to inquire into the truth thereof.

(3) Where a Board of inquiry is appointed under sub-rule (2) it shall consist of not less than two members, each of them 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 or members, as the case may be, of such Board.

(4) Where the Board of Inquiry consists of two or more members, the senior member shall be the Presiding Officer.

(5) Every decision of the Board of Inquiry shall be passed by majority of votes, and where there is an equality of votes on the findings, findings of the each member shall be incorporated in the report.

(6) Where it is proposed to hold an inquiry against a railway servant under this rule and rule 10, the Disciplinary authority shall draw up or cause to be drawn up

(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct article of charge;

(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge which shall contain:-

(a) a statement of all relevant facts including any admission or confession made by the railway servant,

(b) a list documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(7) The disciplinary authority shall deliver or caused to be delivered to the railway servant a copy of the article of charge, the statement of imputations of misconduct or misbehaviour and a list of documents and list of witnesses by which each article of charge is proposed to be sustained and shall require the Railway servant to submit a written statement of his defence within ten days or such further time as the disciplinary authority may allow.

(8) The railway servant may, for the purpose of his defence, submit with the written Statement of his defence, a list of witnesses to be examined on his behalf

Note: If the railway servant applies in writing, for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (6), the disciplinary authority shall furnish him with a copy each of such statement as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(9) (i) 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 this rule.

(ii) Where the disciplinary authority decides to proceed with the inquiry it may itself inquire into such of the articles of charge as are not admitted or 'appoint under sub-rule (2) a Board of Inquiry or other authority for the purpose.

(iii) Where all the articles of charge have been admitted by the railway servant in his written statement of defence. the disciplinary authority shall record its findings on, each charge after taking such further evidence as it may think fit and shall act in the manner laid down in Rule 10

(iv) If the disciplinary authority, after consideration of the written statement of defence, is of the opinion that the imposition of a major penalty is not necessary. it may drop the proceedings already initiated by it for the imposition of major penalty, without prejudice to its right to any of the minor penalties not attracting the provisions of sub-rule (3) "of Rule II. Where the disciplinary authority so drops the proceedings but considers it appropriate to impose any of the minor. penalties, not attracting the provisions of sub-rule (2) of Rule 11. it may make an order imposing such penalty and it will not be necessary to give the railway servant any further opportunity of making representation before the penalty is imposed.

(b) If no written statement of defence is submitted by the railway servant, the disciplinary authority may itself inquire into the article of charge or may, if it considers it necessary to do so, appoint an inquiry authority for the purpose and also inform the railway servant of such appointment.

(c) Where the disciplinary authority itself inquiries into any article of charge or appoints a Board of Inquiry or any other inquiring authority for holding an inquiry into such charge, it may by an order in writing appoint a railway servant or any other Government servant to be known as 'Presenting Officer' to present on its behalf.

(10) The disciplinary authority shall, where it is not the inquiring authority, forward to the Inquiring authority:-

i) a copy of the articles of-charge and the statement of the imputations of misconduct or misbehaviour;

ii) a copy of the written statement of defence, if any, submitted by the railway servant;

iii) a copy of the statement of witnesses, If any, referred to in sub-rule (6);

iv) evidence proving the delivery of the documents referred to in sub-rule (6) to the Railway servant; ,

v) a copy of the order appointing the 'Presenting Officer, if any; and

vi) a copy of the list of witnesses, if any; furnished by the railway servant.

(11) The Railway. servant shall appear in person before the inquiring authority on such day and at such time within the working days from the date of the appointment of inquiring authority, as the inquiring authority may, by a notice in writing, specify in this behalf or within such further time not exceeding ten days, as the inquiring authority may allow.

(12) The inquiring authority shall, if the railway servant fails to appear within the specified time or refuses or omits to plead, require the 'Presenting Officer' if any, to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a latter date not exceeding thirty days, after recording an order that the railway servant may for the purpose of preparing his defence give a notice within ten days of the order or within such further time not exceeding ten days as, the inquiring authority may allow for the discovery or production of any documents which are in possession of Railway administration but not mentioned in the list referred to in sub-rule (6).

(13) The Railway servant may present his case with the assistance of any other serving or retired railway servant.

(14) After the nomination of the assisting railway servant and other necessary steps preliminary to the inquiry are completed, a date, ordinarily not exceeding one month from the date of appointment of the inquiry authority, shall be fixed for the inquiry and railway servant informed accordingly.

(15) The inquiring authority shall, on receipt of notice in writing from the delinquent, forward the same to the authority in whose custody or possession the documents to provide them or record by it in writing the reasons for refusal.

(16) On receipt of the requisition above every authority having the custody or possession of the documents shall produce the same before the inquiring authority by the specified time.

(17) On the day fixed for inquiry, the oral and documentary evidence by which the article of charge s are proposed, shall be produced on behalf of the disciplinary authority. The witnesses shall be examined by the or on behalf of the presenting officer, if any, and may be cross examined by or on behalf of the railway servant.

(18) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer, if any, to produce evidence not included in the list given to the Railway servant or may itself call for new evidence or recall for new evidences, or recall and re-examine any witness. The Railway servant is entitled for inspection of the same and if necessary can have a copy of the new evidence. The inquiring authority shall give the railway servant to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interest of justice.

(19) When the inquiry officer at the conclusion of the inquiry, the Railway servant shall be required to state his defence orally or in writing. If the defence is made orally, it shall be recorded and the Railway servant shall be required to sign on it. A copy of the same shall be given to the Presenting officer.

(20) The evidence on behalf of the railway servant shall then 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 cross examined by or on behalf of the Presenting officer, if any. The Railway shall be entitled to re-examine the witnesses on any point on which they have been cross-examined, but not on any new matter. The inquiring authority may also put such questions as it thinks fit.

(21) The inquiring authority may, after the railway servant close his case, and shall, if the a railway servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the railway servant to explain any circumstances appearing in the evidence against him.

(22) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, and the railway servant to file their written briefs of their respective cases, if they so desire.

(23) If the railway servant, to whom a copy of the articles of charge been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry exparte.

(24) Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein and is succeeded by another inquiring authority which has, and which exercises such jurisdiction, the inquiring authority so succeeding may act

on the evidence so recorded by its predecessor or partly recorded by its predecessor and partly recorded by itself,

Provided that if the succeeding inquiring authority is of the opinion . further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, or examine and re-examine any such witnesses as herein before provided .

(25) (i) After the conclusion of the inquiry a report shall be prepared and it shall contain

- a) the articles of charge and the statement of imputations of' miscon4 or misbehaviour ;
- b) the defence of the railway servant in respect of each article of charges
- c) an assessment of the evidence in respect of each article of charge;
- d) the findings on each article of charge and the reasons therefore.

(Board's letter No.E(D&A)78 RG 6-11 dated 6-2-80)

29) Railway Board's letter No.E(D&A) 80 RG 6-74 dated 23-08-1980

Sub: Review without time limit:

The Board in consultation with their legal adviser have examined the matter and observed that no authority lower than General Manager and the Board when they are higher than the Appellate authority, can undertake a review without any time limit. Review in terms of Rule 25 can be undertaken by the President only without time limit and even if he happened to be the appellate authority.

30) Board's letter No.E(D&A)81 RG 6-28 dated 27-6-1981

Sub: Dropping the charges at the stage of written statement:

Disciplinary Authority has the inherent power to review and modify the Articles of charges or drop some of the charges or all charges after the receipt and examination of the written statement of defence submitted by the accused Govt. Servant under Rule 14(4) of CCS(CCA) Rules 1965, subject to the condition that

- a) in cases arising out of investigation by the Central Bureau of Investigation, the CBI should be consulted before a decisions taken to drop any of, or all, the charges on the basis of the written statement of defence.

31) Board's letter No.E(D&A)81 RG 6-22 dated 18-8-1981

Sub: Payment of Subsistence Allowance:

In view of Hon'ble Supreme Court's orders in AIR 1973 sc 1183, it may be impressed on all the authorities concerned that they should make timely payment of subsistence allowance to Government servants who are placed under suspensions so that they may not be put into financial difficulties.

32) Railway Board's letter No.E(D&A) 81 RG 6-63 dated 10-08-1983.

Sub: Revision under Rule 25 :

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the following amendments have been made.

In the Railway Servants (Discipline & Appeal) Rules 1968, for Rule 25, the following shall be substituted, namely:-

- i) The President,
- ii) The Railway Board,
- iii) The General Manger of Zonal railway,
- iv) The appellate authority not below the rank of Deputy Head of Department or a Divisional Railway Manager in cases where no appeal has been preferred,
- v) Any other authority not below the rank of a Deputy Head of Department or a Divisional Manager in the case of railway servant working under him.

may at any time, either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these rules repealed by Rule 29 and may, after consultation with the Commission where such consultation is necessary

- a) confirm, modify or set aside the order, or
- b) confirm, reduce, enhance or set aside or impose any penalty where no penalty was imposed,
- c) remit the case to the authority which made the order or to any other authority with the direction to make further inquiry as it may consider further in the circumstances,
- d) pass such orders as it may deem fit.

For enhancing the penalty, an opportunity is to be given to the employee.

Consultation with Commission is necessary, where ever required.

33) Railway Board's letter No.E(D&A) 80 RG 6-21 dated 08-07-1982.

Sub: Powers of ADRM in Disciplinary cases:

It is reiterated that ADRM can exercise only powers of J A Grade Officers including revision under Rule 25 and cannot exercise the powers of Appellate or Revising Authorities on D&A cases dealt with, by Senior Divisional Officers in J.A.Grades. wherever there is doubt, it will be prudent to put up the case to DRMs for revision.

34) Railway Board's letter No.E(D&A) 85 RG 6-46 dated 02-01-1985.

Sub: Disposal of pending Revision & Appeal cases on death of delinquent employee:

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

35) Railway Board's letter No.E(D&A) 85 RG 6 dated 24-01-1985.

Sub: Representation from Railway Servants direct addressing to higher authority:

It has been emphasized by the Railway Board and Ministry for Railways that in the matter of submitting representations on service matters, premature and direct addressing of higher authorities specially Railway Ministry, the prescribed procedure and decorum should be maintained and staff advised to observe discipline. Failure to follow the instructions (contained in Board's letter N. E(D&A) 69 RC – 6- 3 dated 14-02-1969) will attract provisions of Rule 3, 26 and in some cases Rule 20 of Railway Services (Conduct) Rule 1966.

36) Railway Board's letter No.E(D&A) 84 RG 6-46 dated 25-11-1985.

Sub: Legal Practitioner as Defence Helper:

If the DAR case is presented by a prosecution officer of the CBI or a Govt. Law Officer or a Legal Advisor on behalf of the Disciplinary Authority, the disciplinary authority may allow the delinquent to engage a Legal Practitioner as his Defence Helper.

37) Railway Board's letter No.E(D&A) 83 RG 6-14 dated 05-12-1985.

Sub: Supply of Relied up on Documents:

It is clarified that Photostat / Typed copies of the listed documents should be supplied along with the charge Memorandum only wherever it is found possible and not in all cases.

Sub: Railway Board's letter No.E(D&A) 86 RG 6-11 dated 17-04-1986.

Consideration of Appeal in improper language:

All appellate authorities to ensure that where an appeal contains improper or disrespectful language, but otherwise has merit, the Appellant should be directed to submit a properly worded appeal for consideration.

38) Railway Board's letter No.E(D&A) 86 RG 6-42 dated 09-05-1986

Sub: Serving a copy of Presenting Officers Brief to delinquent:

A copy of Presenting Officers written Brief filed at the end of the inquiry should be given to the delinquent employee before taking the latter's brief, if any.

39) Railway Board's letter No.85/Safety(A&R)2/47 dated 8/11-09-1986.

Sub: Departmental action under DAR for Accident cases:

Proceedings may be initiated under DAR against staff responsible for rail accidents if found guilty. Appropriate punishments may be imposed notwithstanding the fact that the matter is pending in any court unless stayed by it.

40) Railway Board's letter No.E(D&A) 87 RG 6-47 dated 26-10-1986.

Sub: Show cause notice under Rule 14 (1) :

The Railway Servant may be given an opportunity of making representation on the penalty proposed to be imposed before any orders **under Rule 14 (1)** .

41) Railway Board's letter No.E(D&A) 84 RG – 36 dated 01-06-1987.

Sub: Date of effect of Railway Board's orders:

As per general principles, where retrospective effect is not given in the letter itself, the date of effect of the decision contained therein would be from the date of issue thereof.

42) Railway Board's letter No.E(D&A) 83 RG 6-14 dated 28-08-1987.

Sub: Penalty for illegal gratification:

In persons found guilty of having accepted or having obtained from any person any gratification, other than legal remuneration, as a motive or reward for doing or for bearing to do any official act, one of the penalties specified clauses (viii) or (ix) shall ordinarily be imposed and where such penalty is not imposed, the reasons therefore shall be recorded in writing.

43) Railway Board's letter No.E(D&A) 87 RG 6-2 dated 18-12-1987.

Sub: Procedure in Adhoc promotion cases:

(i) Where an appointment has been made purely on adhoc basis against a short-term vacancy or a leave vacancy or the Railway servant is appointed to officiate until further orders in any other circumstances has held the appointment for a period less than one year, the railway Servant shall be reverted to the post held by him substantively or on regular basis, when the disciplinary proceedings is initiated for major penalty.

(ii) Where the appointment was required to be made on ad-hoc basis purely for administrative reasons and the Railway Servant has held the appointment for more than one year, he need not be reverted.

44) Railway Board's letter No.E(D&A) 88 RG 6-39 dated 26-03-1988.

Sub: Withhold / Withdraw Pensionary Benefits:

Where a pensioner is found guilty of grave misconduct or negligence during the period of his service as a result of departmental or judicial proceedings, the powers to Withhold / Withdraw Pensionary Benefits or any part of it vest with the President.

If the Departmental proceedings were initiated while the Railway Servant was in service, it shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service. If it is proposed to effect a cut in pensionary benefits, a reference should be made to the Railway Board for obtaining sanction of the President.

45) Railway Board's letter No.E(D&A) 88 RG 6-100 dated 22-09-1988.

Sub: Initiation of Prompt action staff on the verge of Retirement:

It should be the endeavour to initiate disciplinary action against Officers / Staff responsible for serious lapses well before the time they retire as far as possible.

If the punishment cannot be imposed before retirement, the disciplinary action can be continued even after the retirement, with a view to effect a suitable cut in pensionary benefits under Indian Railway Establishment Code.

It is to be kept in mind that for initiation of action against pensioners, ie. after retirement only within four years time limit from the date of event involving the lapses.

46) Railway Board's letter No.E(D&A) 89 RG 6-17 dated 07-03-1989.

Sub: Reduction to a lower scale:

A person appointed directly to a higher grade or time scale of pay cannot be reduced by way of punishment to a in a lower grade, time scale which he never held before.

47) Railway Board's letter No.E(D&A) 84 RG 6-44 dated 20-10 -1989.

Sub: Revision Group C & D employees:

A group C Railway Servant who has been dismissed, removed or compulsorily retired from service may, after his appeal to the appropriate authority has been disposed of, and within 45 days thereafter, apply to the General Manager for a revision of the penalty imposed on him. In his application he can request the General manger to refer the case to Railway Rates Tribunal for advice.

A group D Railway Servant who has been dismissed, removed or compulsorily retired from service may, after his appeal to the appropriate authority has been disposed of, and within 45 days thereafter, apply to the Divisional Railway Manager and where he is not under the control of any Divisional Railway Manager to the Senior most Administrative Grade Officer under whose control he is working, for a revision of the penalty imposed on him.

48) Railway Board's letter No.E(D&A) 87 RG 6-151 dated 10-11-1989.

Sub: Serving copy of Inquiry Report to the Delinquent:

With reference to a decision of various Central Administrative Tribunals, in consultation with the DOP and Dept of Legal Affairs, it has been decided that in all cases, where an Inquiry has been held, in accordance with the provisions of Rule 9 , the Disciplinary authority before making a final orders in the case, forward a copy of the Inquiry Report to the charged railway servant concerned for making a representation, if any within 15 days.

49) Railway Board's letter No.E(D&A) 89 RG 6-108 dated 12-12-1989.

Sub: Imposition of penalty of Reduction to lower time scale & fixation in the lower:

The authority which orders the reduction of a railway servant as a penalty from a higher post or time scale may allow him to draw any pay, not exceeding the maximum of the lower post, or time scale which it may think proper.

Reverting an employee to a lower Pay band and fixing him at a stage lower one from which he was promoted or which he would have normally drawn will a double penalty.

Reduction to lower stage is a penalty under (v) of Rule 6 and Reduction to lower Pay band is a penalty under (vi) of Rule 6.

The above case was considered by Rajasthan High Court in a Judgment dated 15-01-1974 has stated that such orders are perfectly valid and do not constitute double punishment.

50) Railway Board's letter No.E(D&A) 89 RG 6-132 dated 19-01-1990.

Sub: Law assistant as Defence Helper:

It is clarified that if any Law Assistant of the Railway Administration does not appear or plead before any court of Law / Administrative tribunal on behalf of the railway Administration, but only assists the Railway Advocate at the time of hearing, there should be no objection to sauch Law Assistant acting as Defence Helper.

51) Railway Board's letter No.E(D&A) 91 RG 6-29 dated 26-03-1991.

Sub: Retired Railway Servant as Defence helper:

A Railway Servant involved in a DAR may present his case with the assistance of a retired railway servant, subject to the conditions that:

(i) The retired railway servant concerned should have retired from railway service under the same Railway Administration on which the delinquent railway servant is working.

52) Railway Board's letter No.E(D&A) 92 RG 6-148 dated 13-03-1993.

Sub: Retired Railway Servant as Defence helper- stay in Rest House:

The retired railway servant acting as Defence Helper may be allowed to stay in Railway Rest House /Subordinate Rest House, while they are attending the DAR inquiry at the outstation.

53) Railway Board's letter No.E(D&A) 91 RG 6-41 dated 22-08-1991.

Sub: Missing persons – DAR action finalized:

The Board have considered the matter and it is clarified that in cases of the genuine missing cases where it is established that the Railway employee was really missing and not unauthorisedly absent, the disciplinary action should be treated as initiated on invalid premises and the on-going disciplinary action or the punishment order should be annulled. It is not necessary to follow any "Revision" or Review" procedure since the charges / punishment are obviously based on invalid premises.

54) Railway Board's letter No.E(D&A) 93 RG 6-93 dated 01-12-1993.

Sub: Issuing fresh Charge Memorandum :

When proceedings initiated under Rule 9 or 11 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 properly 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.

55) Railway Board's letter No.E(D&A) 94 RG 6-11 dated 31-08-1994.

Sub: Revision under Rule 25:

Board has clarified that while further revision under Rule 25 is not possible, Rule 18 provides for appeal against the revisionary orders in the following cases:

(i) if, as a result of suo-moto revision, the revising authority impose any of the penalties under Rule 6 where no penalty was 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(i) to (ii).

56) Railway Board's letter No.E(D&A) 87 RG 6-11 dated 31-08-1994.

Sub: Disagreement with the Inquiry Report:

In all cases, where an Inquiry has been held in accordance with the provisions of RS(D&A) Rules 1968, the disciplinary authority, if it is different from the inquiry authority, should, 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.

In cases where the disciplinary authority proposes to disagree with the findings of the inquiry officer, should forward to the charged Railway servants, in a separate note, the reasons for disagreement with the findings of the inquiry officer with the following endorsement:

" The report of the inquiry officer is enclosed. The disciplinary authority taking into consideration the facts and circumstances of the case, has come to a tentative conclusion to disagree with the findings of the Enquiry Officer."

A note carrying reasons for such disagreement is also enclosed. If you wish to make any representation or submission on the Enquiry officer's report and reasons for disagreement, you may do so in writing to the disciplinary authority within 15 days of receipt of this letter. The Disciplinary Authority will take suitable decision on the Enquiry Officer's report on receipt of your representation if made within the specified time; if not, on expiry of the specified period."

57) Railway Board's letter No.E(D&A) 99- RG 6-35 dated 11-10-1996.

Sub: Proposal for cut in pensionary benefits under Rule 9 of Railway Services (Pension) Rules, 1993.

Since these proposals have to be submitted to the Minister for Railways, it has been decided by the concerned Board that whenever such proposals are sent to the Board, the specific views of the concerned PHOD and the Chief Personnel Officer on the proposals should also be sent, along with the views of the Disciplinary Authority.

58) Railway Board's letter No.E(D&A) 95- RG 6-40 dated 30-10-1996

Sub: Time limit for consideration of Revision Petition:

A Revision Petition submitted under these Rules has to be considered in terms of Rule 25(3), in the same manner as if it were an Appeal. It has also been clarified under Board's letter No.E(D&A) 84- RG 6-44 dated 02-12-1986 that the same time limit as laid down for submission of Appeals will apply to revision petition also and that the Revisionary Authority may entertain the Revision petition after expiry of the limitation period if it is satisfied that the petitioner had sufficient cause in not preferring the petition in time.

The Revision Petition submitted the railway servant has to be considered only by the prescribed revising Authority, suo-moto revision can be initiated by the prescribed Revising Authority only within the time limit specified in the Rule 25(3), beyond which the revising powers will have to be exercised by the GM/Board/President.

(Railway Board's letter No.E(D&A) 95- RG 6-40 dated 30-10-1996.)

Revision of Penalty imposed under RS(D&A)Rules in Non Gazetted cases:

Group C and D Railway employees who are dismissed, removed and compulsorily retired from service may, after their Appeal to the appropriate authority has been disposed of and within 45 days thereafter, apply respectively to the General Manager to the DRM/Senior most Administrative Grade officer under whose control they are working for a revision of the penalty imposed on them, even if the revision petition does not otherwise lie to the above authorities in the cases. In other words, instead of submitting a revision petition to the prescribed revisionary authorities, they can have their revision petition considered by GM's or DRM's/Senior most SAG Grade Officers respectively.

59) Railway Board's letter No.E(D&A) 94- RG 6-69 dated 04-08-1997.

Sub: Disciplinary powers of Divisional Safety officers in respect of Operating Staff:

Board has 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 and decided that hence forth, only Sr.DOMs /DGMs will exercise disciplinary powers in respect of operating staff, even matters relating to violation of safety norms.

60) Railway Board's letter No.E(D&A) 97- RG 6-27 dated 01-10-1997.

Sub: Promotions and consequential benefits to the employees exonerated of the charges after retirement on superannuation:

The employee, who is exonerated after finalisation of the disciplinary proceedings, is to be promoted in his turn. The due date of his promotion is determined with reference to his position in the panel / suitability list. If his junior has already been promoted, he should be granted notional promotion with effect from the date of promotion of his junior and granted proforma fixation of pay in the higher grade.

The competent authority has to consider his case for grant of arrears for the period of notional promotion in the light of the position brought out above.

61) Railway Board's letter G 98/V-I/DAR/3/3 dated 11-06-1998.

Sub: Evidence before Committee or any other authority:

Sub Rule 3 under Rule 10 of the Railway Services Conduct Rules 1966, entails upon a Railway Servant to give evidence if called for in the following circumstances:

- a) Evidence at an inquiry before an authority appointed by Govt., Parliament or State Legislative.
- b) Evidence in any judicial inquiry.
- c) Evidence at a departmental inquiry ordered by authorities subordinate to Govt.

62) Railway Board's letter No.E(D&A) 97- LE/2/13 dated 18-08-1998.

Sub: Regularization of unauthorized absence:

In many of the prolonged absentee cases the penalty imposed is only minor which has resulted in development of an attitude of carelessness on the part of the employees.

In view of the above it is imperative that the cases of unauthorized absence of the employees are not dealt with in a routine manner and proceedings under Railway Services (D&A) Rules against the defaulting employees are initiated immediately leading to the imposition of one of the major penalties.

Railways are also advised to conduct a review of all such cases where the employees have remained unauthorisedly absent for more than six months and initiate action against them.

63) Railway Board's letter No.E(D&A) 94- RG 6-10 dated 16-02-1999.

Sub: Signing authority for orders, notices, process etc. on behalf of Railway Board or President :

Any of the following officers in the Ministry of Railways shall be competent to sign on behalf of the Railway Board or President.

- 1) Secretary, Railway Board / Joint Secretary / Deputy Secretary.
- 2) Executive Director / Director /Joint Director.

64) Railway Board's letter No.E(D&A) 93- RG 6-61 dated 11-01-2000.

Sub: Revision of a Disciplinary action after the Retirement of employee from service:

In consultation with the Department of Personnel and Ministry of Law, it has been decided that Revision / review of cases already finalized before retirement of the railway servant 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 show cause 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.

66) Railway Board's letter No.E(D&A)/99 RG6-26 dated 19.6.2000 (RBE No.115/2000).

Sub: Status of the disciplinary case in the event of Death of the charged official.

The question whether the disciplinary case initiated against a Railway Servant under the Railway Servants (Discipline and Appeal) Rules, 1968 could be closed in the event of death of the charged official during the pendency of the proceedings, has come up for consideration of this Ministry on quite a few occasions in the recent past. It is clarified that the disciplinary proceedings should be closed immediately on the death of the charged railway servant.

67) Board's letter No. E(D&A)2001 RG6-29 dated 31.10.2001 [RBE.No.215/2001]

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

Notification

G.S.R. _____ In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal) Rules,

1968, namely:- 1. (1) These rules may be called the Railway Servants (Discipline And Appeal) (Amendment) Rules, 2001.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Railway Servants (Discipline and Appeal) Rules, 1968, in rule 6, in the second proviso, after the words, "persons found guilty of", the following words shall be inserted namely:-

"possessing assets disproportionate to known sources of income or found guilty of".

68) Board's letter No. E(D&A)87 RG 6-151 dated 8.8.02 (RBE No.132 /2002).

[To be published in Part II Section 3 Sub-section I of the Gazette of India.]

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

NOTIFICATION

G.S.R._____ In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal) Rules, 1968, namely:-

1.(1) These rules may be called the Railway Servants(Discipline and Appeal [Amendment]) Rules, 2002.

(2) They shall come into force on the date of their publication in the Official Gazette.

1. In the Railway Servants (Discipline and Appeal) Rules, 1968 (hereinafter referred to as the said rules), for rule 10, the following rule shall be substituted, namely:-

"10. Action on the inquiry report:-

(1) If the disciplinary authority:-

(a) after considering the inquiry report, is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, it may recall the said witness and examine, cross-examine and re-examine the witness;

(b) is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold further inquiry according to the provisions of rule 9, as far as may be.

1. The disciplinary authority:-

(a) shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority a copy of the report of the inquiring authority, its findings on further examination of witnesses, if any, held under sub-rule (1)(a) together with its own tentative reasons for disagreement, if any, with findings of the inquiring authority on any article of charge to the Railway 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 Railway Servant;

(b) shall consider the representation if any, submitted by the Railway Servant and record its findings before proceeding further in the matter as specified in sub-rules (3), (4) and (5).

(3) Where the disciplinary authority is of the opinion that the penalty warranted is such as is not within its competence, he shall forward the records, of the inquiry to the appropriate disciplinary authority who shall act in the manner as provided in these rules.

(4) If the disciplinary authority having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 6 should be imposed on the railway servant, it shall, notwithstanding anything contained in rule 11, make an order imposing such penalty;

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Railway Servant.

(5) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry, is of the opinion that any of the penalties specified in clauses (v) to (ix) of rule 6 should be imposed on the railway servant, it shall make an order imposing such penalty and it shall not be necessary to give the railway servant any opportunity of making representation on the penalty proposed to be imposed:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the railway servant”.

3. In the said rules, for rule 12, the following rule shall be substituted, namely:-

“12. ‘Communication of Orders:- Orders made by the disciplinary authority which would also contain its findings on each article of charge, shall be communicated to the Railway Servant who shall also be supplied with a copy of the advice, if any, given by the Commission and, where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance’.

69) Board’s letter No. E(D&A)2002/RG 6-27 dt.24.9.2002 (RBE No.168/02)

**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-empted 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.

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 3.3.78, No.E(D&A)86 RG 6-1 dated 20.1.86, No.E(D&A)86 RG 6-4 dated 5.8.88 and 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 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.

70) Board’s letter No. E(D&A)98 RG 6-52 dt.16.1.03 (RBE No.15/2003).

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

To be published in Part II Section 3 Sub-Section I of the Gazette of India

Notification

GSR..... – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal) Rules, 1968, namely:-

(1) These rules may be called the Railway Servants (Discipline and Appeal) First Amendment Rules, 2003.

(2) They shall come into force on the date of their publication in the official Gazette.

In the Railway Servants (Discipline and Appeal) Rules, 1968, for Schedule III, the following shall be substituted, namely:-

SCHEDULE III

(See rule 4 and sub-rule (2) of rule 7)

Item No.	Class of Railway Servants	Authority empowered to place a Railway Servant under suspension or to impose penalty and its nature.	Appellate Authority.
1	2	3	4
1.	Railway Servants Group 'A'	President – Full powers Railway Board – Suspension and the penalties specified in clauses (i) to (vi) of rule 6. General Manager/Additional General Manager who has been ordered by the Competent Authority to look after the current duties of General Manager in the absence of a regularly posted General Manager, Director General, Research, Designs and Standards Organisation, Director General, Railway Staff College, Chief Administrative Officers (having independent charge of their organisations) – Suspension and the penalties specified in clauses (i), (iii), (iii-a), (iii-b) and (iv) of rule 6, in the case of Officers upto and including selection grade officers of Junior Administrative Grade. Principal Heads of Departments – Suspension and the penalties specified in clauses (i), (iii), (iii-a), (iii-b) and (iv) of rule 6 in the case of Officers in Junior Scale.	President President General Manager/ Additional General Manager who has been ordered by the Competent Authority to look after the current duties of General Manager in the absence of a regularly posted General Manager.
2.	Railway Servants Group 'B'	President – Full powers Railway Board – Full powers General Manager/Additional General manager who has been ordered by the competent authority to look after the current duties of General Manager in the absence of a regularly posted General Manager, Director General, Research Designs and Standards Organisation, Director General Railway Staff College, Chief Administrative officers (having independent charge of their organisations)- suspension and the penalties specified in clauses (i) to (vi) of rule 6. Secretary, Railway Board – Suspension and the penalties specified in clauses (i), (iii), (iii-a), (iii-b) and (iv) of rule 6 in the case of Group 'B' officers of the Railway Board Secretariat Services. Principal Heads of Departments – Suspension and the penalties specified in clauses (i), (iii), (iii-a), (iii-b) and (iv) of rule 6	President Railway Board Railway Board General Manager/ Additional General Manager who has been ordered by the Competent Authority to look after the current duties of General Manager in the absence of a regularly posted General Manager.

Note:1:

Disciplinary powers of Principal Heads of Departments under this Schedule shall also be exercised by the co-ordinating Heads of Departments or by the Heads of Departments in Senior Administrative Grade who are in independent charge, in their respective departments in the Production Units viz., Chittaranjan Locomotive Works, Chittaranjan, Diesel Component Works, Patiala, Diesel Locomotive Works, Varanasi, Integral Coach Factory, Perambur, Wheel and Axle Plant, Yelahanka (Bangalore) and Rail Coach Factory, Kapurthala, and in new Zonal Railways viz., East Coast Railway, Bhubaneshwar, East Central Railway, Hajipur, North Central Railway, Allahabad, North Western Railway, Jaipur, South Western Railway, Hubli, West Central Railway Jabalpur and South East Central Railway, Bilaspur in respect of officers in Junior Scale and Group 'B' who are under their administrative control.

Note:2:

Disciplinary powers of Principal Heads of Departments under this Schedule shall also be exercised by the Directors of Railway Training Institutes, namely, Director, Indian Railways Institute of Civil Engineering, Pune, Director, Indian Railways Institute of Electrical Engineering, Nasik, Director, Indian Railways

Institute of Mechanical and Electrical Engineering, Jamalpur, Director, Indian Railways Institute of Signal Engineering and Telecommunications, Secunderabad and Director, Indian Railways Centre for Advanced Maintenance Technology, Gwalior in respect of officers in Junior Scale and Group 'B', who are under their administrative control.

71) Board's letter No. E(D&A)2003 GS 1-1 dated 11.2.03 (RBE No.29/2003).

Sub: Railway Services(Conduct)Rules, 1966 – Report of the Complaints Committee constituted for prevention of sexual harassment of women at work places.

Reference Board's letter No..E(D&A) 97/GS 1-4 dated 1.7.1998 regarding creation of suitable complaint mechanism/complaints committees to deal with the cases of sexual harassment of women employees at work place.

In this connection it is clarified that the findings of the Complaints Committee will be binding on the Disciplinary Authority to initiate disciplinary proceedings against the railway servant(s) concerned under the provision of the Railway Servants (Discipline & Appeal) Rules, 1968. The report of the Complaints Committee should be treated as a preliminary report against the accused railway servant(s).

72) Board's letter no.(D&A)2003/RG 6-5 (RBE No. 36/2003).

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 moto 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/revisory authority proposes to exonerate or impose a minor penalty, the appellate/revisory 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.

73) Board's letter No E(D&A)2002/RG 6-1 dt.10.3.03 (RBE No.46/2003).

[To be published in Part II Section 3 Sub-Section (i) of the Gazette of India]

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

Notification

GSR..... – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal) Rules, 1968, namely:-

(1) These rules may be called the Railway Servants (Discipline & Appeal) Second Amendment Rules, 2003.

(2) They shall come into force on the date of their publication in the Official Gazette.

In the Railway Servants (Discipline and Appeal) Rules, 1968, for Schedule-II, the following shall be substituted, namely:-

“SCHEDULE – II

{See rule 4 and sub-rule (2) of rule 7}

Schedule of Disciplinary powers and powers of suspension of different grades of Railway Officers and Senior supervisors in respect of non-gazetted staff of Zonal Railways, Chittaranjan Locomotive Works, Diesel Locomotive Works, Integral Coach Factory, Wheel & Axle Plant, Metro Railway (Calcutta), Diesel Components Works (Patiala), Rail Coach Factory (Kapurthala), Railway Electrification Projects and Metropolitan Transport Projects (Railways).

Senior Supervisors incharge in the pay scale of Rs.4500-7000 and above. (Described as Supervisors Incharge by the Railway Administration for this purpose)	Assistant Officers (Junior Scale and Group 'B')	Senior Scale Officers and Assistant Officers (Junior Scale and Group 'B' holding independent charge)	Junior Administrative Grade Officers and Senior Scale Officers holding independent Charge or Incharge of a Department in the Division.	Additional Divisional Railway Managers in relation to the Departments attached to them or Divisional Managers.	Senior Administrative Grade Officers in the Zonal Railway' Head Quarters in the pay scale of Rs.18400-22400 including Principal Heads of Departments in the pay scale of Rs.22400-24500	Additional General Managers in relation to Departments attached to them or Chief Administrative Officers or General Managers.	Railway Board.
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(i) Censure

1	2	3	4	5	6	7	8
Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff in pay scales of	Group 'D' and Group 'C' staff in pay scales of	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff

who are upto and upto and three includingRs.5000- includingRs.5500- grades 8000 9000 below and lower than the Disciplinary Authority							
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(ii) Withholding of promotion:

Group 'D' and Group 'C' staff who are upto and lower than the Disciplinary Authority	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5000-8000	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5500-9000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff
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(iii) Recovery from pay of pecuniary loss caused to Government by negligence or breach of orders:

Group 'D' and Group 'C' staff who are upto and lower than the Disciplinary Authority	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5000-8000	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5500-9000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff
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(iv) Withholding of privilege passes or privilege ticket orders or both

Group 'D' and Group 'C' staff who are three grades below and lower than the Disciplinary Authority	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5000-8000	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5500-9000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff
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(v) Reduction to a lower stage in time scale of pay for a period not exceeding three years, without cumulative effect and not affecting pension:

Group 'D' and Group 'C' staff who are three grades below and lower than the Disciplinary Authority	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5000-8000	Group 'D' and Group 'C' staff in pay scales of upto includingRs.5500-9000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff
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(vi) Withholding of increments:

Group 'D' and Group 'C' staff who are three grades below and lower than the Disciplinary Authority – No powers exercisable where inquiry under sub-rule (2) of Rule 11 is required.	Group 'D' and Group 'C' staff in pay scales of upto including Rs.5000-8000	Group 'D' and Group 'C' staff in pay scales of upto including Rs.5500-9000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff
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(vii) Reduction to a lower stage in the time scale of pay for a period exceeding three years or with cumulative effect or adversely affecting pension:

1	2	3	4	5	6	7	8
Nil	Group 'D' and Group 'C' staff in pay scales of upto including Rs.5000-8000	Group 'D' and Group 'C' staff in pay scales of upto including Rs.5500-9000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff

(viii) Reduction to a lower time scale of pay, grade, post or service:

1	2	3	4	5	6	7	8
Nil	Group 'D'	Group 'D' and Group 'C' staff in pay scales of upto including Rs.5500-9000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff

(ix) Compulsory retirement:	Appointing authority or an authority of equivalent rank or any higher authority
(x) Removal from service:(xi) Dismissal from service :	

(xii) Suspension: (Not amounting to penalty)

Group 'D' and Group 'C' staff in pay scales of upto including Rs.3200-4900subject to report to Divisional Officer or Assistant Officer Incharge within 24 hours in the case of Group 'C' staff	Group 'D' and Group 'C' staff in pay scales of upto including Rs.4000-6000	Group 'D' and Group 'C' staff in pay scales of upto including Rs.5000-8000	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff
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Note-1: The appellate authorities in the case of authorities mentioned in this Schedule shall be as shown in the next column, whereas in the case of the authority specified in the last column, the appellate authority shall be the President. If post of the rank shown in any particular column does not exist, the appellate authority shall be that shown in the next column.

Note:2 – The appointing authority or an authority of equivalent rank or any higher authority who is competent to impose the penalty of dismissal or removal or compulsory retirement from service, may also impose any lower penalty.

74) Board's letter No. E(D&A)2002/RG 6-13 dt. 14.5.03 (RBE No. 83/2003).

Sub: Railway Servants (Discipline&Appeal)Rules, 1968 Choice of Retired Railway Servants as Defence Assistant – Conditions Regarding.

In terms of Item (iv) of para 1 of Board's letter no.(D&A)92/RG6-148 dated 5.11.1992, a retired railway servant can act as a Defence Assistant in disciplinary cases in a maximum of five cases at a time. It has now been decided to enhance the above ceiling to seven cases at a time. Accordingly, Item (iv) of para 1 of Board's letter of 5.11.92 may be substituted as under:-

"The retired railway servant concerned should not act as a defence helper in more than seven cases at a time. The retired railway servant should satisfy the inquiring authority that he does not have more than seven cases at hand including the case in question".

The above has the approval of the President.

75) Board's letter No. E(D&A)2003/RG 6-37 dated 13.2.04 (RBE No.28/2004)

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)".

76) Board's Notification No.E(D&A)2004/RG 6-30 dated 13.10.04 (RBE No.221/04)

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

[To be published in Part II, Section 3, Sub-Section[i] of the Gazette of India, Government of India, Ministry of Railways [Railway Board]

NOTIFICATION

GSR.....In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants [Discipline and Appeal] Rules, 1968, namely:

1. [1] These rules may be called the Railway Servants [Discipline and Appeal] [Amendment] Rules, 2004.

[2] They shall come into force on the date of their publication in the Official Gazette.

1. In rule 9 of the Railway Servants [Discipline and Appeal] Rules, 1968, in sub-rule [2], the following proviso shall be inserted at the end, namely:

“ Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Railway Services [Conduct] Rules, 1966, the Complaints Committee established for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.”

77) Board's letter No. E(D&A)2003 /RG6-33 Dated 10-12-04 (RBE No.255/04)

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

NOTIFICATION

GSR... In exercise of the powers conferred by the proviso to article 309 of the Constitution , the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal} Rules ,1968, namely:-

1. (1) these rules may be called the Railway Servants (Discipline and Appeal) (Second Amendment) Rules, 2004.

(2) They shall come into force on the date of their publication in the Official Gazette.

2 In rule 6 of the Railway Servants (Discipline and Appeal) Rules , 1968 , under heading Minor Penalties , for clause (iii-b), the following clause shall be substituted, namely:-

“(iii-b) Reduction to lower stage in the time scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension”

78) Board's letter No. E(D&A)/2003/RG 6-8 Dated 27.5.05 (RBE No.88/05)

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

GSR – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal) Rules,1968, namely:-

1. (1) These rules may be called the Railway Servants (Discipline and Appeal) (Amendment) Rules,2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

1. In the Railway Servants (Discipline and Appeal) Rules, 1968, in rule 9, in sub-rule (13), in clause (b), for Note 2, the following shall be substituted, namely:-

“Note 2: (i) Nomination of an assisting railway servant or an official of a recognised Railway Trade Union, who is a full time union worker, shall be made within twenty days from the date of appointment of the inquiring authority.

(ii) The nomination shall not be accepted if the person assisting has three pending disciplinary cases on hand in which he has to assist:

Provided that an official of a recognised Railway Trade Union may assist in more than three pending disciplinary cases”.

Foot Note: Principal rules were published in the Gazette of India vide Part II, Section 3, Sub-Section [ii], vide number S.O. No. 3181 dated the 14th September, 1968 and subsequently amended

79) Board's letter No. . E(D&A)98/RG6-52 dated 23.6.05 (RBE No.105/05)

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

G.S.R. – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal) Rules, 1968, namely:-

1. (1) These rules may be called the Railway Servants (Discipline and Appeal)(Second Amendment) Rules, 2005.

(2) They shall come into force on the date of their publication in the official Gazette.

1. In the Railway Servants (Discipline and Appeal) Rules, 1968, in Schedule III, after Note 2, the following shall be inserted, namely:-

“Note 3: Disciplinary powers of Principal Heads of Departments under this Schedule shall also be exercised by Senior Executive Directors and Executive Directors who are in independent charge, in Research, Designs and Standards Organisation; Coordinating Heads of Departments in Senior Administrative Grade or by the Heads of Departments in Senior Administrative Grade who are in independent charge, in Metro Railway, Kolkata, Central Organisation Railway Electrification, Allahabad, Central Organisation for Modernization of Workshops, New Delhi; and Chairman of respective Railway Recruitment Boards, in respect of officers in Junior scale and Group B who are under their administrative control.”

Foot Note: Principal rules were published in the Gazette of India vide Notification No. E[D&A]66/RG6-9 dated 22nd August, 1968 in Part II, Section 3, Sub-Section [ii], vide number S.O. No. 3181 dated the 14th September, 1968 and subsequently amended

80) Board's letter No. E(D&A)2003/RG-6 dated 22.8.2005 (RBE No. 137/05).

Sub: Procedural drawbacks noticed during the conduct of Disciplinary proceedings.

It has been brought to the notice of this Ministry by the staff side in the DC/JCM Meeting that procedural drawbacks are noticed in the conduct of the disciplinary proceedings in a number of cases resulting in denial of natural justice to the Charged Official.

The procedure that should be followed in the conduct of disciplinary proceedings has been elaborately laid down in the Railways servants (Discipline and Appeal) Rules, 1968 and the instructions issued thereunder. Failure to follow the procedure not only causes avoidable hardship to the innocent officials but it also affords an opportunity to the unscrupulous and dishonest officials to escape penal action on the plea of denial of a reasonable opportunity of defense. It is, therefore, necessary that these rules and instructions are followed scrupulously in all disciplinary cases as these are quasi-judicial proceedings. In this connection, attention is also invited to Board's letter No. E(D&A)94/RG6-87 dated 23.1.1995 wherein it has inter-alia been laid down that an officer discharging judicial or quasi-judicial duties is amenable to departmental inquiry into his conduct in discharge of his duties.

3. It is, therefore, impressed upon all concerned to follow the Railway servants (Disciplinary and Appeal) rules and the instructions issued thereunder scrupulously. Any deliberate violation of rules, if noticed, will be viewed seriously and suitable action will be taken.

81) Board's letter No. 2005/V-I/DAR/1/3 dated 6.10.05

Sub: Representation against Administrative Action – Procedure regarding.

Please refer to Board's letter of even No. dated 16.08.2004 (RBV No.19/2004) laying down that a Railway servant has a right to appeal against an order of recorded warning.

Since the word 'appeal' is liable to be equated with the Appeal admissible under the Railway Servants (Discipline & Appeal) Rules, which is not the intention, it has now been decided that the word 'appeal' may be read as 'representation'.

Accordingly, the last line of Para 2 of Board's letter *ibid* may be replaced as “The person also has a right to represent against an order of recorded warning”.

It may also be noted that the superior authority, authorized to issue Recorded Warning, Counseling, Admonishing etc. proposed to be placed in the CR dossier of the employee, should be the Reporting Officer. The employee, however, would be entitled to represent against such administrative action.

82) Copy of Board's Confidential letter No. 2004/V-I/DAR/1/3 Dated 16.8.04 (RBVNo.19/04)

Sub: Administrative actions.

The Administration has the right to caution, warn, counsel, admonish, reprimand any officer for any act of negligence, omission, commission of minor nature for which no action as prescribed in the D&AR rules is considered necessary. Such actions are termed as administrative actions.

In para No.1312 and 1313 of the Vigilance Manual, the procedure for administrative actions has been explained. It may be seen that in case of recorded warning, a show cause notice has to be served on the person and his representation has to be properly considered by the competent authority. The person also has a right to appeal against an order of recorded warning.

For other administrative actions like admonishing, counseling, cautioning, warning, reprimanding etc., there is no necessity of issuing show cause notice as explained in para 1313[c].

However, if any of the above actions has to be mentioned in the character roll of the officer, it should be done after issuance of show cause notice.

The format for issuing memorandum of admonishing/counseling/cautioning/warning(as the case may be) is enclosed for guidance.

The contents of this letter may be noted by all concerned and the procedure indicated be strictly followed in future.

Memorandum of admonishing/ counseling/cautioning/ warning (as the case may be)

Shri/Smt._____(Name of the official and present designation) while functioning as _____(designation at the time of irregularity) during the year _____was responsible for _____(the name of the activity for which the official is being held responsible). While discharging above duties, the following lapses have been noticed on his/her part:-

(The substance of the lapses for which the official is being counseled to be given here)

Thus, Shri/Smt._____(Name of the official and present designation) has been found deficient while discharging the duties which were expected of him her.

Keeping in view the above, it has been decided to admonish/counsel/caution/warn (as the case may be) Shr/Smt._____ so that he/she may be more careful in future, while dealing such matters.

Name and Designation of the superior authority.

83) Board's Notification No.E[D&A]2004/RG6-8 dated 18-07-06[RBE No.94/2006]

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

[To be published in Part II, Section3, Sub-section[i] of the Gazette of India]

NOTIFICATION

G.S.R. – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants [Discipline and Appeal] Rules, 1968, namely:

- 1] These rules may be called the Railway Servants [Discipline and Appeal] [Amendment] Rules, 2006.
- 2] They shall come into force on the expiry of ninety days from the date of their publication in the Official Gazette.

In the Railway Servants [Discipline and Appeal Rules], 1968, in rule 5, after sub-rule [5], the following sub-rules shall be added, namely:

[6] Notwithstanding anything contained in sub-rule 5, an order of suspension made or deemed to have been made under sub-rule [1] or sub-rule [2] of this rule shall not be valid after a period of ninety days unless it is extended after review in the manner provided in sub-rule [7] of this rule, for a further period before expiry of ninety days.

[7] The review of an order of suspension shall be done by the authority which is competent to modify or revoke the suspension , on the recommendation of the review committee constituted for the purpose,

and such competent authority shall pass orders either extending or revoking the suspension before expiry of ninety days from the date of order of suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time."

Note: Principal rules were published in the Gazette of India in Part II, Section 3, subsection [ii], vide Notification No. E[D&A]66/RG6-9 dated 22nd August, 1968 vide number S.O. 3181, dated the 14th September, 1968 and subsequently amended by :-

84) Bd's letter No. E[D&A]2004 RG 6-8 dated 20-10-2006 (RBE No.159 /2006)

Sub: Review of suspension of Railway servants.

As the Railways are aware, Rule 5 of Railway Servants [Discipline and Appeal] Rules, 1968 dealing with the subject of suspension has been amended vide notification of even number dated 18-07-2006 to provide that an **order of suspension** will be reviewed before expiry of 90 days from the date of order and **shall not be valid after 90 days unless extended after review** for a further period, **before expiry of 90 days**. The review of suspension is to be made by the competent authority on the recommendation of the review committee constituted for the purpose. The amended provisions have to come into force on the expiry of 90 days from the date of publication of the notification in the Gazette of India. The notification has been published in the Gazette of India on July 29, 2006. The amended provisions thus will come into force w.e.f. 27-10-2006.

2. It has been made very clear in para 4 of Board's letter of even number dated 19-07-2006 that lapsing of an order of suspension on account of failure to review of the same will be viewed seriously. Railways etc. should therefore ensure that no order of suspension lapses merely because the competent authority failed to review it within the stipulated period. An appropriate and adequate machinery should be available on the Railways etc. to review the orders of suspension and decide about their extension, where necessary before the expiry of 90 days from the date of order of suspension. Railways may consider setting up Cells wherever felt necessary to closely monitor the suspension cases so that the amended provisions are enforced fully and completely.

85) Bd's letter No. .E[D&A] 2007 RG6-24 dated 10-08-2007 (RBE No. 105/2007)

Sub: Amendment to Chapter III of Indian Railway Establishment Manual, Vol.I, 1989 Edition regarding " Rules regulating Seniority of Non- gazetted Railway servants."

The Ministry of Railways are pleased to direct that the Indian Railway Establishment Manual, Volume I, 1989 Edition may be amended as per Advance Correction Slip No. 195, enclosed.

Indian Railway Establishment Manual, Volume I, 1989 Edition

Chapter III: Rules regulating Seniority of Non-gazetted Railway servants.

Advance Correction Slip No. 195

In Para 322, substitute the following for the existing sub clause [c] of clause [ii]:-

" [c] In cases where the penalty of reduction to a lower service, grade or post or lower time-scale is for a specified period, the employee concerned should be repromoted automatically to the post from which he was reduced. The seniority in the original service, grade or post or time scale should be fixed in such cases in accordance with the provisions contained in Rule 6 [vi] of the Railway Servants [Discipline and Appeal] Rules, 1968 as clarified vide Railway Board's letters No. E[D&A]73 RG6-5 dated 22-2-1974 and No. E[D&A] 2001 RG 6-58 dated 28-11-2002."

86) Bd's letter No. E[D&A] 2008 RG6-9 dated 11-03-2008 (RBE No. 35/2008)

Sub: Advice of the Union Public Service Commission [UPSC] in the disciplinary cases to be communicated to the delinquent employee along with the final order of penalty.

A copy of Department of Personnel and Training's O.M. No.11012/10/2007-Estt.[A] dated 07.01.2008 on the above subject is sent herewith. The contents of the above O.M. may please be brought to the notice of all concerned on your Railway for their information and guidance. The corresponding provisions to Rule 32 of the Central Civil Services [Classification, Control and Appeal] Rules, 1965; mentioned in the

first para of the O.M. dated 07.01.2008, are contained in Rule 28 of the Railway Servants [Discipline and Appeal] Rules, 1968.

Copy of Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training's O.M. No.11012/10/2007-Estt.[A] dated 07.01.2008

Sub: Central Civil Services [Classification, Control and Appeal] Rules, 1965 – Advice of the Union Public Service Commission [UPSC] in the disciplinary cases to be communicated to the delinquent employee along with the final order of penalty.

The undersigned is directed to refer to the provisions of rule 32 of the Central Civil Services [Classification, Control and Appeal] Rules, 1965 and to say that the nature of consultation with the Union Public Service Commission {UPSC} and the manner of communication of the advice of the UPSC to the delinquent Government servant have been subject matter of litigation in some cases in CAT/High Courts etc. The questions raised from time to time are whether consultation with the UPSC under Article 320 [3] [c] of the Constitution is mandatory and binding on the appropriate authority; and whether a copy of the UPSC's advice should be furnished to the charged officer before the order imposing a penalty is issued. The Hon'ble Supreme Court of India has finally decided the matter in its judgement dated the 19th April, 2007 in Civil Appeal No. 2067 of 2007 [Union of India and Another vs. T.V. Patel].

2. In the above judgement, the Hon'ble Supreme Court referred to the cases of State of U.P. vs. Mandbodhan Lal Srivastava [Constitution Bench of the Hon'ble Supreme Court] [1958 SCR 533] and Ram Gopal Chaturvedi vs. State of Madhya Pradesh [three Judge Bench] [1969 {2} SCC 240] and did not agree with the contentions on behalf of the respondent that non-supply of a copy of the advice tendered by the UPSC before the final order was passed deprived the delinquent officer of making an effective representation and that it, therefore, vitiates the order. The Hon'ble Supreme Court held as follows:

"In view of the law settled by the Constitution Bench of this Court in the case of Srivastava [supra] we hold that the provisions of Article 320[3] [c] of the Constitution of India are not mandatory and they do not confer any rights on the public servant so that the absence of consultation or any irregularity in consultation process or furnishing a copy of the advice tendered by the UPSC, if any, does not afford the delinquent government servant a cause of action in a court of law."

3. The judgement of the Hon'ble Supreme Court in the case of S.N. Narula vs. Union of India and others [SLP [c] 12188/2003], on the facts and circumstances of that case apparently did not lay down any law. Whereas in the later judgement in T.V. Patel's case delivered on 19.04.2007, the Apex Court has laid down law relying on two earlier decisions of the Apex Court, one of the Constitution Bench and another of a three Judge Bench. In view of the judgement dated 19.04.2007 of the Hon'ble Supreme Court it is clear that the Disciplinary Authority is not required to furnish a copy of the advice tendered by the Union Public Service Commission to the Charged Officer before the final order of penalty is passed.

4. All Ministries/Departments / Offices etc. are, therefore, requested to comply with the existing provisions of CCS[CCA] Rules, 1965 and bring the contents of this O.M. to the notice of all concerned for adopting a uniform stand and to make serious efforts to get the litigation cases on this subject disposed of by the various courts on the basis of the law laid down by the Hon'ble Supreme Court in the judgements referred to in the preceding paragraphs.

87) Bd's letter No. E[D&A] 2008 RG6-9 dated 11-03-2008 (RBE No. 35/2008)

Sub: Advice of the Union Public Service Commission [UPSC] in the disciplinary cases to be communicated to the delinquent employee along with the final order of penalty.

A copy of Department of Personnel and Training's O.M. No.11012/10/2007-Estt.[A] dated 07.01.2008 on the above subject is sent herewith. The contents of the above O.M. may please be brought to the notice of all concerned on your Railway for their information and guidance. The corresponding provisions to Rule 32 of the Central Civil Services [Classification, Control and Appeal] Rules, 1965; mentioned in the first para of the O.M. dated 07.01.2008, are contained in Rule 28 of the Railway Servants [Discipline and Appeal] Rules, 1968.

Copy of Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training's O.M. No.11012/10/2007-Estt.[A] dated 07.01.2008

Sub: Central Civil Services [Classification, Control and Appeal] Rules, 1965 – Advice of the Union Public Service Commission [UPSC] in the disciplinary cases to be communicated to the delinquent employee along with the final order of penalty.

The undersigned is directed to refer to the provisions of rule 32 of the Central Civil Services [Classification, Control and Appeal] Rules, 1965 and to say that the nature of consultation with the Union Public Service Commission {UPSC} and the manner of communication of the advice of the UPSC to the delinquent Government servant have been subject matter of litigation in some cases in CAT/High Courts etc. The questions raised from time to time are whether consultation with the UPSC under Article 320 [3] [c] of the Constitution is mandatory and binding on the appropriate authority; and whether a copy of the UPSC's advice should be furnished to the charged officer before the order imposing a penalty is issued. The Hon'ble Supreme Court of India has finally decided the matter in its judgement dated the 19th April, 2007 in Civil Appeal No. 2067 of 2007 [Union of India and Another vs. T.V. Patel].

2. In the above judgement, the Hon'ble Supreme Court referred to the cases of State of U.P. vs. Mandbodhan Lal Srivastava [Constitution Bench of the Hon'ble Supreme Court] [1958 SCR 533] and Ram Gopal Chaturvedi vs. State of Madhya Pradesh [three Judge Bench] [1969 {2} SCC 240] and did not agree with the contentions on behalf of the respondent that non-supply of a copy of the advice tendered by the UPSC before the final order was passed deprived the delinquent officer of making an effective representation and that it, therefore, vitiates the order. The Hon'ble Supreme Court held as follows:

"In view of the law settled by the Constitution Bench of this Court in the case of Srivastava [supra] we hold that the provisions of Article 320[3] [c] of the Constitution of India are not mandatory and they do not confer any rights on the public servant so that the absence of consultation or any irregularity in consultation process or furnishing a copy of the advice tendered by the UPSC, if any, does not afford the delinquent government servant a cause of action in a court of law."

3. The judgement of the Hon'ble Supreme Court in the case of S.N. Narula vs. Union of India and others [SLP [c] 12188/2003], on the facts and circumstances of that case apparently did not lay down any law. Whereas in the later judgement in T.V. Patel's case delivered on 19.04.2007, the Apex Court has laid down law relying on two earlier decisions of the Apex Court, one of the Constitution Bench and another of a three Judge Bench. In view of the judgement dated 19.04.2007 of the Hon'ble Supreme Court it is clear that the Disciplinary Authority is not required to furnish a copy of the advice tendered by the Union Public Service Commission to the Charged Officer before the final order of penalty is passed.

4. All Ministries/Departments / Offices etc. are, therefore, requested to comply with the existing provisions of CCS[CCA] Rules, 1965 and bring the contents of this O.M. to the notice of all concerned for adopting a uniform stand and to make serious efforts to get the litigation cases on this subject disposed of by the various courts on the basis of the law laid down by the Hon'ble Supreme Court in the judgements referred to in the preceding paragraphs.

88) Bd's letter No. F[E] III/2008/PN1/6 dated 15.10.2008, (RBE No. 155/2008)

Sub: Institution of proceedings against retired Railway servants under rule 9 of Railway Services(Pension) Rules,1993 –release of pensionary benefits reg.

In terms of Rule 9 of Railway Services (Pension) Rules,1993, a railway servant against whom departmental or judicial proceedings instituted before his retirement are pending finalization on the date of his retirement, after the final retirement of the railway servant such proceedings shall be deemed to be proceedings under Rule 9 of Railway Services (Pension) Rules,1993 and he shall be paid provisional pension from the date of retirement upto the date on which final orders are passed by the competent authority after the conclusion of departmental or judicial proceedings.

2. An instance has come to the notice of the Board in that a retired railway servant of a Zonal Railway was issued a Charge Memorandum under Rule 9 of Railway Services (Pension) Rules,1993 after his retirement. Though a decision had been taken before his retirement in consultation with Central Vigilance Commission to proceed against him under Railway Servants (Discipline & Appeal) Rules,1968 which, due to unavoidable circumstances, could not be implemented before his retirement. However, on his retirement the Railway sanctioned him only the provisional pension. The retired railway servant requested

for sanction of final pension and payment of commutation value on the grounds that as on the date of retirement no disciplinary proceedings were pending against him nor he was under suspension.

3. Considering the seriousness of the issue as it involved an important question of policy and interpretation of Rule 9 of Railway Services (Pension) Rules, 1993 and Rule 4 of Railway Services (Commutation of Pension) Rules, 1993, the matter has been examined in consultation with the Department of Pension & Pensioners' Welfare and it is clarified that a railway servant against whom any departmental or judicial proceedings are not pending on the date of retirement or he is not placed under suspension on the date of retirement, shall not be denied the final pensionary benefits, including commutation of pension, as may be due to him in accordance with provisions contained in Railway Services (Pension) Rules, 1993.

89) Bd's letter No. E[D&A]2006 RG6-38 dated 16.10.2008

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 judgement 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 conditions 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 judgement in the Ravi Mallick case mentioned in Para 1 above, is also not appropriate. Extracts of the above judgement as brought out in the relevant Court orders shows that the judgement 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 judgement of the apex court thus, is inapplicable to the railway servants.

1. 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's Office have under their letter No. 94/V-1/CVC/1/4 dated 29.07.08, circulated a few judgements 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 23.09.2008 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.

90) Bd's letter No. E[D&A] 2008 RG6-41 dated 06.02.2009 (RBE No. 22/2009)

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 the Railway Servants [Discipline and Appeal] Rules, 1968 are not being followed on the railways, as brought out below:

1. 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.
1. ii. Inquiry officer is appointed without considering the reply of the charged official to the charge sheet.
1. 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.
1. 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.
1. v. Inquiry officers straightaway fix a date for regular inquiry without conducting the preliminary hearing.
1. 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 there against. 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. Railway 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 to 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 30.05.85, 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.

91) Bd's ltr No. E[D&A]2008RG6-36 dated 16.12.2010 (RBE No.179/2010)

Sub: Determination of stage[s] in the penalty of reduction to lower stage in the time scale of pay following implementation of the recommendations of the VIth Central Pay Commission

Certain aspects of implementation of penalties having pay element, following acceptance of the recommendations of the VIth Central Pay Commission, are being examined in consultation with the Department of Personnel & Training. On the issue of determining stage[s] in respect of the penalty of 'reduction to lower stage in time scale of pay', the Department have advised that as per the Revised Pay Rules, 2008, the quantum of increment has been changed from a fixed amount to an amount of 3% of the basic pay rounded off to the nearest 10/-. This provision does not call for any amendment to the Discipline and Appeal Rules. The lower stages of pay in such cases have to be worked out as per the aforesaid provisions of the Revised Pay Rules, 2008.

92) Bd's ltr No. E(D&A)2009/RG-6-1 dated 19.1.2011 (RBE No.10/2011)

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

G.S.R. – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants (Discipline and Appeal) Rules,1968, namely :-

Short title and Commencement –

(1) These rules may be called the Railway Servants (Discipline and Appeal) First Amendment Rules, 2011.

(2) They shall come into force on the date of their publication in the Official Gazette.

1. In the Railway Servants (Discipline and Appeal) Rules,1968, for Schedule I and Schedule II, the following Schedules shall be substituted, namely:-

SCHEDULE –I

(See rule 4 and sub-rule(2) of rule 7)

Sl.No.	Authority empowered to place a Railway servant under suspension or to impose penalties	Class of Railway servants over whom disciplinary powers can be exercised	Nature of penalties mentioned in rule 6 which the authorities specified in Column 2 are empowered to impose on Railway servants mentioned in corresponding entries in Column 3 and powers of that authority to	Appellate Authority	

			place them under suspension		
1	2	3	4	5	
1	Secretary, Railway Board	All classes of non-gazetted Railway servants including group 'B' non-gazetted Ministerial Staff	All penalties and suspension		Railway Board
2	Joint Secretary, Railway Board	All classes of non-gazetted Railway servants including group 'B' non-gazetted Ministerial Staff appointed upto 30 th June,1988			

Penalties specified in clauses (i) to (vi) and suspension Secretary, Railway Board 12345 3Joint Secretary Railway BoardAll classes of non-gazetted Railway servants including Group 'B' non-gazetted Ministerial Staff appointed on or after 1st July,1988All penalties and suspensionSecretary, Railway Board 4Under Secretary, Railway BoardStaff with Grade Pay of up to and including 1650/- appointed upto 30th June,1988Penalties specified in clauses (i) to (iv) and suspensionJoint Secretary, Railway Board 5Under Secretary, Railway BoardStaff with Grade Pay of up to and including 1650/- appointed on or after 1st July,1988All penalties and suspensionJoint Secretary, Railway Board

RESEARCH, DESIGNS AND STANDARDS ORGANISATION

1	2	3	4	5
1	Junior Administrative Grade/Selection Officers or Senior Administrative Grade Officers or Higher Administrative Grade officers or Additional Director General or Director General	All classes of non-gazetted Railway servants including		

group 'B' non-gazetted StaffAll penalties and suspensionNext higher authority to whom the authority in column 2 is immediately subordinate2Deputy Director and other Officers in Senior Scale or equivalentAll staff with Grade pay of upto and including 2800Penalties specified in clauses (i) to (vi) and suspensionNext higher authority to whom the authority in column 2 is immediately subordinate3Junior Scale or Group 'B' Officers (Gazetted)All staff with Grade Pay of upto and including 1650Penalties specified in clauses (i) to (vi) and suspensionNext higher authority to whom the authority in column 2 is immediately subordinate4Junior Scale or Group 'B' Officers (Gazetted)All staff with Grade Pay of upto and including 2400Penalties specified in clauses (i) to (v) and suspensionNext higher authority to whom the authority in column 2 is immediately subordinate5Senior Supervisors with Grade Pay of 4200 and aboveAll staff with Grade Pay of upto and including 2000Penalties specified in clauses (i) (iii)(iii-a) and (iv)(no such power can be exercised where inquiry under sub-rule(2) of rule 11 is required) and also suspension subject to report to Junior Scale or Group 'B' (Gazetted) Officer of the respective branch within twenty four hours in the case of Group 'C' staffNext higher authority to whom the authority in column 2 is immediately subordinate

RAILWAY STAFF COLLEGE, VADODARA

1	2	3	4	5
1	Director General, Higher Administrative Grade Officers, Senior Administrative	All classes of non-gazetted Railway servants	Full powers in respect of non-gazetted staff placed under their control (except that only Appointing Authority	Next higher authority to whom the authority in column 2 is

	Grade Officers, Junior Administrative Grade Officers		or above will impose penalties under clauses (vii),(viii) and (ix)	immediately subordinate
2	Senior Scale Officers	All classes of non- gazetted Railway Servants		

(a) with Grade Pay of upto and including 2400/-.

(b) for whom the officer concerned is the appointing authority

(a)Penalties specified in clauses (i) to (iv) and suspension

(b) Penalties specified in clauses (vii) to (ix)Next higher authority to whom the authority in column 2 is immediately subordinate3Officers in Junior Scale or in Group 'B' (Gazetted)All classes of non-gazetted Railway Servants

(a) with Grade Pay of upto and including 2000/-.

(b) for whom the officer concerned is the appointing authority

(a)Penalties specified in clauses (i) to (iv) and suspension

(b) Penalties specified in clauses (vii) to (ix)Next higher authority to whom the authority in column 2 is immediately subordinate

INDIAN RAILWAYS' INSTITUTE OF CIVIL ENGINEERING, PUNE

INDIAN RAILWAYS' INSTITUTE OF ELECTRICAL ENGINEERING, NASIK

INDIAN RAILWAYS' INSTITUTE OF MECHANICAL & ELECTRICAL ENGINEERING, JAMALPUR

INDIAN RAILWAYS INSTITUTE OF SIGNAL ENGINEERING & TELECOMMUNICATIONS, SECUNDERABAD

1	2	3	4	5
1	Director, Senior Administrative Grade Officers(other than Director), Junior Administrative Grade Officers	All classes of non- gazetted Railway servants	Full powers in respect of non-gazetted staff placed under their control (except that only Appointing Authority or above will impose penalties under clauses (vii) ,(viii) and (ix)	Next higher authority to whom the authority in column 2 is immediately subordinate

12345 2Senior Scale OfficersAll classes of non-gazetted Railway Servants

(a) with Grade Pay of upto and including 2400/-.

(b) for whom the officer concerned is the appointing authority

(a)Penalties specified in clauses (i) to (iv) and suspension

(b) Penalties specified in clauses (vii) to (ix)Next higher authority to whom the authority in column 2 is immediately subordinate3Officers in Junior Scale or in Group 'B' (Gazetted)All classes of non-gazetted Railway Servants

(a) with Grade Pay of upto and including 2000/-.

(b) for whom the officer concerned is the appointing authority

(a)Penalties specified in clauses (i) to (iv) and suspension

(b) Penalties specified in clauses (vii) to (ix)Next higher authority to whom the authority in column 2 is immediately subordinate

RAILWAY RECRUITMENT BOARDS

1	2	3	4	5
1	Chairman	All classes of non-	All penalties and	Railway Board

		gazetted Railway servants	suspension	
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RAILWAY RATES TRIBUNAL

1	2	3	4	5
1	Chairman	All classes of non-gazetted Railway servants	All penalties and suspension	Railway Board
2	Secretary	All classes of non-gazetted Railway servants	Penalties specified in clauses [i] to [iv] and suspension	Chairman, Railway Rates Tribunal

RAILWAY LIAISON OFFICE

1	2	3	4	5
1	Joint Secretary, Railway Board	All classes of non-gazetted Railway servants	All penalties and suspension	Railway Board

ALL OTHER OFFICES (NOT SHOWN ABOVE)

1	2	3	4	5
1	Head of Office	All classes of non-gazetted Railway servants	All penalties and suspension	Railway Board

Note:-

(1) The Railway Board may impose any of the penalties specified in rule 6 on all non-gazetted Railway servants employed in the offices mentioned in this Schedule and place them under suspension.

(2) The penalty of compulsory retirement or removal or dismissal from service shall be imposed only by the Appointing Authority or an authority of equivalent rank or a higher authority.

SCHEDULE – II

{See rule 4 and sub-rule (2) of rule 7}

Schedule of Disciplinary powers and powers of suspension of different grades of Railway Officers and Senior supervisors in respect of non-gazetted staff of Zonal Railways, Chittaranjan Locomotive Works, Diesel Locomotive Works, Integral Coach Factory, Rail Wheel Factory, Metro Railway (Kolkata), Diesel Loco Modernisation Works (Patiala), Rail Coach Factory (Kapurthala), Railway Electrification Projects and Metropolitan Transport Projects (Railways).

Sl.No.	Authority empowered to place a Railway servant under suspension or to impose penalties under Rule 6	Class of Railway servants over whom disciplinary powers can be exercised	Nature of penalties mentioned in rule 6 which the authority in Column 2 is empowered to impose on Railway servants mentioned in corresponding entries in Column 3 and powers of that authority to place them under suspension	Appellate Authority
1	2	3	4	5
1	Senior Supervisors Incharge with Grade Pay of 4200 and above. (Described as Supervisors In-charge by the Railway Administration for this purpose)	All staff who are three grades (Grade Pay) below and lower than the Disciplinary Authority	Penalties specified in clauses (i) to (iv) (no such power can be exercised where inquiry under sub-rule [2] of rule 11 is required) and suspension subject to report to Divisional Officer or Assistant Officer Incharge within twenty four hours in	Assistant Officers (Junior Scale and Group 'B' Gazetted)

			the case of Group 'C' staff	
2	Assistant Officers (Junior Scale and Group 'B' (Gazetted))	All staff with Grade pay of up to and including 2400/-	Penalties specified in clauses (i) to (v) and suspension. Also Penalty specified in clause (vi) on staff with Grade Pay of upto and including 1650/- only.	Senior Scale Officers and Assistant Officers (Junior Scale and Group 'B' Gazetted) holding independent charge)
3	Senior Scale Officers and Assistant Officers (Junior Scale and Group 'B' (Gazetted) holding independent charge	All staff with Grade Pay of up to and including 2800/-	Penalties specified in clauses (i) to (vi) and suspension	Junior Administrative Grade Officers and Senior Scale Officers holding independent Charge or In-charge of a Department in the Division
1	2	3	4	5
4	Junior Administrative Grade Officers and Senior Scale Officers holding independent Charge or In-charge of a Department in the Division	All classes of non-gazetted staff	Penalties specified in clauses (i) to (vi) and suspension	Additional Divisional Railway Managers in relation to the Departments attached to them or Divisional Railway Managers
5	Additional Divisional Railway Managers in relation to the Departments attached to them or Divisional Railway Managers	All classes of non-gazetted staff	Penalties specified in clauses (i) to (vi) and suspension	Senior Administrative Grade Officers in the Zonal Railways' Head Quarters in Pay Band-4 with Grade Pay 10,000 including Principal Heads of Departments in Pay Band-4 with Grade Pay 12,000/-.

Note:-

(1) An Appointing authority or an authority of equivalent rank or any higher authority shall be competent to impose penalties specified in clauses (vii),(viii) and (ix) of rule 6.

(2) Where the post of appellate authority as shown in column 5 is vacant, then, in that case, the next higher authority shown in the row just below that authority shall be the appellate authority.

(3) The appointing authority or an authority of equivalent rank or any higher authority who is competent to impose the penalty of dismissal or removal or compulsory retirement from service, may also impose any lower penalty.

93) Board's Notification issued under letter No. E[D&A]2008 RG 6-11 dated 05.09.2011 [RBE No.119/2011] to be published in the Gazette of India, Part II, Section.

Sub: Amendment to the Railway Servants (Discipline and Appeal) Rules, 1968.

3 Sub-section (i)] G.S.R. – In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Servants [Discipline and Appeal] Rules, 1968, namely:1. Short title and Commencement: 1] These rules may be called the Railway Servants [Discipline and Appeal] Second Amendment Rules, 2011.

2] They shall come into force on the date of their publication in the Official Gazette.
2. In the Railway Servants [Discipline and Appeal Rules], 1968, in rule 6, for clause [vi], the following clause shall be substituted, namely:

"[vi] Reduction to lower time scale of pay, grade, post or service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Railway servant during such specified period to the time-scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period – [a] the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and [b] the Railway servant shall regain his original seniority in the higher time scale of pay, grade, post or service;"
