Government of India (भारत सरकार)

Ministry of Railways (रेल मंत्रालय)

Railway Board (रेलवे बोर्ड)

रेल सेवक (अनुशासन और अपील) नियम, 1968

Railway Servants (Discipline & Appeal) Rules, 1968

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

पर

मास्टर परिपत्र

Master Circular

On

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

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

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Master Circular No. 67

No, E(D&A) 2019 RG6-12 **New Delhi Dated: 23.12.2019**

The General Managers,
Railways and Production Units.

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

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

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

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

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

2. Disciplinary Authority:

a) The chargesheet should be issued by the appropriate Disciplinary Authority prescribed in the schedules. It is also essential that the chargesheet is signed by the Disciplinary Authority himself and not by any lower authority on his behalf.

b) The provisions in Rule 8 have to be kept in view while ascertaining whether the chargesheet has been issued by the correct authority. In respect of non-gazetted delinquent staff, a major penalty chargesheet can be issued only by an authority who is competent as per the schedules, to impose on that Railway servant at least one of the major penalties. However, in respect of delinquent employee of gazetted rank, a major penalty chargesheet can also be issued by an authority who is competent to impose on that delinquent employee at least one of the minor penalties.

c) Disciplinary Authority would be with reference to the post held by the charged official at the time of initiation of disciplinary action and not with reference to the post held by him at the time the alleged misconduct occurred.

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

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

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

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

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

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

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

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

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

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

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

3. **Charge Memorandum:**

a) The charges in a charge memorandum should be drawn up in clear and distinct articles of charges, separate for each alleged act of omission/commission. The charges should be specific and not vague. Where the charges are not entirely separate and distinct, it would be more appropriate to combine the various elements of the charges into a single article of charge but in which the different elements are brought out clearly.

b) The articles of charges and the statement of imputation in support of the articles of charges should not be identically worded. While the article of charge should be concise, the statement of imputation should contain details, references etc. relating to the charges and should generally give a clearer idea about the facts and circumstances relating to the alleged act of commission or omission. Specific rules/instructions which may have been violated by the charged official should also be mentioned in the statement of imputation.

c) The list of documents by which and the list of witnesses by whom the charges are proposed to be sustained should be comprehensive and drawn up with due care taking into account the relevance of each document/witness in establishing

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

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

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

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

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

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

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

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

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

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

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

5. Copies of documents relied upon should, as far as possible be supplied to the charged official along with the charge memorandum. If the charge official desires to inspect the original documents this should invariably be allowed.

6. The charge memorandum should be served in person on the charged official or sent to his address through-registered post. If the charged official is not traceable or refuses to accept the charge memorandum, a copy of the charge memorandum should be displayed on the notice board of the charged official's last working place and also pasted on the door of his last known residential address in the presence of two witnesses.

7. If there is unqualified admission of the charge(s) by the charged official, no inquiry need be ordered by the Disciplinary Authority, who can straightway pass final orders. If only some of the articles of the charges are admitted, then an inquiry has to be ordered only in respect of those charges as are not admitted.

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

8. **Inquiry**

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

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

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

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

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

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

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

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

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

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

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

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

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

b) Any person including a retired Railway Servant may be appointed as Inquiry Authority in a departmental disciplinary inquiry. Inquiry Authority is only the delegation Disciplinary Authority whenever Disciplinary Authority itself is not enquiring into the matter.

c) The question of his exercising or not exercising administrative control over a person or persons involved in the departmental disciplinary inquiry therefore, is not relevant. His appointment by the disciplinary authority automatically enables him to exercise powers required to conduct the inquiry.

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

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

belongs and cannot, therefore be suspected of bias. (Rule 9(3) of RS(D&A) Rules).

(Board's letter Nos. E(D&A)71 RG 6-4 dated 27.2.71 and E(D&A)2000 RG 6-24 dated 20.2.2001 RBE 36/2001)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b) If the Charged Officer, requests for production of additional documents during the inquiry and if in the opinion of the Inquiry Officer, some or all of the documents are not relevant to the case, then the Inquiry Officer has to record in writing his reasons for refusal to requisition for production of such documents as provided in Rule 9(15) of RS (D&A) Rules and advise the charged official about the decision.

c) The Inquiry Officer has to maintain a Daily Order Sheet which is the record of all the business transacted by him on day to day basis of the conduct of the inquiry. The facts relating to notices sent, taking on record the documents, requests/representations made by either party and the decisions of the Inquiry Officer thereon, and the examination/cross-examination undertaken should find a mention in the daily order sheet. The daily order sheets should be dated and signed by the Inquiry Officer and serially numbered. The Daily Order Sheet indicates whether reasonable opportunity has been given to the charged official, whether the procedure prescribed in the rules has been adhered to, etc.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

j) The minimum time to be given to the charged official for various purposes like replying to the chargesheet, examination of documents etc., as specified in various sub-rules of Rule 9, should be adhered to strictly.

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

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

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

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

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

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

n) The inquiry report should be prepared in accordance with Rule 9(25). It should contain a detailed analysis of the evidence taken on record during the inquiry with actual references to the depositions of the witnesses and the charged official and also documentary evidence. The findings in respect of each article of charge should be clear and categorical. If a charge is held as partly proved, the findings should clearly state the extent to which the said charge is established with cogent reasons therefor. It should be ensured that the inquiry report is based on detailed analysis of the evidence and findings in regard to the charge(s) are unambiguous.

o) The Inquiry Officer should normally complete inquiry within a period of six months from the date of his appointment as such and submit his report. In the preliminary inquiry he should lay down a definite time bound programme for inspection of document etc. The regular hearing, once started, should be conducted on day to day basis. Adjournments should not be granted on frivolous grounds.

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

16. Action on Inquiry Report

a) When the Inquiry Officer submits the Inquiry Report, the Disciplinary Authority should first go through the report and the inquiry proceedings to ascertain if the prescribed procedure has been followed and the inquiry report has been framed in accordance with Rule 9(25). If any irregularity is noticed by the Disciplinary authority, the case needs to be remitted back to the Inquiry Officer for further inquiry from the stage at which the lacuna has been detected or for rewriting the Inquiry Report, as the case may be. The case should however not be remitted to the Inquiry Officer for rewriting the report merely on the grounds that the Disciplinary Authority does not agree with the findings of the Inquiry Officer.

b) The Disciplinary Authority can also himself recall the witnesses and examine, cross-examine and re-examine them, if it is necessary in the interests of justice. However, where this is done, the examination, etc. of the witnesses should be done in the presence of the Charged Official, who can take the help of his defence helper also. The disciplinary authority can also arrange the presence of Presenting Officer, if any, at such examination to ensure the interests of the prosecution.

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

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

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

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

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

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

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

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

e) On receipt of the representation of the charged officer, the Disciplinary Authority should consider the inquiry report, the inquiry proceedings, the representation of the charged official, defence brief and Presenting Officer's brief and then arrive at a final decision in regard to each of the charges and also decide the penalty which would be warranted in that case. In cases where disciplinary proceedings have been initiated on the advice of the Central Vigilance Commission, the Disciplinary Authority should first record only a provisional decision since such cases have to be finalized only in consultation with CVC.

(i) In non-CVC vigilance cases, if in a case Vigilance has recommended a major penalty and the Disciplinary Authority proposes to exonerate or impose a minor penalty, he should first record his provisional order and then consult Vigilance Organization once. If after such consultation, the Disciplinary Authority is not in agreement with the views of the Vigilance, he is free to pass final orders about the penalty. The Disciplinary Authority should ensure that copy of the Notice Imposing penalty (NIP) is sent to Vigilance promptly. Vigilance Organization may, if they so consider, seek revision of the penalty by the appropriate authority.

(ii) Likewise, where Disciplinary Authority has imposed a major penalty in agreement with the Vigilance but the Appellate/Revisionary Authority, on consideration of Appeal/Revision or otherwise, proposes to exonerate or reduce the penalty to a minor one, he will consult the Vigilance Organization once. After such consultation, he will be free to take a final decision.

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

(iii) The procedure laid down in sub-paras (i) and (ii) above should be followed in those cases also where the Vigilance has recommended imposition of a penalty of compulsory retirement/removal/dismissal from service but the Disciplinary/Appellate/Revisionary Authority, as the case may be, wishes to disagree and proposes to impose any of the other major penalties.

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

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

i. If the penalty that the Disciplinary Authority proposes to impose in such cases in not in conformity with the advice of the Safety Department, a provisional order may first be recorded and Safety Department be consulted only once, with reasons for disagreement recorded therein; the Disciplinary Authority however is free to impose a penalty thereafter as per his decision. A copy of such penalty should be made available to Safety Department, who may put up such cases to the competent authority for *suo motto* revision of the penalty.

ii. Simultaneously if the Appellate Authority or Revisionary Authority proposes to revise a penalty which stands imposed by the Disciplinary Authority in agreement with Safety Department, and proposes to exonerate or impose a minor penalty, the Appellate Authority/Revisionary Authority may first record provisional decision and consult Safety Department only once. Reasons for such disagreement should be recorded and communicated to Safety Department free to take a final decision thereafter.

iii. Where Disciplinary Authority/Appellate Authority/Revisionary Authority in the President, comments of the safety Department be obtained.

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

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

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

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

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

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

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

j) There is no provision for sending a notice to the charged official about the proposed penalty before the same is imposed. A provision for a Show Cause Notice at this stage was in force earlier but has been discontinued since 1978. The Disciplinary Authority should therefore record his final views indicating the penalty to be imposed and communicate the same to the charged official immediately thereafter. There is also no provision for giving a personal hearing to the charged official by the Disciplinary Authority.

k) The Disciplinary Authority is free to consult any other authority before deciding about his findings on the charges. However, once he adopts any views/comments expressed by some other authority, such views become those of the Disciplinary Authority and in the final orders recorded by the Disciplinary Authority there should be no reference to consultation with some other authority including consultation with vigilance, CVC etc., which may give an indication that the Disciplinary Authority has been influenced by some other Authority. However, where the rules provide for consultation with UPSC, the same has to be brought out clearly in the speaking orders of the Disciplinary Authority.

l) The Disciplinary Authority should not take into account previous bad record, punishment etc. while determining the penalty to be imposed unless the chargesheet mentions the past record also so that the charged official, while defending himself with reference to the charges in the present case, has an opportunity to state his case with regard to the past record also, if he so desires.

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

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

n) Reasoned and speaking order should be passed while exercising disciplinary powers, such orders not only demonstrate that justice is done but also enables charged Officer to appreciate his mistakes and to rectify it for the future.

o) While imposing penalty of reduction to lower grade or post etc, on a Railway servant for a specified period, the authority imposing the penalty should pass directions regarding the effect of the penalty on the seniority and pay in the higher grade or post, on restoration of the Railway Servant to the higher grade or post after expiry of the penalty. The direction on seniority and pay are two separate ones and have to be passed independent of each other. The two directions should be distinct and unambiguous.

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

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

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

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

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

(i) Original order was not in conformity with the provisions of Rule-6 of Railway Servant (D&A), Rules, 1968 and thus could not be given effect to.

(ii) The authority to pass the order was not competent to impose the penalty.

(iii) There is a patent error in the original order (eg. the date, or reference no. or name & designation) etc. was shown incorrectly in the order.

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

17. Action under Rule 14:

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

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

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

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

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

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

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

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

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

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

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

f) Whenever Disciplinary/Appellate/Revisionary/Authorities proposes to invoke action under Rule 14(ii) it is imperative that instruction issued in this regard are scrupulously followed, so as to ensure that action is not found wanting in compliance of :

(i) the mandate under the clause (b) of the second proviso to the Article 311(2) of the Constitution of India,

(ii) of the provisions contained in the aforesaid Rule 14(ii), and

(iii) of the related subsidiary instructions/clarifications.

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

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

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

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

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

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

19. **Appeal:**

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

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

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

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

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

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

d) The Appellate Authority has to consider three main aspects viz.

i) Whether the procedure was followed correctly and any non-compliance the laid down procedure has not resulted in violation of any provisions of the Constitution of India or in failure of justice;

ii) Whether the Disciplinary Authority's findings are based on the evidence taken on record during the inquiry; and

iii) Whether the quantum of penalty imposed is commensurate to the gravity of offence.

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

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

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

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

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

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

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

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

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

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

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

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

20. Revision/Review

a) Revision is different from review. Review in terms of Rule 25(A) can be undertaken only by the President and only when some new evidence which could not be produced or was not available at the time of passing the order and which has the effect of changing the nature of the case, is brought to the notice of President. Both revision and review can be undertaken either suo-moto or on submission of a petition by the employee.

b) Revision can be undertaken by the President, Railway Board, GM or any other authority not below the rank of Dy.HOD. It can be undertaken on consideration of a Revision Petition submitted by the employee or as a sum-moto exercise. If undertaken suo-moto, then the revisionary proceedings should not be started till disposal of the appeal, if already submitted or till the expiry of the limitation period of 45 days for submission of appeal. This, however, does not apply to revision of punishment in case of railway accidents.

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

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

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

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

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

i) an appeal has been preferred; or

ii) where the time limit prescribed for 'revision' to be made by Appellate Authority (Rule 25(5) of RS(D&A) Rules, 1968) has expired.

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

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

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

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

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

e) If *suo-moto* revision is undertaken beyond the time limits given below, then it can be done only by the General Manager or Railway Board provided they are above the Appellate Authorities or by the President even if he happens to be the Appellate Authority:-

i) Beyond 6 months from the date of the order to be revised in case where it is proposed to impose a penalty (where no penalty is in force) or enhance a penalty.

ii) Beyond one year from the date of the order to be revised in case where it is proposed to cancel the penalty imposed or reduce the penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

21. **Proceedings after Retirement:**

a) If an employee retires while proceedings are continuing, then the proceedings will be deemed to be continuing under Rule 9 of Railway Services (Pension) Rules 1993. The proceedings should be continued even after retirement in the same manner as if the employee is in service and the Disciplinary Authority should record his decision and instead of imposing a penalty, should give specific recommendations on whether a cut in the pensionary benefits is warranted or not. The Disciplinary Authority need not specify the quantum of cut to be imposed. If, in the opinion of the Disciplinary Authority, a cut in the pensionary benefits is not warranted, then the proceedings can be dropped by him at his level. If, however, a cut in the pensionary benefits is recommended by the Disciplinary Authority, then the approval of the President is required before an order imposing a cut in the pensionary benefits is issued. The specific recommendations of the concerned PHOD and CPO should also be obtained before the case goes for President's consideration. The President is also required to consult the UPSC before he passes such an order. If a person is suspended before his retirement but no chargesheet has been issued till his retirement, even then it would be treated as a case where departmental proceedings have already been instituted before the retirement and such cases should also be dealt with in the same manner as explained above.

b) If, on the date of retirement of an employee, he is neither suspended nor a chargesheet issued to him, then proceedings against him can be instituted only with President's approval. In such cases, the chargesheet is issued on behalf of the President and it cannot be issued in respect of any offence which had taken place more than 4 years before issue of the charge sheet.

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

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

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

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

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

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

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

d) To ensure that disciplinary proceedings do not continue after retirement for long periods, the time schedule given below has to be followed for finalizing the case and sending proposals, if warranted, to the President for imposition of a cut in the pensionary benefits:

i) In cases where the proceedings were initiated one year or more prior to the date of retirement of the Charged Official, the proposal should be sent within 3 months of the date of retirement of the charged official.

ii) In cases where the proceedings were initiated within the last year of the service of the Charged Official, the proposal should be sent within 6 months from the date of retirement of the charged official.

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

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

(Board's letter Nos. E(D&A)97 RG6-Monitoring (I) dated 28.1.2000 and No. E(D&A) 2008 RG6-29 dated 23.12.2014.)

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