

PRACTICAL GUIDE TO DISCIPLINE & APPEAL RULES

MAY 30, 2012

The Railway Servants (Discipline & Appeal) Rules 1968

1. Introduction:-

Constitutional Provisions : Article 309 of the Constitution.

Under Article 311(1) no civil servant shall be removed or dismissed from service by an authority subordinate to the authority who appointed him.

Under Article 311(2) no civil servant shall be removed or dismissed from service or reduced in rank without an inquiry in which he is informed of the charges against him and is given a reasonable opportunity to be heard about the charges.

2. Application:- Rule 3 (1)

These rules shall apply to every Railway Servant, but shall not apply to –

- (a) any member of the All India Service,**
- (b) any member of the Railway Protection Force,**
- (c) any person in Casual employment.**

3. Principles of Natural Justice:

There are two corner stones of Natural Justice.

- (i) No one should be judge in his own cause. (“*nemo judex in causa sua*”)**
- (ii) Decision after reasonable hearing or Hear the other side (“*audi alteram partem*”)**

The Railway services (conduct) Rules 1966, form the benchmark of how Railway Servants should conduct themselves in official arena.

Every Railway servant shall maintain at all times Railway services (conduct) Rules 1966.

Rule 3 (1) (i) Absolute integrity

Rule 3 (1) (ii) Devotion to duty

Rule 3 (1) (iii) Do nothing which is unbecoming of a Railway servant.

Breach of Conduct Rules lead to disciplinary action under RS(D&A)Rules 1968.

4. Drafting of Charge Memorandum:

1. (i) Each charge should be in express, clear and precise terms and not in vague terms.

(ii) Separate charge for each allegation,

(iii) Multiplication or splitting up of charges on the same basis or the same allegation should be avoided.

(iv) The wording of charge sheet should not appear as expression of opinion as

to the guilt of the accused.

(v) The charge should not relate to matter which has already been the subject

matter for an inquiry and decision.

(vi) Violation of extant rules / orders only should be referred and not those which have been overruled.

b. The articles of charges and the statement of imputations 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.

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 Memorandum 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 order No. E(D&A)68 RG6-37 dt:23.9.68)

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 the Charged Official desires to inspect the original documents, this should invariably be allowed. (Para 2 of standard form No.2)

5. Basic documents need to be procured and placed in Annexure III.

(a) Absentee cases:

An attested copy of Attendance Register, Monthly Absentee Statement, copy of salary bills, warning memos issued if any, representations received from sections etc.

In Gazetted cases, where there is no Attendance Register to exhibit, a statement from the concerned Authority, Absentee Statement given to Bills Section, Salary Bills, any alternative arrangements made during his /her absence period etc. to be taken as proof.

It shall be ensured that, the period of absence figured in Charge Memorandum shall not be regularized during the course of the DAR proceeding.

(b) Assault Cases:

Report given by the Section In-charge, Statement given by the eye-witnesses, Medical Report if any, report about the damages made, Complaint given by the affected person, Police compliant given, if any etc.

(c) Trap cases:

The details about the Decoy money, Statement from Independent witnesses, details about the time and venue, Chemical Analysis Report, Log book of the vehicles used, Authority for conducting medical examination if any, authenticity/ authority of Audio / Video equipments used etc.

In all the above cases, the list of Witnesses should be carefully selected and placed in Annexure IV. (ie. the name of DRM, PHOD etc. may be avoided as far as possible)

6. Preparation of Charge Memorandum & Annexure.

(i) As per Rule 9(6), the Disciplinary Authority shall draw up the charge sheet. Standard Form No. 5 for major penalty and Standard Form No.11 for minor penalty.

Preparation of Charge Memorandum is a very important task of Disciplinary Authority. A defect in Charge Memorandum may even lead to cancellation of entire disciplinary proceedings. The charge memorandum must have substance, clarity about the specific charges supported by the documents, witness and should be signed by the appropriate Disciplinary Authority with date.

If the Disciplinary Authority wishes to refer the past conducts lead that to punishments, if any, it should be well thought of and should mention it in the Charge Memorandum itself. In case if it is not included in the charge memorandum, then the Disciplinary Authority should not take into account of the previous bad records and punishments, while determining the penalty.

In the charge sheet no mention to be made about the penalty which may be awarded ultimately.

The authority issuing the charge sheet is also competent to amend or modify it if some defect or lacuna was detected after the charge sheet was issued. The disciplinary authority will be within his rights to amend or to withdraw the charge sheet altogether and issue a fresh one.

(ii) Vigilance Cases:

Reference to report of SPE/Vigilance/CBI should be strictly avoided in Charge Memorandum, because once mentioned such documents will have to be produced in inquiry.

Normally, in vigilance referred DAR cases, Presenting Officer will be from vigilance department. Vigilance Inspectors appointed as Presenting Officer will co-ordinate with inquiry related activities and for safe custody of Relied Upon Documents etc.

Since the Relied Upon Documents will be within the custody of Vigilance department, it shall be ensured that the list of Relied Upon Documents mentioned in Annexure III of the charge Memorandum is readily available for inspection by the charged Official.

7. Corrigendum to the Charge Memorandum:

a) If it is found after the issue of Charge Sheet that additional documents/ witnesses have to be added to the lists, a suitable corrigendum to the Charge Memorandum should be issued.

b) If a charge sheet is found to be faulty due to any reason like (i) it has not been issued by the appropriate Disciplinary Authority, (ii) the charges require modification/addition (iii) a major penalty charge sheet needs to be issued instead of a minor penalty charge sheet etc., the correct procedure would be to cancel the charge sheet issued indicating the reasons for such cancellation and stating categorically that the cancellation is without prejudice to the right of the administration to issue a fresh charge sheet. [Board's order No: E(D&A)93 RG6-83 dt.1.12.93 (RBE 171/1993)]

c) In cases where only minor changes are required to be made in the Articles of Charges or when Annexure II, III and IV need to be modified, instead of resorting to cancellation and issue of a fresh chargesheet, a corrigendum to the chargesheet may be issued. This aspect has to be specifically kept in view in cases where the employee is due to retire shortly or has retired.

Note: After retirement, a chargesheet 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. (Rule 9 of Pension Rules 1993)

d) The corrigendum should be signed by the Disciplinary Authority himself.

Copies of Relied Upon Documents mentioned as Annexure should be issued to the charged official along with the Charge Memorandum. (Rule 26)

8. Routing of Charge Memorandum through PHODs:

Charge sheets issued to officers, where GM is the Disciplinary Authority, need not be routed through the concerned PHODs.

In vigilance related cases, where General Manager is the Disciplinary Authority, Personnel Branch will route the DAR case to GM through SDGM who will put up case to the GM with Vigilance comments.

In case, the DA (GM) wants to take the opinion of PHOD, he may seek his views but as a matter of practice, the charge sheet should not be routed through the PHODs. Like wise, it is not necessary to serve the charge sheet through the PHODs. (Railway Board's order No. 97/V-1/DAR/1/3 of 24-12-1997)

9. Serving of Charge Memorandum:

(i) The Charge Memorandum should be served on the charged official (CO) either in person or through Registered Post to his permanent address or last address intimated by him. If returned undelivered with the observations of the Postal Authorities like Door Locked, left without notice, refused to accept etc, it can be deemed as a good service. The envelope returned undelivered, should not be opened by the office & must be kept in sealed condition and preserved.

Pasting the Charge Memorandum on the door of the last known residence with two witnesses, if the door is locked when the official visited for delivering the Charge Memorandum, and also putting the Charge Memorandum on the Notice Board of the work spot where he worked on the last working day is also permissible. (Though it is not a good option)

10. 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.

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

11. Disciplinary proceedings after retirement:

Initiating disciplinary cases after retirement requires the sanction of the President. A duly authorized officer of the Railway Board signs the chargesheet in such cases, on behalf of President. [This is done under Rule 9 of the Railway Service Pension Rules 1993]

Note: Here President means Minister of Railways acting in the name of President.

If an employee was under suspension on the date of his retirement and Charge Sheet is issued at a later date, sanction of the President is not necessary. The departmental proceedings are deemed to be instituted on the date he was suspended and in such cases, the Charge Memorandum can be issued by the Disciplinary Authority who would have issued the Charge Memorandum had the charged employee been in service. And in the same way, if a charge memorandum was already issued before the retirement of the charged official and continued till the retirement, the same will continue after the retirement also by the same Disciplinary Authority. But no penalty can be imposed by any authority except the President in such cases.

The President is the only authority for imposing cut in pension and / or gratuity. All the other processes up to the conclusion of the inquiry proceedings will be done by the disciplinary authority under provisions of Rule 9 of D&A Rules 1968, and if the penalty of cut in pension is warranted, papers will be processed for consideration of the President under Rule 9 of Railway Services(Pension) Rules 1993. In such cases, the complete DAR case file in original & Relied Upon Documents in original/authenticated are to be forwarded to the Railway Board along with UPSC format duly filled up & opinion of concerned P/CHOD & CPO.

12. Who can be a Disciplinary Authority? Rule 2(c)

(i) in relation to the imposition of penalty on a Railway Servant, the authority competent under these rules to impose on him that penalty.

(ii) in the case of Gazetted Railway Servant, an authority competent to impose any of the penalties specified in Rule 6,

(iii) In the case of Non Gazetted Railway Servant, in relation to Rule 9 an authority competent to impose any of the major penalties specified in Rule 6,

(iv) In the case of Non Gazetted Railway Servant, in relation to Rule 11 an authority competent to impose any of the minor penalties specified in Rule 6.

(v) Disciplinary Authority shall not be subordinate to the Officer one who had conducted the fact finding enquiries, except Accident, Audit, SPE inquires. (Bd's order No. E(D&A) 60 RG 6-19 dated 10-04-1962.

(vi) Officers performing current charge of duties of a post:

An officer appointed to perform the current duties of an appointment can exercise administrative or financial powers vested in the full-fledged incumbent of the post, but he cannot exercise statutory powers in D&A Rules.

(vii) Disciplinary Authority as complainant:

Where the prescribed Disciplinary Authority is or will be the complainant or witness in the inquiry, another officer should be specified as Disciplinary Authority while imposing penalty.

(viii) Fact finding Inquiry & Disciplinary Authority:

Except in cases arising out of fact-finding inquiries like accident inquiries, inquiries consequent to audit reports, reports from S.P.E. & Vigilance cases, departmental inquiries for disciplinary action are not to be entrusted to an officer lower in status of the officer, who had conducted the fact finding inquiry.

13. What is expected from Disciplinary Authority ?

The decision of the Disciplinary Authority is very important in DAR. The decision of the Disciplinary Authority is to be judicious and it can be modified / amended by Appellate / Revising Authorities.

Disciplinary Authority's powers are discretionary, not supreme and it is not ultimate.

Disciplinary Authority shall take care of the following:

- 1) He should be the appropriate Disciplinary authority.**
- 2) To study the case in depth before initiating disciplinary proceedings.**
- 3) To decide whether major penalty or minor penalty proceedings is to be initiated.**

4) To verify whether the documents available are appropriate or not.

When the Disciplinary Authority is identified / decided, it will be the duty and responsibility of the Disciplinary Authority to issue the Charge Memorandum in the Prescribed Standard Form.

Disciplinary Authority shall exercise his powers and decide whether to issue the major or minor charge memorandum, based on the gravity of the offence committed by the charged employee.

For one unpleasant or negligent act of the employee / officer, where the Controlling Official desires to take suitable action under Railway Servants (Discipline and Appeal) Rules 1968, he / she has to confirm first whether he / she is the competent authority. Other wise, the controlling authority has to identify the proper Disciplinary Authority.

If it is decided to issue a minor penalty Charge Memorandum the Charge Memorandum will be in Standard Form Number 11 with an Annexure showing the Statement of Imputations of misconduct / misbehaviour committed by the charged employee. Ten days time will be given to the charged employee from the date of receipt to reply the Charge Memorandum and the same can be finalised without losing any further time.

If it is decided to issue a major penalty Charge Memorandum, the Charge Memorandum will be in Standard Form Number 5 with Annexures I to IV as under.

1) Article of Charge (s)

2) Statement of imputations of misconduct / misbehaviour committed by the charged employee

3) The Relied Upon Documents by which the Article of Charges are to be sustained.

4)The witnesses through whom the charges are going to be proved.

Rule 9(7) : The Disciplinary Authority shall deliver or cause to be delivered to the Railway servant a copy of the Articles of Charge, the statement of the imputations of misconduct or misbehavior and a list of documents (RUD) and 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 of such further time as the disciplinary authority may allow.

If copies of documents have not been delivered to the Railway servant along with the articles of charge and if he desire to inspect the same for the

preparation of his defence, he may do so, within 10 days from the date of receipt of the articles of charge by him and complete inspection within ten days thereafter and shall state whether he desires to be heard in person.

14. Reply Statement to Charge Memorandum:

On receipt of the reply statement, it is crucial time for Disciplinary Authority to take a decision in the progress of the DAR case.

1) If the explanation is not satisfactory and it is observed that the charged employee is on prima-facie responsible for the offence, the Disciplinary Authority will order for an inquiry duly appointing the Inquiry Officer & Presenting Officer (in Vigilance referred cases).

2) If the explanation though not fully convincing, is observed that the charged employee is not fully responsible for the offence, the Disciplinary Authority is having full powers to impose any suitable minor penalty, without cancelling the major penalty Memorandum.

3) If the explanation is not fully satisfactory and it is observed that the charged employee is partially responsible for the offence, and the Disciplinary Authority desires to “Warn” the charged employee, he/she shall drop the charges and issue Memorandum of Warning separately. (If the charges are not dropped, the charges will remain pending).

4) If the explanation is satisfactory and it is observed that the charged employee is not at fault, the Disciplinary Authority is having powers to “Drop” the charges and close the DAR case.

15. Procedure for imposing Minor Penalties: (Rule 11)

(1) Subject to the provisions of sub-clause (iv) of clause (a) of sub-clause (9) or Rule 9 and of sub-rule (4) of Rule 10, no order imposing on a Railway Servant any of the penalties specified in clauses (i) to (iv) of Rule 6 shall be made except after –

(a) informing the Railway Servant in writing of the proposal to take action against him and of the imputations of mis-conduct or mis-behaviour on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub rules (6 to (25) of Rule 9, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking into consideration the representation, if any, submitted by the Railway servant under clause (a) and the record of inquiry, if any, held under clause (b).

(d) recording a finding on each imputation of misconduct or misbehavior and

(e) consulting the Commission where such consultation is necessary.

(2) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case, it is proposed, after considering the representation, if any, made by the Railway Servant under clause (a) of that sub-rule to withhold increments of pay and such 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 be held in the manner laid down in sub-rules (6) to (25) of Rule 9, before making any order imposing on the Railway any such penalty.

Notice of Imposition of Penalty shall be issued duly indicating the provision for Appeal with the Designation of Appellate authority and the stipulated period of 45 days.

16. The role of Disciplinary Authority:

The decision of the Disciplinary Authority is very important as this will change the entire proceedings. After receipt of the written statement of defence from the charged employee, the Disciplinary Authority has to go through the same carefully and decide whether

(1) inquiry is to be conducted or not ,

(2) to drop the charges framed against the charged employee,

(3) to impose any minor penalty.

Where all the Article of Charges have been admitted by the Railway Servant, Disciplinary Authority shall record its findings straight away and deal with similar to the Inquiry Report. He shall decide the penalty if he is competent or forward the same with his tentative opinion to the competent authority for imposing suitable penalty.

If the Disciplinary Authority has not received any written statement of defence within the prescribed period of 10 days, he may extend the period on request from the charged employee as it may deemed fit .

When the charged Railway servant has not submitted any written statement of defence the Disciplinary Authority shall not presume that he has admitted the charges.

17. Appointment of Inquiry Officer: Rule 9 (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, or appoint the Inquiry Officer or a Board of Inquiry, to inquire into the truth thereof. (Standard Form No 7)

One who had conducted Fact Finding Enquiry may be appointed as a member of the Inquiry Committee. But Disciplinary Authority, who had ordered for a departmental inquiry may not be member of the Inquiry Committee. However where circumstances warrants he can himself conduct the inquiry.

No order imposing any of the penalties specified in clauses (v) to (ix) of Rule No 6 shall be imposed by an authority other than Appointing Authority.

18. Cases of sexual harassment:

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.**

Provided that where there is a complaint of sexual harassment within the meaning of **Rule 3C 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**

Inserted vide Railway Board's order No. **E(D&A)2004/RG 6-30** dated **13.10.2004** (RBE 221/2004).

19. Minor Penalty cases with inquiry:

In the following minor penalty cases, conducting of inquiry is mandatory under Rule 11(1)(b) / 11(2). In these cases, Standard Form No. 11(b) will have to be issued duly canceling the Minor penalty charge sheet already issued with an indication “ without prejudice to right of department to issue a new charge Memorandum”.

1. If the increment is to be withheld permanently (having cumulative effect) for any period, whatsoever.

2. If increment is to be withheld temporarily for a period exceeding 3 years.

3 If the withholding of increment (cumulative or non cumulative) irrespective of period or nature, is likely to affect adversely the amount of pension or special contribution to Provident Fund payable to the delinquent.

There is no bar for the immediate Superior of the delinquent Railway servant for holding the inquiry.

20. The role of Inquiry Officer:

Inquiry Officer is not a Prosecutor. It should not be his duty to somehow prove the charge(s). He has been appointed to assist the Disciplinary Authority in taking a correct and impartial decision on the basis of the evidence on record. Inquiry Officer must have impartial approach. He / she can play a vital role in finalizing the DAR case early or within the prescribed time limit.

Officials not having personal interest in the case is to be appointed as Inquiry Officer.

A departmental inquiry is inherently different from judicial proceedings in a court of Law and need not be carried out rigidly in accordance with the rules applicable to judicial proceedings. The Inquiry Officer should ensure that reasonable opportunity is given to the charged official for defending in the course of inquiry.

The inquiry Officer should ensure that intimation has been sent in time to the charged official, Presenting Officer, if any, witness etc. regarding the date , place and time of inquiry.

Once the date is fixed for hearing he should not postpone the hearing on flimsy grounds.

Request for the additional documents which are not mentioned in the list of documents sent to him with the charge sheet will be considered by the Inquiry Officer. (Even when the Inquiry Officer has decided to call for additional documents, the authority having custody or possession of the documents may decide, that the production of such documents would be against public interest or security of the state).

Reasons for rejecting the employee's request for producing a witness and or a document shall be recorded.

If any person refuses to sign statement of evidence, it should be read out to him in full and should be signed by the Inquiry Officer that it is a true record of the evidence given by the accused or witness.

21. The details to be given to the Inquiry Officer by Disciplinary

Authority: Rule 9 (6)

- (1) Charge Memorandum in Standard Form 5 with a copy of Articles of Charge and the statement of the imputations of misconduct.**
- (2) A copy of statement of witnesses, if any,**
- (3) Evidence providing the delivery of the documents,**
- (4) A copy of list of witnesses, if any,**
- (5) A copy of appointment order of Presenting Officer, if any.**
- (6) One set of Relied Upon Documents in original or attested.**

(Relied Upon Documents supplied to Charged Official and Inquiry Officer should be identical)

Inquiry Officer shall verify the documents received from the Disciplinary Authority and confirm that all the documents required are available before conducting the DAR Inquiry. Missing documents are to be collected from the Disciplinary Authority before the commencement of Inquiry.

The Inquiry Officer should ensure that intimation has been sent in time to the delinquent employee regarding place, time and date of inquiry. The accused be asked to submit a list of witnesses if he has not done so.

22. Appointment of Presenting Officer:

(i) In Vigilance related DAR cases, as soon as the Charge Memorandum is issued, the Presenting Officer is to be nominated. Appointment Order of Presenting Officer will be issued by Disciplinary Authority in Standard Form No. 8

(ii) Presenting Officer in CBI cases:

The presence of Presenting Officer will be helpful if (1) evidence is properly marshaled, (2) witnesses are effectively examined and cross-examined etc.

In CBI cases, the Presenting Officer can be nominated by CBI/SPE from their own persons.

Where Presenting Officer from CBI / SPE is considered a must, then justification should be sent to the CVC to take the matter with CBI.

(Railway Board's order E(D&A) 75 RG 6-32dated 23-08-1975 & No. 2005/VI/CVC/ 1/ 15 OF 20-01-2006)

23. The role of Presenting Officer:

The Disciplinary Authority may by an Order in writing (Standard Form No.8) appoint a Railway servant as Presenting Officer on his behalf. When no Presenting Officer is appointed, the Inquiry Officer himself will perform the functions of Presenting Officer.

24. Time limit for DAR cases:

i) Minor Penalty:

- (a) Receiving written statement of defence = 10 days**
- (b) Inspection of Documents if requested by the employee = 15 days**
- (c) Submission of reply after (b) = 10 days**
- (d) If the inspection (b) is not agreed to, then within 10 days of refusal.**

Now finalizing the case is within the duty of the Disciplinary Authority and if the case is delayed, the delay also will be on account of Disciplinary Authority.

ii) Major Penalty:

- (a) Receiving written statement of defence = 10 days**
- (b) Inspection of Documents if requested by the employee = 15 days**
- (c) Submission of reply after (b) = 10 days**
- (d) If the inspection (b) was not agreed, then within 10 days of refusal.**
- (e) final defence from charged employee = 15 days,**

iii) The time limit prescribed by Railway Board is as under:

Si. No.	Steps description	Model time schedule		
		CVC/CBI cases	Rly Vig cases	Dept. cases
1	Issue of Charge Memorandum	30	30	20
2	Service of Charge Memorandum	10	10	10
3	Inspection of relied upon documents	30	20	To be given With SF 5
4	Submission of written defence with list of witnesses	20	20	20
5	Decision to hold enquiry after receipt of the defence	30	20	10
6	Nomination of IO & PO	45	20	20
7	Appointment IO & PO	20	05	05
8	Completion of inquiry and submission of report	180	180	60
9	Obtaining CVC's second stage advice after receipt of Inquiry Report	45	-	-
10	Supply of copy of inquiry report to the delinquent	10	10	10
11	CO's submission of final defence	15	15	15
12	Submission of cases of Disciplinary Authority	10	10	10
13	Decision of Disciplinary Authority	20	20	20

14	Issue of NIP	05	05	05
	TOTAL	470	365	205

(Railway Board's order No.F(D&A)94 RG6-18 dated 09-02-1990)

25. Cases where Disciplinary Inquiry is not necessary (Rule 14)

(i) where any penalty is imposed on a Railway Servant on the ground of his conduct which has led to his conviction on a criminal charge; or

(ii) where the disciplinary authority is satisfied, for reasons to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or

(iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules;

The disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Railway servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case falling under clause (i) above:

Provided further that the Commission shall be consulted where such consultation is necessary, before any orders are made in any case under this rule.

26. Conviction of a Railway Servant in criminal case: Rule 14(i)

(i) In case of conviction of a Railway Servant on a criminal charge, the Disciplinary Authority must consider whether his conduct which had led to his conviction, was such as warrants the imposition of a penalty, and if so what that penalty should be.

Disciplinary Authority will have to take in to account the entire conduct of the employee, the gravity of the misconduct committed by him, the impact which his misconduct is likely to have on the Administration.

A show Cause notice is mandatory under Rule 14(i)

Once the Disciplinary Authority reaches the conclusion that the Railway employee's conduct was blame-worthy and punishable, it must decide upon the penalty that should be imposed.

The affected Railway employee will have the option for Appeal and Revision.

(ii) Rule 14 (ii) . There must be a situation which makes the holding of inquiry is not practicable in the opinion of a reasonable man taking a

reasonable view of the prevailing situation. In this case, the Disciplinary Authority should record in writing the reason or reasons for its satisfaction that it was not reasonably practicable to hold the inquiry.

No charge memorandum need to be issued in the above cases and no Show Cause Notice is required under Rule 14(ii). Situation which makes holding of inquiry not reasonably practicable, can arise after issuing charge sheet also. Disciplinary Authority must record detailed reasons for dispensing with the Inquiry.

27. Inter – Locutory orders are –

the orders passed during the course of proceedings in a matter, but they do not by themselves finally determine the proceedings. In this Enquiry Officer will take a decision before proceeding.

- (a) Demanding translation in local language,**
- (b) Demanding various documents / witnesses,**
- (c) Demanding copies of documents,**
- (d) Asking for production and discovery of documents,**
- (e) Prayer for adjournments,**
- (f) Demanding extra facilities for the defence counsel etc.**

28. Step-in aid:

If a step in the proceedings has the effect of facilitating or advancing the finalization of the case to the extent of removing some obstacle, it may be regarded as Step-in aid. No appeal lies against such orders.

29. Delay in DAR proceedings:

- 1) Delay in finalizing the DAR cases leads to dilution of the intensity of the case.**
- 2) Gives mental agony and inconvenience to the delinquent employee.**
- 3) Gives unwanted inconvenience to the witnesses.**
- 4) Due to death, retirement, repatriation, transfers etc of the individuals concerned, the issue loses its impact. In fact due to death of the Charged Official, charges have to be dropped.**
- 5) Delay leads to heavy loss of man hours.**
- 6) Due to dragging of the DAR case large amount is wasted on expenses on the Traveling Allowance to Enquiry Officer, Presenting Officer, Charged**

Employees, Witnesses, other connected staff and Over Time Allowance to the relieving staff.

7) Due to prolonged inquiries and formalities, sometimes, the delinquent employee gets demoralized and becomes inactive in his regular Office activities.

8) When a major penalty DAR case is prolonged for 3-4 years and finally a simple minor penalty is imposed, the charged employee will have a point to say in Court that the case was fabricated one and it was deliberately dragged for years for denying the departmental benefits to the employee.

9) When the case is delayed abnormally, retired and repatriated employees who are witnesses in the case lose their interest and it adversely affects the proceedings.

In short, utmost efforts must be made to conclude D&A proceedings within the targeted time.

30. Inquiry Report:

The Inquiry Officer is exercising a quasi-judicial function. His orders must show on the face of it the reasons for the conclusion .

A domestic inquiry is not a criminal trial. The standard of proof applicable to criminal trials need not be applied. Each finding must be a reasoned one. There should be application of mind and in correlation between the evidence and the conclusion reached.

The findings must be confined to the Article of Charges mentioned in the charge-sheet issued to the employee. ie without linking his working in the Office, cash awards received in the previous years or punishments imposed on him earlier etc.

The inquiry officer must not consult or take instructions from any other person. He must arrive at his findings on the basis of his own judgment.

The inquiry officer is supposed to maintain Daily Order Sheet containing the record of daily happenings and steps taken by him during the proceedings.

Proceedings should be precisely and carefully worded so as to convey the correct meaning. The findings on each charge or article proved, or not proved and reasons for finding shall be mentioned clearly. The findings or conclusions should not be vague.

His proper evaluation will help the Disciplinary Authority to take a fair decision. Since the final powers are with Disciplinary Authority, he may disagree with the findings of the Inquiry Officer. In such cases a

Memorandum of Disagreement will have to be issued by the Disciplinary Authority.

31. Defence Counsel / Defence Helper: Rule 9 (13)

The delinquent employee has to furnish names of three persons, in order of preference to act as Defence Helper and Railway Administration should as far as possible spare them in that order.

Full fledged legal Practitioners such as Law Assistants attached to Law Section of GM's office and Chief Commercial Supdts cannot function as Defence Helper.

Law Assistants who do not appear before the Court, staff of Personnel Branch, Staff and Welfare Inspectors, Vigilance Inspectors who has not handled the same case, Railway servant under suspension (with conditions) are permitted to act as Defence Helper.

A Railway servant under suspension can be permitted to act as Defence Helper.

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

A Railway servant who is for the time being on deputation to an office outside the Railway, cannot be permitted to act as Defence Helper.

A Non Gazetted employee can act as a Defence Helper to a Gazetted Officer, where as a Gazetted Officer is not permitted to act a Defence Helper to a Non Gazetted employee.

(Rly Board's No. E(D&A)95 RG 6-68 dated 13-08-1997.)

A non-gazetted Railway servant may take the assistance of an official of a Railway Trade Union, recognized by the Railway Administration under which the railway servant is employed.

A Railway Servant cannot assist other than a Railway Servant in DAR cases.

(i) The Railway servant against whom disciplinary proceedings have been initiated may take the assistance of any other Railway Servant (serving, retired) employed in the same Railway Administration on which he is working, or from which Railway the incident had taken place.

(ii) Where the Railway servant against whom a DAR case is pending and he has settled at a place far away from the Railway Administration from which he had retired, then he may be allowed to select any serving or retired

employee of the Railway Administration within whose jurisdiction he has settled as per Settlement Section details.

(iii) Consent letter of Assisting Railway Servant need not be routed through his Controlling Officer.

(iv) Number of cases at a time:

Serving employees are permitted to function as Defence Helper in 3 cases at a time.

Retired employees are permitted to function as Defence Helper in 7 cases at a time.

Full time Trade Union worker can function as Defence Helper in 3 cases at a time.

Other Trade Union Office Bearers are permitted to function as Defence Helper for any number of cases at a time. Only one adjournment will be permitted on account of his sickness in each case.

(v) When Defence Helper is transferred:

When a Defence Helper employee is transferred to another Railway Administration, the delinquent employee will have to nominate another employee as his Defence Helper.

32. Passes & Daily Allowance to retired staff to act as Defence Counsel:

Passes in the class to which he was entitled prior to his retirement may be issued for perusal of Documents for preparation of defence and defend the charged employee in disciplinary proceedings.

Daily Allowance for journey including halt at out station. (Subject to certificate from Inquiry Officer about his attendance.)

Serving Running staff are eligible for K.M. Allowance also.

No advance of TA/DA will be paid in DAR inquiry related cases.

33. Rest House facilities to retired staff to act as Defence Counsel:

Retired railway employees acting as defence helper may be allowed to stay in the Rest Houses / Subordinate Rest Houses while they are attending DAR inquiry.

34. Facilities to Retired Railway employees attending inquiries against them:

1) Passes of the class to which he was entitled at the time of retirement, or First class, whichever is lower, for self only from his home town or the actual place of residence to the place of inquiry and back.

2) Daily Allowance for journey including halt at the outstation. (Subject to certificate from Inquiry Officer about his attendance.)

3) TA/DA will also be admissible for journey time and halt at outstation up to three days, for perusal of documents which are certified as essential and relevant by the Inquiry Officer.

35. Basics of Conducting DAR Inquiry:

Administration's side:

1) Inquiry Officer,

2) Presenting Officer, if any,

3) Prosecution / Administrative Witness and documents to prove the misconduct / misbehaviour of the delinquent railway servant.

Delinquent employee side:

1) Delinquent Railway employee,

2) Defence Counsel, if any,

3) Defence witnesses and documents to prove the innocence of the delinquent railway servant.

On the date fixed for the inquiry, the oral and documentary evidence by which the Articles of Charge are proposed to be proved shall be produced by the Presenting Officer on behalf of the Disciplinary Authority.

If Presenting Officer is not there, this job will be done by the Inquiring Authority. The witnesses shall be examined by or on behalf of the Presenting Officer, if any, and may be cross examined by Defence Counsel or by the Delinquent Employee.

The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross examined, but not on any new subject without the permission of the Inquiry Officer. Inquiry Officer may also put such questions to the witnesses as it thinks fit.

At the close of the inquiry, the Inquiring Authority may hear the Presenting Officer and the Charged Employee, if they say anything so desired. This will be taken as one more opportunity to the delinquent employee to prove his innocence.

On conclusion of the Inquiry, Disciplinary Authority shall permit both the Presenting Officer and Delinquent Employee to submit their written briefs.

36. Complaint against Inquiry Officer : (on ground of ' BIAS ')

The Inquiry Officer should be unbiased. He should be dispassionate and open minded. He shall not be prejudiced.

On any representation made against a Inquiry Officer by the Delinquent employee on the ground of bias, the proceedings is to be stayed and the representation is to be forwarded to the " Revisionary " Authority for considering the allegation of bias. The bias allegation should not be made on conclusion of the inquiry.

37. Ex-parte Inquiry :

If a Railway servant to whom a copy of the article of Charge Memorandum has been delivered, does not submit the written statement of defence within the specified date or does not appear before the inquiry or fails or refuses to comply with the provisions of this rule, the Inquiry Authority may hold the inquiry ex-parte.

Essential conditions for ex-parte Inquiry:

The Charge Memorandum together with the Article of Charges must be delivered to the delinquent. For this, if the Memorandum sent by Registered Post is returned undelivered, a copy of the same shall be pasted at the work place in the presence of two witnesses.

The Inquiry Officer can proceed on the basis of material available to him in the absence of Delinquent.

No Defence Witnesses will be examined in the absence of delinquent.

Prosecution Witness shall be examined.

The Inquiry Report prepared by the Inquiry Officer will be submitted for the approval of Disciplinary Authority, and the same will have to be sent to the Delinquent Employee even in ex-parte case.

If the same is returned undelivered, it is better to publish the decision of the Inquiry Officer in a National and Local Daily to avoid a court case later from the charged employee which is likely to reverse the DAR decision. (*No rule is available to quote, but it is a suggestion to avoid unnecessary litigation.*)

38. Important stages of conducting a DAR inquiry:

- 1. The Presenting Officer, if appointed or the Inquiry officer may narrate the misconduct as explained in the Charge memorandum**

2. the documentary evidence by which the articles of charges are proposed to be proved shall be produced on behalf of the Disciplinary Authority.
3. the Presenting Officer, if appointed or the Inquiry officer will examine the Administrative witnesses.
4. the Defence helper if appointed, or the Delinquent employee will cross examine the Administrative witness.
5. Presenting Officer, if appointed or the Inquiry officer will reexamine the Administrative witness.
6. once the inquiry proceedings are over, the daily Order sheet will be prepared and signed by the Delinquent employee, Presenting Officer, witnesses who are examined, defence Helper and the Inquiry officer. The above process will be continued till the end of inquiry proceedings.

A copy of the Daily Order sheet will be given to the Delinquent employee.

1. After the inquiry proceedings are over, the Inquiry Officer will collect presenting Officers brief, Charged employee's brief and prepare the Inquiry report.
2. the inquiry report will contain mainly the following:
 - (i) a gist of preliminary and other objections in the course of the inquiry, if any, raised by the delinquent or the management and the inquiry officer's ruling thereon,
 - (ii) the gist of evidence produced by both parties,
 - (iii) a gist of the oral arguments or written briefs, if any of the management and those of the employee,
 - (iv) an assessment of the oral and documentary evidence or record in respect of each article of charge,
 - (v) the findings on each charge proved and hence found guilty or not
 - (vi) reasons for each findings.

39. Action on Inquiry Report: (Rule 10)

When Disciplinary Authority does not agree with the findings of the Inquiring authority, he must pass clear orders indicating reasons in detail for not agreeing. The reasons must be cogent, coherent and convincing.

- (1) **Fresh Inquiry:** A fresh Inquiry may be ordered only where there is a material flaw in the procedure adopted which has resulted in miscarriage of justice and in denial of Natural Justice.

(2) Further Inquiry: Where there is no grave procedural lapse and only such lapse are there which can be rectified by a further inquiry, the Disciplinary Authority may remit the case for further inquiry.

(3) Disciplinary Authority itself recalling the witness: If the Disciplinary Authority recalls any witnesses for the further examination. It is desirable that the delinquent along with his Defence Helper, if any, should also be present during such examination. The Disciplinary Authority may require the presence of the Presenting Officer also.

Forwarding Inquiry Report to the Delinquent:

(1) The Disciplinary Authority shall forward or cause to be forwarded a copy of the Inquiry Report, together with its tentative reasons for disagreement, if any, to the delinquent, 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. *Rule 10 (1) (a).*

(2) In Vigilance referred cases, copy of the Inquiry Report, together with its tentative reasons for disagreement, if any, to the delinquent will be given only after obtaining the 2nd stage advice of CVC. [Para 1203.8 of Vigilance Manual]

Disagreement with Inquiry Officer:

The Disciplinary Authority has full powers to agree or not with the Inquiry Officer but where it disagrees, it must record reasons in writing for disagreement and then only draw its findings which may differ with the Inquiry Officer. In such case it must also be kept in mind that the new findings must be based on the evidence on record and for which reasonable opportunity has been given.

If Charges are not proved:

If the consideration of the Inquiry Report shows that no charges as leveled against the delinquent have been proved, the Disciplinary Authority shall pass order to that effect and communicate the same to the Delinquent.

If charges are proved:

If all or any of the charges are proved satisfying the imposition of a punishment, the Disciplinary Authority shall consider the penalty to be imposed and order the imposition, if it is within his competence, otherwise refer the whole case to the competent authority. Such competent authority

will take further action, if necessary may recall and examine, cross examine and re-examine any witness.

Referring to Lower Authority:

Where the Disciplinary Authority who has considered the inquiry report feels that the penalty justified is also within the competence of any lower authority, it cannot send the case to such lower authority for imposition of punishment.

40. Speaking Order:

The Disciplinary Authority imposing the penalty must apply his /her mind to the facts, circumstances and records of the case and then record its findings on each imputation of misconduct or misbehaviour. The Disciplinary Authority should give brief reasons for the findings to show that it has applied its mind to the case.

The reasons recorded by the Disciplinary Authority shall be helpful to the affected employee to prefer an appeal. When the explanation of the delinquent has not been considered, the reasons for rejecting must be recorded.

The Authority must be very careful while passing the penalty order. The term reduction in stage, scale, grade, pay, post, seniority etc are to carefully and clearly used.

41. Imposing Minor penalty on Major Penalty Charge sheet cases:

Rule 9(9)(a)

After considering the written statement of defence on Major penalty charge sheet, if the Disciplinary authority is of the opinion that a major penalty is not necessary, it may drop the major proceedings already initiated by it for the imposition of major penalty, without prejudice to the right to impose any of the minor penalties not attracting the provisions of sub–rule (2) of Rule 11.

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.

42. Notice on Imposition of Penalty (NIP):

Penalty Order shall be prepared carefully. It shall be ensured that the authority signing the order is competent to issue such penalty.

Notice on Imposition of Penalty should be signed by Disciplinary Authority himself. *(Except in the case of Railway Board and President)*

Ineffective penalty such as imposing of withholding increment while the employee is at the maximum of the pay band, withholding of Pass /PTO when not available at credit etc should be avoided.

When recovery of pecuniary loss is ordered, imposition of penalties VII, VIII and IX cannot be imposed.

When punishment is with cumulative effect, the period, the loss of seniority and loss of pay etc shall be clearly specified. In the absence of the term ‘seniority’ / ‘pay’, the benefit shall be given to the delinquent employee.

Post Retirement Passes not to be withheld.

In the Penalty Advice, no employee can be reduced in rank below his appointment Pay Band.

Imposing more than one penalty in one order such as reversion to lower Grade and withholding of increments etc should be avoided.

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.

Dismissal, Removal etc. not to be given with retrospective effect.

After retirement, the punishment of cut in Pension only can be imposed, that too by the President.

Withholding of increments affecting the retirement benefits, or of recurring nature, even in minor penalty cases, the procedure similar to major penalty is to be followed duly issuing Standard Form No.11(b).

While issuing orders such as Compulsory Retirement, Removal and Dismissal, the authority issuing such orders should be the Appointing Authority.

In Removal and Dismissal cases, the decision of Disciplinary Authority regarding the payment of Compassionate Allowance is to be recorded in the file and communicated to the employee separately.

The difference between (1) “ Reduction by two stages for one month” and (2)“Reduction by one stage for two months” is to be understood in proper term.

(ie. First one is a major penalty and the second is minor penalty.)

Past bad record : The Disciplinary Authority may take the past bad record of service of the delinquent into account while determining the penalty to be imposed provided this past record is made a subject matter of a specific charge memorandum itself. [Railway Board’s order E(D&A) 68 RG 6-37 dt.23-09-1998]

43. Quantum of Penalty :

The punishment imposed should be neither too harsh nor too lenient. It must be proper and adequate. It has to be either, deterrent or reformative. In short the penalty must be commensurate with the gravity of the charge/s

Stoppage of Train services by the staff should be viewed as a crime committed against the nation and action as per Railway Act, 1989 should be taken.

Penalty for collision:

Person found guilty of any act or omission which resulted or would have resulted ordinarily in collision of railway trains, one of the penalties specified in clause (viii) and (ix) shall, ordinarily be imposed. Where such penalty is not imposed, the reasons thereof shall be recorded in writing.

[Railway Board’s order E(D&A) 79 RG 6-11 dt.03-05-1979]

Penalty for Fraudulent claims of TA/DA/OT:

Persons claiming false TA/DA/OT should be given suitably deterrent punishment as such cases fall under the category of dishonest practices.

[Railway Board’s order E(D&A) 89 RG 6-20 dt.24-04-1989]

Penalty for Misuse of Passes and PTOs:

All proved cases of misuse of Passes and PTOs should be viewed very seriously and suitable disciplinary action taken.

Penalty in case of theft etc:

Staff who are found to have associated themselves in criminal activities, like theft and pilferage should be dealt with severely and no sympathy should be shown to them. Drastic punishment be Imposed on staff involved in thefts/ pilferage of Railway stores. [Railway Board’s order No.E(D&A) 77 RG 6-51 dated 31-12-1977]

Furnishing of false information or producing false certificate:

If a Government servant, who was not qualified or eligible in terms of the recruitment rules etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he/she should not be retained in service. If he is a probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become permanent Government servant, an Inquiry may be held and if the charges are proved, he should be removed or dismissed. In no other circumstances should any other penalty be imposed.

Such discharge, termination, removal or dismissal from service would, however, be without prejudice to the right of the Government to prosecute such Government servant. [Railway Board's order No.E(D&A) 92 RG 4-3 dated 20-07-1993]

44. Service of Orders, Notices 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. (Rule 26-A.)

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

44. Communication of Orders: Rule 26

Decision of the Disciplinary Authority should be communicated to the delinquent employee through the

- 1) Supervisors, if he is on duty,**
- 2) if he is on leave / absent by Registered Post with Acknowledgement due**
- 3) if returned undelivered, publish the matter in the local and national daily.**

(No rule to quote. But can avoid a court case etc. in future, if followed.)

- 4) Paste the order in the Notice Board.**

46. Change of Disciplinary Authority on completion of Inquiry:

Orders recorded in the file are final. If the decision recorded on the file could not be communicated to the charged official by the authority who had recorded the said decision, the successor Disciplinary Authority will merely act in the role of a communicator of the decision already taken by his predecessor.

The successor Disciplinary Authority cannot interfere with the decision already recorded. However only if the President / Governor passes an order, the successor can change the order.

[Boards letter No.E(D&A)97 RG 6-72 dated 28.5.2001 (RBE No.99 /2001)]

47. Inquiry Officer transferred / died during the course of Inquiry:

If the Inquiry Officer is transferred / died during the inquiry proceedings partially completed, he / she is succeeded by another Inquiring Authority which exercises such jurisdiction. The Inquiring Authority so succeeded may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly by itself.

48. Duty of the Appellate Authority:

(1) To verify, whether the procedure laid down in the Rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(2) Whether the findings of the Disciplinary Authority are warranted by the evidence on the Record; and

(3) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass such orders –

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case. While enhancing the penalty, the Appellate Authority has to verify the following points:

1) whether he is competent to impose the said penalty,

2) where ever the Inquiry is mandatory, the same is conducted or not

3) a reasonable opportunity is given to the delinquent employee to represent.

While processing the appeal, the comments of the Disciplinary Authority to clarify the position of the various points raised by the appellant with reference to the orders of the Disciplinary Authority is to be obtained in file.

If the Appeal is wrongly addressed, employee concerned may be advised to correct it. If necessary the services of a Personnel Inspector may be used.

Appellate Authority is that authority which is immediately superior to the Disciplinary Authority. Therefore the appeal lies only to that authority.

In the case of employee transferred immediately after penalty order is issued, the Appellate Authority will be from the Railway administration from which the penalty was ordered.

There shall be no second appeal when penalty is upheld or reduced by the Appellate Authority.

If dismissed or removed employee files an appeal, the Appellate Authority after considering the appeal should not pass the same order. The higher authority can 'uphold' it. Effective date of Dismissal, Removal, will be that of the original date of dismissal, removal.

The appeal / revision petition filled by the removed / dismissed employee should contain his / her residential address for future communication.

49. Time limit for Appeal & Revision.

The prescribed time for submission of Appeal and Review are 45 days. But Appellate / Reviewing Authorities may entertain an appeal / review after the expiry of this period, if he is satisfied that the charged employee had sufficient cause for the delay.

When we insist for submission of appeal within the stipulate period of 45 days, the appeal should receive prompt attention and should be disposed off expeditiously. (*Railway Board's order no. E(D&A) 84 RG 6-31 dated 03-02-1985*)

Time limit for Revision will be 45 days from the date of delivery of order sought for review. But Revising Authority may entertain a revision petition after the expiry of this period, if he is satisfied that the petitioner had sufficient cause for the delay.

50. Review (Revision) of orders in disciplinary cases: (Rule 25, 25 A)

In terms of proviso to Rule 25 action to enhance the penalty already imposed shall not be initiated more than 6 months after the date of the order to be reviewed by a lower authorities other than General Manager.

No review shall be conducted during the pendency of Appeal.

Review (Revision) in accordance with Rule 25 of RS (D&A) Rules 1968 lies only with the Railway Board, General Manger and any Officer not below the rank of Deputy Head of Department or a Divisional Railway Manger specified in this behalf by the General Manger, and they are empowered, in the circumstances stated in the Rule, to revise any order passed by an authority subordinate to them/ him and to consider an earlier order passed on an appeal by them /him or by a predecessor.

The Rule 25 of RS (D&A) Rules 1968 does not permit the authorities to revise the original orders passed by themselves or by a predecessor, under any circumstances.

No new penalty or enhanced penalty can be imposed without giving a chance to represent against the penalty.

DAR case finalized before retirement of a Railway Servant cannot be reopened for Suo-Moto Revision to impose cut in pension after retirement.

Successive Revisions are not permitted. In any case, as a result of suo-moto revision the revising authority imposes any of the penalties where no penalty had earlier imposed, or where penalty already imposed is enhanced, delinquent has a chance for second appeal.

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 there after, apply to the General Manager for a revision of the penalty imposed on him. In this case he can request for referring the case to Railway Rates Tribunal also.

51. Revising Authority in case of transferred employee:

Revising Authority in case of transferred case will be the authority under which the employee is presently working. The retired employee while preferring appeal or revision should mention their residential address in appeal / revision petition.

52. Forwarding of Appeal / revision cases to Head Quarters:

- 1. While forwarding the DAR cases for Appeal/ Revision, it is to be ensured by the Divisions/unit concerned, that the Appeal/Revision submitted by the charged employee is in duplicate. One of the copy is to be placed in their file and the other copy is to be forwarded to HQrs.**
- 2. Para wise remarks of DA/ AA in original on the Appeal/Revision Petition and also the SR extract duly attested in all pages are to be forwarded along with the file.**
- 3. In cases of Petition to the President of India, the instructions contained in Appendix II of the IREC Vol.I is to be strictly followed. Same is the case when forwarding the Mercy Appeal to the General Manager.**

53. DAR against Office Bearers of the Union /Staff Associations:

The Office Bearers of the Union /Staff Associations are also subject to the Conduct Rules. However, if any one feels that he is being penalized for any of the act done by him which is directly or indirectly connected with his

position as such Office Bearer, he may prefer an appeal directly to the President.

54. Reference to Railway Rates Tribunal:

As per Rule 24(2) of Disciplinary Rule, a Railway servant who has been removed or compulsorily retired, has to submit his revision petition to the General Manager within two months after his appeal to the Appellate Authority has been disposed of and in his revision petition, he may request the General Manager to refer the case to the Railway Rates Tribunal.

If the time barred revision petition is forwarded to the Rates Tribunal, a specific mention is to be made in the covering order that the delay has been condoned by the General Manager.

While revision petition is forwarded to the Rates Tribunal, Relied Upon Documents in other language, if any, are to be translated in to English.

55. DAR related Court Cases:

Tribunal/Court cannot interfere with the findings of the Enquiry Officer where they are not arbitrary or perverse. The Tribunal can also not interfere with the discretion of the competent authority in so far as the quality of penalty is concerned.

It may be open to the Appellate Authority to interfere with the decision of the Disciplinary Authority, but not the CAT or High Court.

Court / Tribunal can interfere only if the charge framed indicate no misconduct or other alleged irregularity or the charges are contrary to law. The Court / Tribunal has no authority to go into the truth or correctness of charge.

The Tribunals can review DAR decisions in the following circumstances:

- 1) Due to procedural lapses,**
- 2) When Law of Natural justice is denied.**
- 3) Punishment awarded is disproportionate to the offence committed.**

56. DAR case when Criminal court proceedings are pending:

Disciplinary proceedings under the Railway Servants (Discipline & Appeal) Rules can be initiated and concluded even if Criminal court proceedings are pending. Initiation and conclusion of departmental action in such cases will not amount to a contempt of court unless an order is given by a court of law staying the departmental proceedings.

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

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

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against him during investigation or as reflected in the charge sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

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

57. Prosecution and Departmental cases simultaneously:

There is no legal objection to initiate simultaneously departmental proceedings against an employee against whom criminal proceedings are going on. However, keeping in view the possibility that steps which may be taken by Disciplinary Authority may prejudice the accused in his defence in the court, it may be appropriate to wait the result of the criminal proceedings. In other words, while the proceedings may be initiated, it would be safer to stay the same till the criminal proceedings are concluded.

There is no legal bar to initiate departmental proceedings against an employee against whom criminal proceedings are in progress. Departmental and criminal proceedings can be initiated simultaneously against the delinquent employee, disciplinary proceedings can also be continued and concluded without waiting for the conclusion of criminal case against the employee on the same charges.

If the facts, circumstances and the charges in the Departmental proceedings are exactly identical to those in the criminal case and the employee is

exonerated / acquitted in the criminal case on merit (without benefit of doubt or on technical grounds,) then the departmental case may be reviewed if the employee concerned makes a representation in this regard.

(Railway Board's order No. E(D&A) 95 RG 6-4,dated 07-06-1995.)

58. Passes for attending law courts as accused employee in CBI/SPE cases:

A Railway servants attending law courts as accused employee in prosecution launched against them in CBI/ SPE cases are not entitled to Duty Pass.

59. Disciplinary action against employees transferred after the

incident:

let us remember the maxim “ Disciplinary Authority moves with the Charged Official ”

When a case has come to light after the employee's transfer to another Railway administration or another Division and to take disciplinary action against the employee, the following course of actions are open:

Action shall be taken by the Railway / Division on which the employee concerned is working at the time of taking Disciplinary action.

It is procedurally wrong for an Authority to initiate and finalise Disciplinary proceedings against an employee who is not under his administrative control.

60. Disciplinary action against transferred but not joined employees:

Once an employee is transferred, the authority whose unit he has to join is entitled to know why he has not reported to duty.

The new unit is authorized to call for explanation of the employee for not reporting.

If it is satisfied that the employee has not so far reported to duty without justification, he is competent to initiate disciplinary proceedings against such employee.

61. Apprentices and (D&A) Rules 1968.

A standard agreement Form to be executed by Apprentices in Class III and IV categories was given by Railway Board vide E(NG) 55 AG-1/3 of 12-03-1960. clause 12 of the same empowers competent authority to dismiss the Apprentice without any Notice. This was not accepted by the Court and a revised clause 12 has been given vide Board's order No. E(NG)- 111/73 AG dated 01-06-1974, as per which an apprentice must be given an opportunity

to defend himself before taking any action against him. Thus the Apprentice will be governed by his agreement terms.

62. Disciplinary action against Casual labour.

Casual Labours are not governed by D&A Rules 1968, but when such Casual Labour attain temporary status, these rules will become applicable to them. Similar is the case with substitutes. [E(NG)60 CL-13 dated 13-05-1965] .

63. Appointing Authority:-

(i) The authority empowered to make appointment to the post which the Railway Servant, for the time being holds, or whichever authority is the highest authority.

Before initiating the DAR proceedings, it is better to confirm the appointing authority based on Schedule of Powers of Gazetted officers.

Example (1) Grade Pay up to 1800 – Assist Officer,

(2) Grade Pay up to 2800 – Senior Scale Officer,

(3) Grade Pay up to 4200 – J.A. Grade Officer,

(4) Grade Pay up to 4600 – Senior Admn. Grade Officer etc.

(ii) where record of appointment letter is not available:

For staff in Class C & D where records or appointment letter to show the actual appointing authority of such staff are not available, GM will become the Appointing Authority. Accordingly, the punishment of Dismissal, Removal, Compulsory Retirement for such employees cannot be imposed by an authority lower than GM.

64. Suspension (Rule 5(1)/ Deemed Suspension: Rule 5 (2), (3),(4)

(i) Rule 4 : Authorities competent to place Railway Servant under Suspension:

In exceptional cases, any authority specified in any of the Schedule may place any subordinate Railway Servant specified therein, under suspension :

Provided that, where any action is taken under the forgoing proviso, the authority concerned shall forthwith report to the authority competent to place such Railway Servant under suspension, the circumstances in which the order was made and obtain his approval.

(ii) Suspension. Rule (5) :

(1) A Railway Servant may be placed under suspension:

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) where, in the opinion of the authority competent to place a Railway Servant under suspension, he has engaged himself in activities prejudicial to the interest of the security of the state; or

(c) where a case against him in respect of any criminal offence, is under investigation, inquiry or trial.

(2) A Railway Servant shall be deemed to have been placed under suspension:

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty eight hours;

(b) with effect from the date of his conviction if, in the event of a conviction for offence, he is sentenced to a term of imprisonment exceeding forty eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Railway servant under suspension, is set aside in appeal or on revision under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where the penalty of dismissal, removal or compulsory retirement from service imposed upon a Railway servant, is set aside or declared or rendered void in consequence of or by the decision of a court of law and the Disciplinary Authority on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement, was originally imposed, the Railway servant shall be deemed to have been placed under suspension by the competent authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Suspension of staff in possession of stores:

When staff in possession of stores are required to be placed under suspension immediately and it is not considered desirable to allow them the period for making over charge of the posts to the successors, the charge should be taken over by the subordinate deputed to look after the job duly

witnessed by two members of staff, who should be of the same status or of a status higher than that of the suspended employee. In addition, a Gazetted Officer should also be

associated in such stock taking and he should see to the deficiencies in stock for fixing responsibilities etc.

Review of Suspension : Rule 5 (6)

Unless revoked before expiry of 90 days, it shall be reviewed by the competent authority on the recommendation of the Review Committee constituted for this purpose. (RB/Estt No.95/2006, dt. 19-07-2006)

Before making payment of substance allowance in suspension cases, a non-employment certificate in Standard Form No.3 is to be obtained from the suspended employee.

Erroneous detention :

Railway Employee was detained in Police custody erroneously or without any basis and released without any prosecution, he may be eligible for full pay and allowance if the competent authority feels suspension as fully unjustified.

Sick Leave during Suspension:

An employee under suspension may be treated in Railway Hospital, and no sick leave will be granted for this purpose.

It is the duty of the employee who may be arrested for any reason to intimate the fact of his arrest and the circumstances connected therewith to his official supervisors as soon as possible even though he might have subsequently released on bail.

Suspension with retrospective effect : Rule 5 (4)

Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Railway servant is set aside or declared or rendered void in consequence of or by decision of a court of law and the disciplinary authority on consideration of the circumstances of the case, decides to hold further inquiry, against him on the allegations on which the penalty was originally imposed, the Railway servant shall be deemed to have been placed under suspension by the competent authority from the date of original order of dismissal, removal or compulsory retirement and continue to remain under suspension until further orders.

65. Status of Disciplinary case in the event of death of the charged official:

Where the Government servant dies during the pendency of the DAR proceedings, ie., without the charges being proved against him, the disciplinary proceedings should be closed immediately on the death of the charged official.

[Railway Board's letter No.E(D&A)99 RG-26 dated 19-06-200]

66. Settlement of employees Compulsorily retired/ Dismissed/ Removed:

It should be ensured that the settlement dues, if any admissible to them, are sanctioned and arranged, all Government dues are recovered from them, Identity card, Medical Book etc are returned by them and residential accommodation provided to them are vacated.

Copy of the order of Compulsory retirement / Dismissal/ Removal should invariably be endorsed to the authorities concerned for prompt action.

67. The role of Personnel Branch in DAR:

Proper maintenance of case file plays a major role in DAR. Proper file number, filing of documents in chronological order, flagging of folios properly, making cross-references correctly, quoting the Rule position etc will be helpful for the DA, AA and RA to take a proper and fast decision in the cases. This will also help in future to re-open the case for direct or indirect reference case.

The file shall mainly consists of the following details:

- 1) Charge Memorandum with Annexure,**
- 2) Details of delivery of Charge memorandum,**
- 3) Acknowledgement from the Charged Employee,**
- 4) Reply statement from the Charged Employee,**
- 5) Appointment orders for Inquiry officer & Presenting Officer, if any,**
- 6) Details of delivery of Appointment Orders,**
- 7) Acknowledgement from the Charged Employee, IO & PO,**
- 8) Inquiry Report, wherever inquiry is conducted,**
- 9) Speaking order of Disciplinary Authority,**
- 10) Notice of Imposition of Penalty (NIP),**
- 11) Details of Delivery of NIP to the Charged official, concerned office for the implementation of penalty and SR section for SR entry.**

Appeal cases:

- 1) Appeal from the delinquent employee,**
- 2) Speaking order of Appellate Authority,**
- 3) Order of Appellate Authority.**

Revision cases:

- 1) Revision Petition from the delinquent employee,**
- 2) Speaking order of Revision Authority,**
- 3) Order of Revision Authority.**

It is the duty of the Personnel Branch Dealers to ensure correctness in all levels.

Normally a 'Draft' will be received by the Personnel Branch from Vigilance Branch or from other departments to prepare the Charge Memorandum. They shall comply with the following:

1) Taking the correct format for the Charge Memorandum and submitting to the proper Authority for signature is the basic duty. While preparing the Memorandum, typographical errors should be avoided. In computer method of cut and paste need to be properly counter checked. The word 'Draft' shall be removed. The date of charge memorandum will be the date of signature of Memorandum. Annexure I to IV are to be verified and all the documents mentioned in Annexure III is to be enclosed as Relied Upon Documents along with the Memorandum. Name , Designation / Address of the witnesses mentioned in Annexure IV shall be verified.

Proposed 'penalties', 'stiff minor', 'stiff major', or penalty 'other than censure' ...etc. should not be mentioned in charge memorandum.

- 2) Serve the Charge Memorandum in the proper way and obtain the acknowledgement.**
- 3) Receive the reply statement within the stipulated time and process further, Extend the time for reply statement, if requested, or processing for ex-parte. [Rule 9 (7)]**
- 4) Issue appointment orders for Inquiry officer & presenting Officers. It is to be ensured that the Inquiry officer shall be sufficiently senior to the delinquent employee /Officer.**
- 5) In non vigilance cases, the inquiry report will have to be given to the delinquent with the approval of Disciplinary Authority and obtain the reply statement, if any, before taking the final decision. In non Gazetted vigilance cases, if the penalty is not adequate, vigilance opinion is to be obtained**

before issuing the Penalty Order. In Gazetted Vigilance cases, the Inquiry Report with the disagreement note , if any, will have to be forwarded to Railway Board for obtaining the second stage advice of Central Vigilance Commission.

After getting the second stage advice, the copy of the Inquiry report will be given to the delinquent Officer and his reply statement obtained.

6) While preparing the Penalty Order, it is to be confirmed that the orders given by the Disciplinary Authority is in order. If any discrepancy is noticed , it shall be brought to the notice of the authority, duly quoting the rule position and corrected it, before the issue, to avoid same being questioned by the Charged Employee, CAT, etc. The order shall contain the imputations of misconduct / Charges against the delinquent, out come of the inquiry proceedings, details of the reply statement given by the delinquent, disagreement if any, from the Disciplinary Authority on the Inquiry Report, conclusion of the Disciplinary Authority.

7) The provision for appeal with Designation of the Appellate Authority and the necessity for acknowledgement etc are to be added.

8) In Appeal cases, the provision for Revision with Designation of the Revising Authority and the necessity for acknowledgement etc are to be added.

9) If an ineffective penalty is decided by the Disciplinary Authority, the case should be referred back to the Disciplinary Authority, who may cancel the original punishment, review his own order and impose a fresh one. (*This is the one case where Disciplinary Authority can revise his own orders*)

10) If penalty of Compulsory Retirement is to be imposed, the minimum qualifying service of 10 years is essential to grant pensionary benefits.

11) If the penalty is Removal or Dismissal, the decision of the Disciplinary Authority regarding Compassionate Allowance is to be obtained and communicated separately.

12) It shall be ensured that the Penalty Order is implemented in true sprit and an entry is made in the service records and signed by Disciplinary Authority / Appellate Authority.

13) The DAR case files are to be preserved safely, with index, where in non availability of file should not give unintentional benefits to the charged employee at a later date.

68. Tentative financial implication involved:

(only an example. Not to be generalized)

In Gazetted Major DAR case, inquiry conducted by a Retired Senior Officer:

Honorarium to Inquiry Officer = Rs 37,500/-

Honorarium to Presenting Officer = Rs 4,690/-

Stenographic/clerical charges = Rs 6560/-

Telephone Charges = Rs 250/-

Contingency Charges (Per sitting) = Rs 100/-

Traveling Allowance to Inquiry Officer@ Rs 650/- per day (average)

Traveling Allowance to Presenting Officer@ Rs 575/-, 500/- per day etc. (as per their status)

The Charged Employee, Witnesses called etc are also eligible for Daily Allowance.

The money value of Duty Passes issued to the Inquiry Authorities, Presenting Officer, Charged Official, Defence Helper, Witnesses, supporting staff etc are also to be taken in to account.

Facility for the officials and staff in Rest Houses / Retiring Rooms etc are to be accounted.

Apart from above, working hours lost by the Administration on account of relieving Charged Employee/Officer, Inquiry Officer, Presenting officer, Witnesses, Stenographers, etc also will count.

Example: In a Gazetted case with 10 sittings where man days lost and the expenditure involved will be approximately as under:

The salary expenditure will be Rs 70,000/- for 70 man-days lost by Charged Officer, Presenting Officer, Stenographer and average 3 witness per day if an average per day salary of Rs 1,000/- is taken.

In the above case, if the case of payment of Daily Allowance is taken into account, it will approximately work out @ an average of Rs 500/- per day ie. $88 \times 500 = 44,000/-$. (including journey from residence to Railway Station)

The honorarium and contingency etc will be around Rs 50,000/-

On account of delay in finalising DAR cases for years together, heavy amount is being spent from Railway's funds which can be reduced with a little planning.

Apart from the above when a DAR related case is filed in CAT/ High Court, which will create an additional minimum expenditure of Rupees 10,000/- per case, (such as Advocate fee, Drafting charges etc), excluding the

expenditure towards staff of Law Section of Personnel Branch, Traveling Allowance, Rest House facility Passes etc.

The expenditure towards stationary in DAR cases including photocopy charges will be heavy and when ever the case is prolonged, expenditure also will proportionally increase.

Even after meeting the above expenditure, based on the directions of the CAT/Court, in many cases administration will be forced to revise the penalty orders issued!!

(It is a fact that, a Government system like Railways cannot manage things with out a disciplinary machinery. But if it is properly planned and contribution from every individual, though a little, can create better impact as a whole)

69. Remedial measures to reduce the expenditure in DAR:

(i) Need for proper application of mind by Disciplinary Authority:

It shall 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. Railway Board's order No. E(D&A) 70, RG 6-13 dated 02-06-1970.

Disciplinary Authorities can help the Railway Administration in most of the cases. He /she can examine the misconduct / misbehaviour with out prejudice of mind, evaluate the issue and arrive at the conclusion.

Even in Major Penalty cases, if the reply statement is convincing, any of the suitable minor penalty can be imposed, without ordering for an inquiry.

In Vigilance referred DAR cases, the intensity of the case is to be critically analysed, and the Disciplinary Authority has to take a decision duly convincing

the Vigilance Department.

(ii) Place of Inquiry:

If the place of Inquiry is fixed in a central place, which is suitable for majority of the involved individuals, movement of staff can be reduced.

(iii) Communication of Orders about the Inquiry well in advance

To avoid postponement of Inquiries, Fixing the inquiry with Date , Time and Venue in advance and communicated the same to the concerned individuals will be helpful & postponement of Inquiries can be minimised.

70. Administrative actions:

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.

If any of the action above has to be mentioned in the character roll of the office, it should be done after issue of a Show Cause Notice. [RBV 19/2004 dt 16-08-2004]

Counseling can be done either orally or in writing. [Vig letter 2003/v-1/dar/1/4 dt 03-06-2003]

ANNEXURE – I

Penalties : (Rule 6 of RS(D&A) Rules 1968)

Minor Penalties.

- (i) Censure ;**
- (ii) Withholding of his promotion for a specific period;**
- (iii) Recovery from his Pay of the whole or part of pecuniary loss caused by him to the Government or Railway Administration by negligence or breach of orders;**
- (iii a) Withholding of the Privilege Passes or Privilege Ticket Orders or both;**
- (iii b) Reduction to lower stage by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension;**
- (iv) Withholding of increments of pay for a specified period with further directions as to whether on the expiry of such period this will or will not have the effect of postponing the future increments of his pay;**

Major Penalties:

(v) { Save as otherwise provided for in clause (iii b) } reduction to a lower stage for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increment of his pay.

(vi) Reduction to a 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-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;

[Language of this penalty has been modified vide RBE 119/2011 dated 05-09-2011]

(vii) Compulsory retirement: (viii) Removal from service: (IX) Dismissal from service.

ANNEXURE – II

Extract of Schedule III of RS(D&A) Rules 1968.(GAZETTED CASES).

Authority	Class of Rly.Officer	Powers	Appellate Authority.
GENERAL MANAGER	Group “A”	Suspension and the penalties specified in clauses (i),(iii), (iii a),(iii b) & (iv) of Rule 6 in the case of officers up to and including Selection Grade officer of JAG	PRESIDENT
	Group “B”	Suspension and the penalties specified in clauses (i) to (vi) of Rule 6	RAILWAY BOARD
PRINCIPAL HEADS OF DEPARTMENT	Group “A”	Suspension and the penalties specified in clauses (i),(iii), (iii a),(iii b) & (iv) of Rule 6 in the case of officers in Junior Scale.	GENERAL MANAGER
	Group “B”	Suspension and the penalties specified in clauses (i),(iii), (iii a),(iii b) & (iv) of Rule 6	GENERAL MANAGER

Group ‘B’ officers who are officiating in Senior Scale or in Senior Scale on Adhoc basis, for the purpose of Railway Servants (D&A) Rules 1968, are to be treated as Group ‘A’ officers. [Ref: RBE No.106/2005: No. (E9D&A) 2005/RG 6-19 dated 24-06-2005]

Disciplinary powers of Principal Heads Of the Departments under this Schedule shall also be exercised by the co-ordinating Heads of the Departments or by the Heads of the departments in Senior Administrative Grade who are in independent charge in their respective departments.

ANNEXURE – III

Schedule II, RBE 10/2011 dated 19-01-2011 Non- Gazetted cases.

Sl.No.	Authority	Disciplinary powers can be exercised	Penalty can be imposed	Appellate authority
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1	Senior supervisors in charge (described) of GP 4200/- and above	All staff who are 3 grades below and lower than D A.	i) to (iv)	Assistant Officer in Jr. Scale & Gr.B Gaz
2	Assistant Officer in Jr. Scale & Gr.B (Gazetted)	All staff with GP up to and including Rs. 2400/-	i) to (v) and Cl (vi) on staff with GP upto & including Rs.1650/- only	Senior Scale Officer and Assistant Officers (Junior Scale & Gr.B Gaz. holding independent charge.
3	Senior Scale Officer and Assistant Officers (Junior Scale & Gr.B Gaz. holding independent charge.	All staff with GP up to and including Rs. 2800/-	i) to (vi) and suspension	J.A.Grade and Senior Scale holding independent charge or incharge of a dept in Division
4	J.A.Grade and Senior Scale holding independent charge or incharge of a dept in Division	All class of Non gazetted staff.	i) to (vi) and suspension	ADRM in relation to the Depts attached to them or DRM
5	ADRM in relation to the Depts attached to them or DRM	All class of Non gazetted staff.	i) to (vi) and suspension	SAG Officers in Zonal office in PB 4 with GP 10,000/- including PHOD in PB 4 with GP 12,000/-
6	SAG Officers in Zonal office in PB 4 with GP 10,000/- including PHOD in PB 4 with GP 12,000/-	All class of Non gazetted staff.	i) to (vi) and suspension	Additional General Manager in relation to the Depts or Chief Admn Officers or GM.
7	Additional General Manager in relation to the Depts or Chief Admn Officers or GM.	All class of Non gazetted staff.	i) to (vi) and suspension	Railway Board
8	Railway Board	All class of Non gazetted staff.	i) to (vi) and suspension	President

Penalties (vii), (viii) and (ix) shall be imposed only by the appointing authority

ANNEXURE – IV

The Railway Servants (Discipline and Appeal) Rules, 1968 at a Glance.

- 1. Short Title and commencement.**
- 2. Definitions.**
- 3. Application.**
- 4. Authorities competent to place a Railway servant under suspension.**
- 5. Suspension.**
- 6. Penalties.**
- 7. Disciplinary Authorities.**
- 8. Authority to Institute Proceedings.**
- 9. Procedure for Imposing Major Penalties.**
- 10. Action on the Inquiry report.**
- 11. Procedure for imposing minor penalties.**
- 12. Communication of orders.**

13. **Common proceedings.**
14. **Special procedure in certain cases.**
15. **Provision regarding Railway servants lent to State Governments, etc.**
16. **Provision regarding officers borrowed from Central or State Governments, etc.**
17. **Orders against which no appeal lies.**
18. **Orders against which appeal lies.**
19. **Appellate Authorities.**
20. **Period of limitation of appeals.**
21. **Form and contents and submission of appeal.**
22. **Consideration of appeal.**
23. **Implementation of orders in appeal.**
24. **Special provisions for non-gazetted staff.**
25. **Revision.**
26. **Service of orders, notices etc.**
- 26 A, **Service of orders, notices etc on behalf of the Railway Board or President.**
- 27 **Power to relax time and to condone delay.**
- 28 **Supply of copy of Commission's advice.**
- 29 **Repeal and saving.**
- 30 **Removal of doubts.**
- 31 **Right to submit petition to the President.**

ANNEXURE –V

Impact of Penalties on Promotion:

1	Penalty	Calling for selection	Promotion
2	Censure	May be called	May be promoted
3	Stoppage of promotion	May not be called	Not to be promoted
4	Recovery pecuniary loss	May be called	May be promoted
5	Withholding of Pass/PTO	May be called	May be promoted
6	Withholding of Increments	May be called	May be promoted

7	Reduction to lower stage (penalty 3b & v)	May be called	Not to be promoted during the penalty period
8	Reduction to lower Pay Band	Do	do

ANNEXURE VI

Standard forms for use in Disciplinary Proceedings

Form No	Description
1	Order of Suspension under Rule 5(1)
2	Order of Deemed Suspension under Rule 5(2)
3	Certificate to be furnished by Suspended Official about non employment
4	Order of Revocation of Suspension under Rule 5(5)(c)
5	Charge Memorandum for Major Penalty under Rule 9
6	Refusing permission to inspect Relied upon Documents
7	Appointment of Inquiry/Board of Inquiry
8	Appointment of Presenting Officer
9	Not printed
10	Disciplinary action in common proceedings
10(a)	Appointment of Inquiry in common proceedings
10(b)	Appointment of Presenting officer in common proceedings
11	Charge Memorandum for Minor Penalties
11(b)	Minor Penalties to hold the inquiry under Rule 11(1)(b)/ 11(2)
11(c)	Minor Penalties, where major penalty Charge Memorandum was issued
12	Memorandum where action is proposed under Rule 14(i)
13	Sanction under Rule 2308 RII (Rule 9 MRPR)
14	Charge sheet for proceedings under Rule 2308 RII
