

**DISCIPLINE**

**AND**

**APPEAL**

**RULES**

**1968**



# DISCIPLINE AND APPEAL RULES 1968

These rules call into force on the First day of October ` 1968. These rules are apply to every Railways servant,

*But shall not apply to*

- Any member of All India services
- Any member of Railway Protection Force
- Any person of in casual employment
- Any person, for who special provision is made, in respect of matters, covers by this rule.

# Constitutional Provision

- ▶ **Article 311 (1)**

No civil servant shall be removed or dismissed from service without an inquiry. by an authority appointed him.

# Appointing Authority

Appointing Authority in relation to Railway servant means:-

## *The authority*

- ▶ Who appointed the Railway servant initially to railway service.
- ▶ Who is competent to appoint the railway servant in its present grade, scale, post-service etc.

# Disciplinary Authority

- ▶ The authority competent to impose the penalty. He should not be lower than the Appointing Authority.

# Appellate Authority

- ▶ The authority next above to the penalty imposing Authority.

# Reviewing Authority

- ▶ The authority higher to Appellate authority.

# Charge-Sheet

- ▶ The charge-sheet is a primary document which sets a disciplinary inquiry in motion.



# Suspension:

- ▶ Suspension means debarring an employee temporarily from service.
- ▶ The employee ceases to exercise the power and to discharge the duties of his office for the time being.
- ▶ The suspension is not a penalty.



# A Railway servant may be placed under suspension

- ▶ When disciplinary proceeding is contemplated or pending.

OR

- ▶ Where, in the opinion of 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

- ▶ Investigation or under trial for an criminal offence.
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## A Railway servant shall be deemed to have been placed under suspension

- ▶ w.e.f the date of his detection if he is detained in custody of police for a period of exceeding 48 hours.
- ▶ w.e.f the date of his conviction if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding 48 hours.

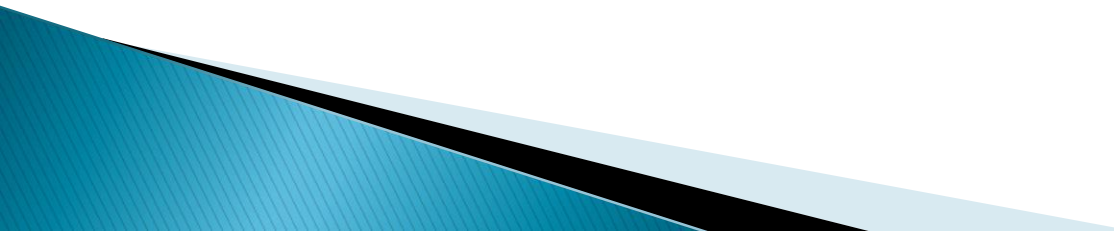
# Items admissible during Suspension

- ▶ Passes, PTO at reduced rate with DRM/HOD's permission.
- ▶ Subsistence allowance.
- ▶ School passes to the children.
- ▶ HRA & CCA.
- ▶ Retention of Quarter at normal rate but no rent free accommodation.
- ▶ Consideration for promotion but not actual promotion.
- ▶ Rank, pay, seniority do not suffer

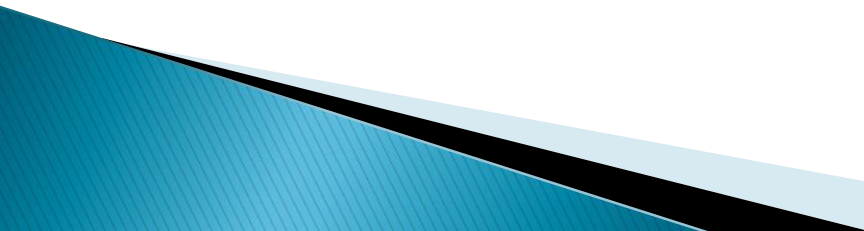
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- ▶ Can act as Defence Council.
  - ▶ Can be considered for transfer if no financial implication.
  - ▶ Can be elected as union office bearer.
  - ▶ Can represent the union meeting including PNM.
  - ▶ Hostel subsidy & educational assistance to the children.
  - ▶ T.A. for union meeting and court attendance.
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# Subsistence Allowance

- ▶ An amount equal to leave salary which the Railway servant would have drawn if he had been on LHAP.
  - ▶ The authority shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of first 3 (three) months.
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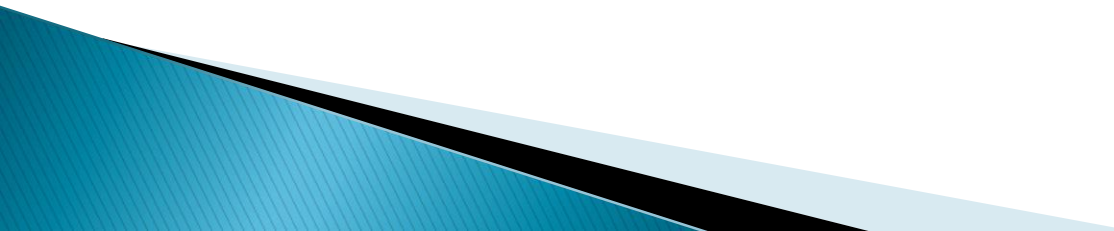
# Types of Standard Forms used in DAR

- ▶ S.F. 1 – used for placing an employee under suspension
  - ▶ S.F. 2 – used when it is deemed to have placed an employee under Suspension
  - ▶ S.F. 3 – is prescribed certificate that has to be produced by the suspended employee for claiming the subsistence allowance.
  - ▶ S.F. 4 – used for revocation of a suspension
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# Forms used for imposing a Major Penalty

- ▶ **S.F. 5** – used when proposed to take up an employee for imposition of major penalty.
- ▶ **S.F. 6** – used in case it is felt that the additional documents called or sought for by the delinquent/charged employee are **not relevant to the case** or are of irrelevant nature to the case. The request can be refused by this form giving reasons for the refusal.
- ▶ **S.F. 7** – used for appointment of an Enquiry officer or board of enquiry in cases where it is felt necessary to **conduct an inquiry**  
( **NOTE:** As per extant Board's order, SF-7 should be issued along with SF-5 itself.)
- ▶ **S.F. 8** – used for appointment of a presenting officer



- ▶ **S.F.No.10** –This form is used when issuing a charge sheet in case of Common Proceedings. Common Proceedings Charge sheets are issued in case *where 2 or more than 2 employees are involved for the same offence*
  - ▶ **S.F.No.10 (a)** –This form is used for *appointment of an inquiry officer* in a common proceeding.
  - ▶ **S.F.No.10 (b)** –This form is used for *appointment of Presenting Officer* in a common proceeding.
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# Forms used for imposing Minor Penalties

- ▶ **S.F.No.11** –This form is used in cases when it is proposed to imposed a *minor penalty* to an employee if allegations levelled against him/her are so proved. (Refer Rule 11 of D & AR 1968).
- ▶ **S.F.No.11 (b)**–This form is used in cases when it is proposed *to hold an inquiry* after issue of a Minor Penalty charge sheet.
- ▶ **S.F.No.11 (c)**–This form is used when the Disciplinary Authority decides to *impose a minor penalty* in cases when initially a Charge sheet for a major penalty was issued.

Note: A retired Railway employee for any lapses noticed to have been done by him after his retirement can be taken up under DAR **within 4 years** from the date of occurrence.

# PENALTIES:

- ▶ There are two kind of penalties have been prescribed under DAR rule:
- ▶ Minor penalties
- ▶ Major penalties
  - which can be imposed on the Railway servant for good and sufficient reason.

# MINOR PENALTIES

- ◆ Censure (only warning).
- ◆ Withholding of promotion for a specific period.
- ▶ Recovery from his pay of the whole or part of any financial loss caused by him to the Government or Railway Administration by negligence or breach of orders
- ▶ Withholding of the Privilege Passes or Privilege Ticket Orders or both.
- ▶ Reduction to a lower stage in the time scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.

▶ *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

# MAJOR PENALTIES

- ▶ Reduction to a lower stage in the time-scale of pay for a specified period (exceeding 3 years ), 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 increments of his pay.
- ▶ Reduction to a lower time scale of pay, grade, post, or service, with or without further directions regarding conditions of restoration to the grade or post or service from which the Railway servant was reduced and his seniority and pay on such restoration to that grade, post or service.
- ◆ Compulsory Retirement.
- ◆ Removal from service which shall not be disqualification for further employment under Govt. or Railway administration.
- ◆ Dismissed from service which shall be disqualification to future employment under the Govt. or Railway

# Procedure for Imposing of Major Penalty

- ▶ Disciplinary Authority shall deliver the memorandum of charges in SF-5 on definite allegations.
- ▶ The Railway servant shall be required to submit the defence within 10 days with a *list of witness* to be examined on his behalf.
- ▶ On receipt of the defence the authority shall examine the same and *can close the case* or *can process for Minor* penalty.
- ▶ If the charges have been *accepted* by the employee, a *punishment* can be straight away imposed. However to know the truth a *brief enquiry may be held*.

- ▶ If no written statement of defence is received or received but un-satisfactory by the DA, he/she may inquire the case himself/herself or *appoints an inquiry officer* or a *Board of Inquiry, (SF-7)* where necessary.
- ▶ Disciplinary Authority may also *appoint a Presenting Officer (P.O)* to present the case on behalf of Disciplinary Authority.
- ▶ Railway servant may present his case with the assistant of *any other Rly. Servant of the same Railway or trade union* personals. The approval of defence council and his own willingness is required for accepting as defence council. Defence council should not have more than two pending cases in which he is assisting.
- ▶ *Notice for a preliminary inquiry fixing a date, time, place is issued by I.O. followed by a regular inquiry, if required. It is held in presence of CE, defence counsel and presenting officer if any.*

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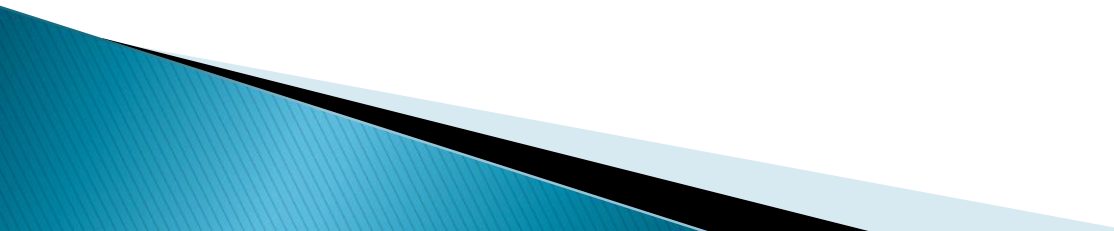


- ▶ **Procedure for conducting enquiry;**
  - Charges will be explained to the charged employee. Documents may be produced as required.
  - The charged employee will be asked if he accepts or denied the charges. Also he may take a defence council or may defence his case himself.
  - Witnesses treated for mentioned in the charge-sheet will be examined each one separately. Then cross examination of each witness by the charged employee or by his defence council. Re-examination on any point and cross examination if necessary to be made.
  - The defence witnesses, if any may then be examined, cross examined and re-examined.
  - The charged employee will be permitted to state his defence.
  - Enquiry officer may question the charged employee on the circumstances appearing against him in the evidence.
  - The charged employee will be permitted to file written briefs.

- ▶ Based on evidence on record and enquiry conducted, the *Enquiry Officer shall draw his findings and enquiry report and send it* along with records of case and record of enquiry to the *Disciplinary Authority*.
- ▶ A copy of the *enquiry report* to invariably be given to the *charge employee* and his *defence council* if any.
- ▶ The disciplinary authority before passing order shall apply its mind to all relevant facts & records and then pass a Speaking order giving reasons therefore.
- ▶ If it is decided by the disciplinary authority to impose a penalty which is within his competence shall issue a *notice of imposition of penalty (NIP)*, otherwise forward the case to the competent authority.
- ▶ The order made by the disciplinary authority shall be *communicated to the charged employee* who shall be supplied with a *copy of report of enquiry and a copy of its finding* of the disciplinary authority *with brief reasons for disagreement* if any with its findings of the enquiry officer.

# Procedure for Imposing of Minor Penalty

- ▶ A charge sheet should be framed against the delinquent employee and communicated to him on a prescribed form through his immediate superior (SF-11). The standard form will be signed by the disciplinary authority himself.
- ▶ Charge should contain the imputation of misconduct or misbehavior on which it is proposed to take action against him. Charge sheet must be specific and should contain all relevant documents.
- ▶ The Railway servant will be given a reasonable opportunity of making such representation against the charges *within 10 days*. If the charged *employee fails to submit its explanation* within the specified period the disciplinary authority may deal with him even *without explanation* on the basis of information which is available.

- ▶ On *receipt of the reply* to the charge sheet, the same will be examined by the Disciplinary Authority. If the employee is not found guilty or it is decided not to impose penalty, the charge/charges may be *dropped* and the employee may be *informed accordingly*.
  - ▶ After considering the reply if it is proposed to *withhold the increment of pay for a period exceeding three years or to increment of pay with cumulative effect* which will *effect adversely in his pension* and *inquiry is to be conducted*.
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- ▶ The disciplinary authority shall also consider representation made by the charged employee, if any and also the record of enquiry if any and shall then determine the minor penalty to be imposed on the charged employee.
- ▶ The disciplinary authority before passing order shall apply its mind to all relevant facts & records and then pass a Speaking order giving reasons therefore.
- ▶ The final order will be communicated a *Notice of Imposition of Penalty (NIP)* signed by the disciplinary authority himself. The NIP will also indicate the authority to whom the appeal lies.
- ▶ An entry in this effect is made in the service book of employee.

**THANKS**

