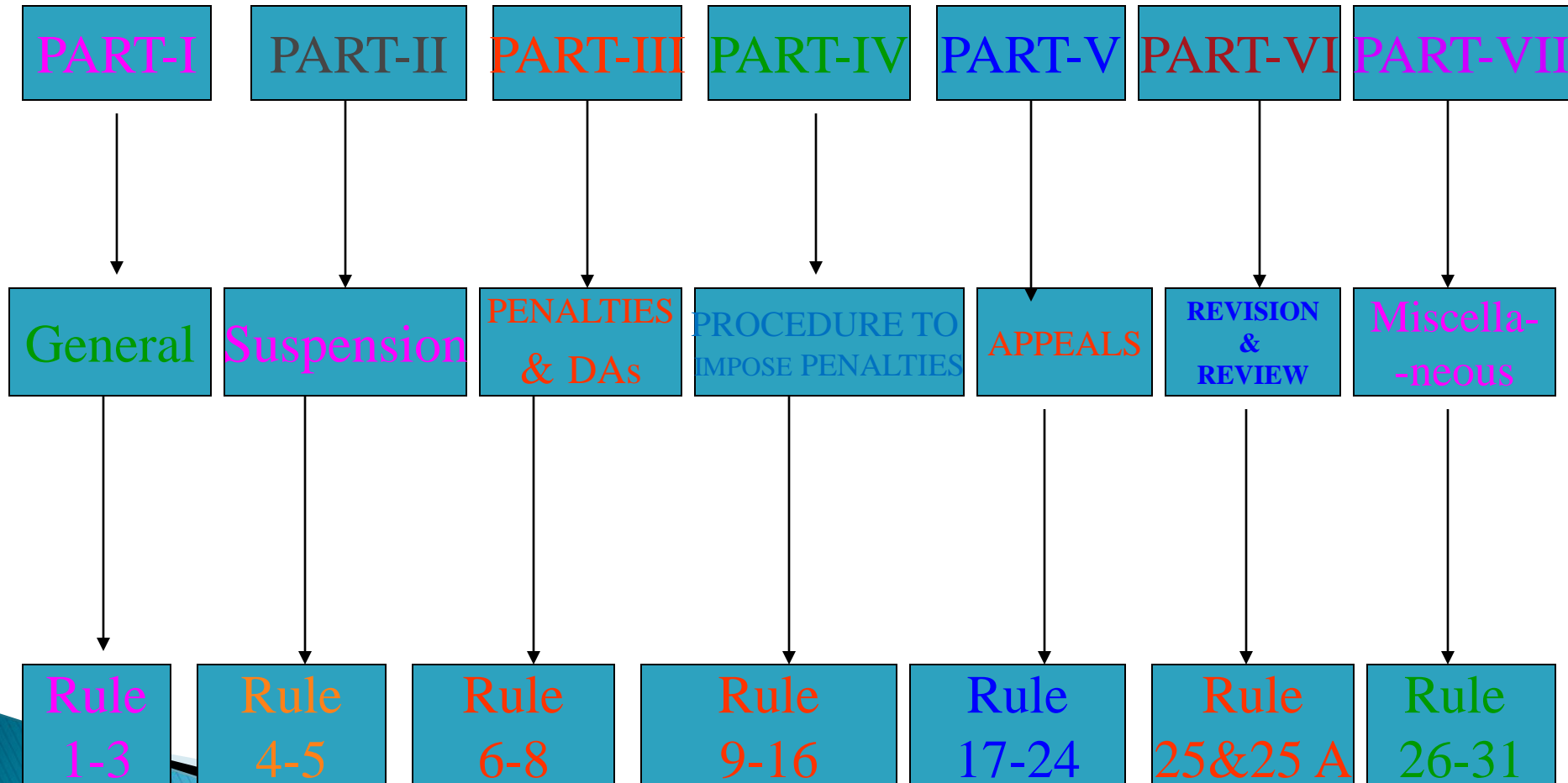


# Railway Servants' Discipline & Appeal Rules-1968


(w.e.f.- 1<sup>st</sup>  
Oct, 1968)

# Railway Servants (Discipline and Appeal) Rules, 1968

## RSDAR HAVING VII PARTS AND 31 RULES

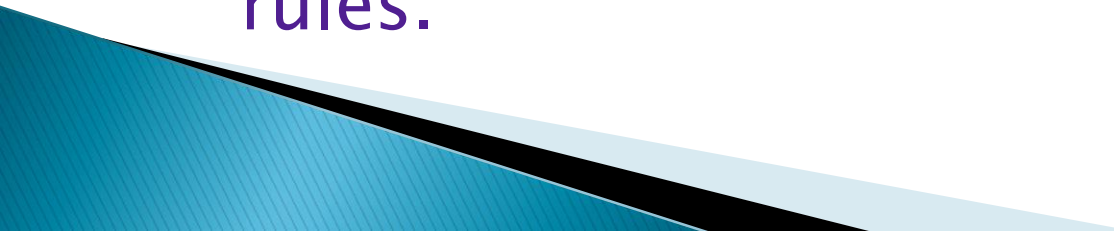


# DISCIPLINE

- ❑ Discipline is a part of our every day life not only for the employees and workers of any organization, but also in one's home, schools, clubs, institutions etc. Without discipline, the social life will be turned into wild life.
  - ❑ In every organization where employees work, certain rules of conduct are maintained to keep the discipline in force. For every violation of these rules and regulations, the delinquent employees is liable for punishment, which is prescribed in the rules framed for the purpose.
- 

# APPLICATION

These Rules shall apply to every Railway Servant but shall not apply to:–

- Any member of the All India Service;
  - Any member of the Rly. Protection Force;
  - Any person in casual employment, and
  - Any person covered under special provision
  - Person whom the President, by order excluded from the operation of these rules.
- 

**APPOINTING AUTHORITY**:- Appointing Authority in relation to Railway Servant means;

- (i) the authority empowered to make appointment to the service / post of the Rly. Servant is for the time being a member or to the grade of the service in which the Rly. Servant is, for the time being included, or
  - (ii) the authority empowered to make appointment to the post which the Rly. Servant for time being holds, or
  - (iii) the authority who appointed the Rly. Servant to such Service, Grade, or Post as the case may be,
- which ever authority is the highest authority is called Appointing Authority.

**DISCIPLINARY AUTHORITY**:- The authority who is empowered to impose any of the penalties specified in the Rule 6 of RS (D&A) Rule on any Rly. Servant, is known as the Disciplinary Authority (Schedule I, II & III). The disciplinary authority in the case of a Railway servant officiating in a higher post, shall be determined with reference to the officiating post held by him at the time of taking action.

**APPELLATE AUTHORITY**:- The authority to which the authority making the order of imposing punishment is immediately subordinate i.e. the authority who is next higher in rank than the Disciplinary authority, in the hierarchy, is known as the Appellate Authority.

**REVISING AUTHORITY**:- The authority who is next higher in rank to the Appellate Authority is known as the Revising Authority.

**DEFENCE COUNSEL**:- The Charged Official may present his case with the assistance of any other Railway servant (including a Railway servant on leave preparatory to retirement) working under the same Railway Administration, who is known as Defence Counsel. The Defence Counsel [DC] may be another official of the same organisation or a retired official or a Trade union Official of a recognized union but should not be a legal practitioner subject to the condition that he takes no fees.

Defence Counsel should be engaged within 20 days of appointing of I.O.



**Inquiry Officer:-**The official who is nominated by the DA to conduct the disciplinary enquiry is the Inquiry Officer. It could be the disciplinary authority itself or a single Officer/Supervisor or a Committee of 02 or more Officers/Supervisors.

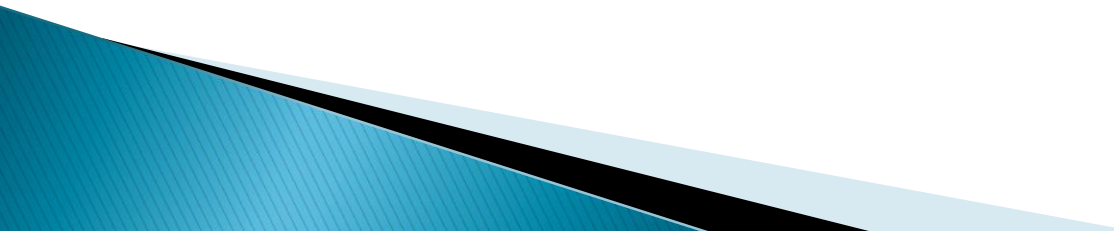
Where there is a complaint of sexual harassment within the meaning of rule 3 C of the Railway Services (Conduct) Rules, 1966, the Complaints Committee established for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose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



# REASON FOR D&A ACTION

- ▶ In the Railways, the discipline should be maintained as are prescribed in the Railway Service Conduct Rules-1966, which are primarily:-

## EVERY RAILWAY SERVANTS SHALL AT ALLTIMES


- ▶ a. MAINTIAN ABSOLUTE INTEGRITY,
  - ▶ b. MAINTAIN DEVOTION TO DUTY,
  - ▶ c. DO NOTHING WHICH IS UNBECOMING OF A RAILWAY SERVANT.
- 



## GENERAL

- ▶ Constitution Provisions for the Discipline and Appeal Rules are given in Article 309 of the Indian Constitution. This D&A Rules framed keeping in conformity with the instructions contained in the Article 311(1) & 311(2). The Discipline and Appeal Rules has been specified in the chapter XVII of the Indian Railway Establishment Code, Volume-I, amended from time to time in consequence of judgment delivered by different Court of Law.

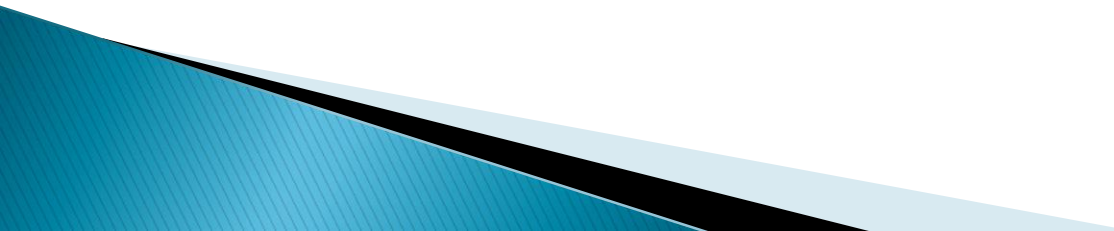
## CONSTITUTIONAL PROVISION

- Article 310 accepts the principle that Central Government employees hold their positions during the 'pleasure' of the President, who is in control of their discipline.
  - Under Article 311(1) no civil servant shall be removed or dismissed from service by an authority subordinate to the authority who appointed him.
  - As per Article 311(2) no civil servant shall be removed or dismissed from service or reduces 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 those charges. The article brings up the concepts of 'Appointing Authority' and 'Reasonable Opportunity'.
- 

# PRINCIPLE OF NATURAL JUSTICE

- ▶ Principle of Natural Justice are the principles which lay down and elaborate the reasonable opportunity which should be given to the charged employee. Before awarding punishment a complete and systematic inquiry should be conducted and only after prove of the charges penalty to be imposed.
- ▶ Hon'ble Chief Justice of Supreme Court of India, Mr.S.R.Sinha pointed out the following principles:-
  - No body can be a judge in his own cause.
  - None should be condemned without being heard.
  - All decisions should be made in good faith.
  - The hearing must be impartial.
  - Reasonable opportunity should be given to defend the case.
  - Reasons for decisions should be made known to the accused.
  - The charges should be intimated in advance.
  - Justice should not only be done, it should also appear to have been done.

▶ The D&A Rules are categorized in the Four following groups:–

- ▶ 1.      **SUSPENSION,**
  - ▶ 2.      **IMPOSITION OF PENALTY**
  - ▶ 3.      **APPEAL AGAINST PENALTY.**
  - ▶ 4.      **REVISION / REVIEW.**
- 

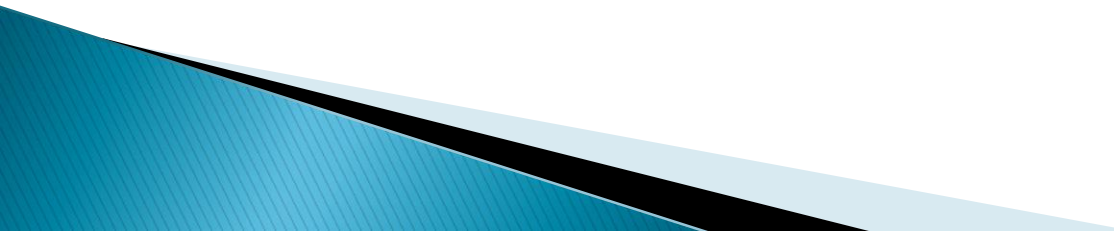
## STANDARD FORMS

- ▶ SF- 1      Suspension
- ▶ SF- 2      Deemed to be placed under suspension
- ▶ SF- 3      Non engagement certificate for subsistence allowance
- ▶ SF- 4      Revocation of suspension
- ▶ SF -5      Major Penalty
- ▶ SF- 6      Additional documents sought may be refused
- ▶ SF- 7      Appointing Inquiry Officer
- ▶ SF- 8      Appointing Presenting Officer
- ▶ SF- 9      Closed
- ▶ SF- 10      To issue charge sheet in case of Common Proceedings
- ▶ SF- 10A      Appointing of I.O in a Common Proceedings
- ▶ SF- 10B      Appointing of P.O in a Common Proceedings
- ▶ SF -11      Minor Penalty
- ▶ SF -11B      Proposed to hold inquiry in a Minor Penalty
- ▶ SF -11C      Issued when DA decided to impose Minor Penalty,  
where initially charge sheet was issued for a Major  
of Penalties.

# SUSPENSION

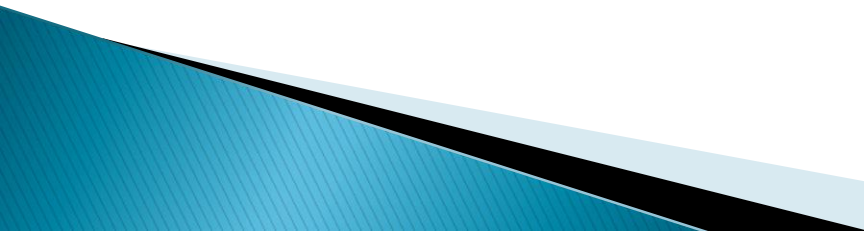
- ▶ **SUSPENSION** means, To restrict the charged official from performing his/her duty. Suspension is not a Penalty. A railway servant may be placed under suspension:—
  - ▶ a) Where a disciplinary proceedings against him contemplated or is pending;  
or
  - ▶ b) Where, in the opinion of the authority competent the employee has engaged himself in the 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.

## DEEMED SUSPENSION

- ▶ A Railway servant shall be deemed to have been placed under suspension by an order of the competent authority:–
    - ▶ 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 conviction for an 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.
- 



# REVOCATION


- ▶ Order of suspension made or deemed to have been made shall not be valid after a period of 90 days unless it is extended after review in the manner provided in sub-rule (7) of this rule, for a further period before expiry of 90 days. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding 180 days at a time.
  - ▶ Suspension may be revoked at any time by the authority, who orders the suspension or by any higher authority. When the suspension is not followed by imposition of major penalty the suspension period may be treated as duty.
  - ▶ Deemed suspension on grounds of detention, is treated as revoked if prosecution does not follow and in such case, the period of suspension is to be treated as duty.
- 

## ENTITLEMENTS TO A SUSPENDED OFFICIAL

- ▶ Leave may not be granted to a railway servant under suspension. The employee may be allowed to leave H.Q. during suspension period with the permission not below the rank of Dy.HOD. Passes & PTOs will be allowed which are discretion of the competent authority. However, this will not effect the eligibility for school Passes and Educational Assistance allowance which is being paid for the children of railway servant who is under suspension.
- ▶ TA admissible to delinquent staff for attaining enquiry. But for stay, TA is not admissible. The suspended railway employee may attend PNM meeting as a Trade Union Official.
- ▶ Railway servant may also be permitted to act as a Defense counsel. In respect of staff who are enjoying rent free house, rent should be recovered for the period of suspension.
- ▶ In case of no charge sheet is issued within a period of 3 months from the date of suspension, the employee is to be intimated the reason for his suspension.
- ▶ Normal deduction that are made from the salary of an employee, cannot be made from the subsistence allowance.

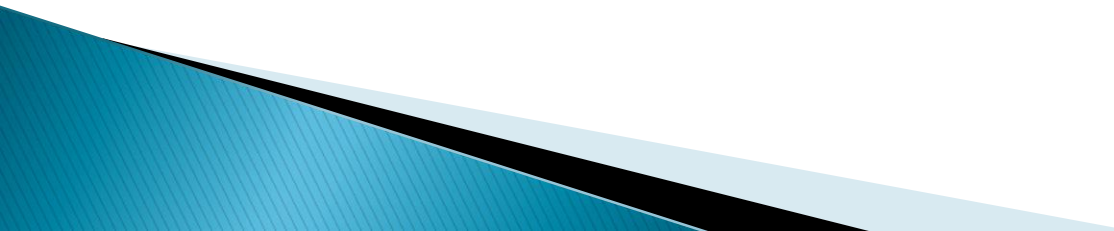
## DEDUCTIONS FROM SUBSISTENCE ALLOWANCE

- ▶ Care should be taken to follow the above while drawing subsistence allowance of an employee under suspension.
- ▶ Timely non payment of subsistence allowance tantamount denial of natural justice in D & A cases.
- ▶ The railway servants under suspension is debarred from exercising the powers and discharging the duties of his office. He is forbidden in signing the attendance register.
- ▶ A railway servant under suspension if dies, the period of suspension is treated as duty.
- ▶ The deduction to be made from subsistence allowance are classified in 3 categories:-
  - 1) Permissible Deductions [House Rent, Elect.& Water Charges, Store/Station/ Workshops Debits, Hospital Diet, GIS, I-Tax]
  - 2) Optional Deductions [LIC Premium, Subscription to Rly. Club/ Institutions, PF Advance.]
  - 3) Deductions Forbidden [PF Subscription, Court Attachment]

- ▶ A railway servant under suspension if submits resignation such resignation is not normally be accepted. However, the acceptance of resignation in such a case is considered necessary in the public interest i.e. for reason such as the alleged offence employee is not enough to justify the assessment that if the departmental proceedings were continued the employee would have been removed or dismissed from service or the departmental proceedings are likely to be protected that it would be cheaper to the public exchequer to accept the resignation.
  - ▶ Voluntary retirement requests with 3 months notice on completion of 30 years qualifying service / 55 years of age is not freely available to a suspended employee. This is subject to the prior approval of the appointing authority.
  - ▶ Voluntary retirement under voluntary retirement scheme – such requests should not normally be accepted, where if the appointing authority feels that on completion of the D&A proceedings, the employee is likely to be punished with removal/dismissal from service. If it is proposed to accept the notice on voluntary retirement even in such cases, approval of the General Manager is necessary in the case of Gr-C and Gr-D railway servants.
- 

- ▶ A suspended employee can be reverted to the lower grade otherwise than as a punishment.
- ▶ Application from suspended employee should not be forwarded to outside railways or he should be relieved while under suspension to outside the railways.
- ▶ PLB to the suspended employee, no PLB will be payable for the period of suspension. After regularization of the suspension period the question of payment of PLB is to be finalized.
- ▶ Encashment of leave on retirement while under suspension– Authority competent to grant leave may withhold whole or part of cash equivalent of LAP at his credit subject to maximum of 300 days if in view of such authority there is a possibility of some money becoming recoverable from him on completion of proceeding against him. On conclusion of proceedings, he will become eligible to the amount after adjusting of railways dues if any.

## **MINOR PENALTIES**


- ▶ i) Censure;
  - ▶ ii) Withholding of his promotion for a specified period,
  - ▶ iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the government or Railway Administration by negligence or breach of orders,
  - ▶ iii-a) Withholding of privilege passes or privilege Ticket orders or both,
  - ▶ iii-b) Reduction to a lower stage in time scale of pay by one stage below for a period not exceeding three years without cumulative effect and not adversely affecting his pension,
  - ▶ iv) Withholding of the increment 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 future increment of his pay.
- 

**ILLUSTRATION ON THE EFFECTS OF DIFFERENT ORDERS OF PUNISHMENT OF WITHHOLDING OF INCREMENTS IMPOSED AS INDICATED BELOW:**

	1	2	3	4	5
Date	Pay without any punishment	Pay when only 01 Punishment of WIT for 1 year (NC) is imposed.	Pay on 02 successive punishment of WITs are imposed each for 1 year (NC)	Pay when only one (01) punishment of WIT for one year is imposed cumulatively	Pay when punishments are imposed first for 1 year cumulatively followed by WIT for another year
	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)
01.01.2019	40,000	40,000	40,000	40,000	40,000
<b>Punishments imposed in the year 2019</b>					
01.01.2020	40,500	40,000	40,000	40,000	40,000
01.01.2021	41,000	41,000	40,500	40,500	40,000
01.01.2022	41,500	41,500	41,500	41,000	41,000
01.01.2023	42,000	42,000	42,000	41,500	41,500



## **MAJOR PENALTIES**

- ▶ **v)** Same as provided for in clause (iii-b). Reduction to lower stage in the time scale of pay for a specified period, the reduction will or will not have the effect of postponing the future increments of his pay.
  - ▶ **vi)** 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 the grade, post or service.
  - ▶ **vii)** Compulsory retirement,
  - ▶ **viii)** Removal from service, which shall not be disqualification for further employment under the Govt. or Railway Administration.
  - ▶ **ix)** Dismissal from service, which shall ordinarily be a disqualification for further employment under the Govt. or Railway Administration.
- 

- ▶ **In** cases of persons found guilty of any act or omission which resulted or would have, ordinarily, resulted in collision of Railway trains, one of the penalties specified in clauses (viii) and (ix) shall, ordinarily, be imposed and in cases of passing Railway signals at danger, one of the penalties specified in clauses (v) to (ix) shall, ordinarily be imposed and where such penalty is not imposed, the reasons therefore shall be recorded in writing:
- ▶ **P**rovided further that in case of persons found guilty of possessing assets disproportionate to known sources of income or found guilty of having accepted or having obtained from any person any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, one of the penalties specified in clauses (viii) or (ix) shall ordinarily be imposed and where such penalty is not imposed, the reasons therefore shall be recorded in writing.

## **PROCEDURE FOR IMPOSITION MINOR PENALTIES (R-11)**

- In case of minor penalty a charge sheet in the Standard Form is to be issued enclosing statement of imputation of misconduct/misbehaviour on which action is proposed to be taken should be issued him to submit his representation within 10 days of receipt of the Memorandum.
- On receipt of the representation the Disciplinary Authority will consider imposition of any of the penalties specified in 1 to 4 mentioned above.
- Subject to the provisions under these rules, 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 Rly. Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken and he/she should be given reasonable opportunity of making representation.
  - (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;  
If in a case, it is proposed, after considering the representation, if any, made by the Railway servant 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 03 years or to withhold increments of pay 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 servant any such penalty.
- The order of the Disciplinary Authority shall be communicated to the railway servant who shall also be supplied with a copy of the report of enquiry, if any, held and a copy of its findings where the Disciplinary Authority is not the Enquiry Authority.

## PROCEDURE FOR IMPOSITION OF MAJOR PENALTIES (RULE -9)

- ▶ No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 6 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and Rule 10;
- ▶ Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior 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.
- ❖ Where there is a complaint of sexual harassment within the meaning of rule 3C of the Rly. 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.

## PROCEDURE FOR IMPOSITION OF MAJOR PENALTIES (RULE –9)

- For the imposition of major penalty the Disciplinary Authority shall deliver Standard Form-5 along-with the following annexure(s) to the charged official:-
  - ❑ (i) Annexure-I - Article(s) of Charge
  - ❑ (ii) Annexure-II - A statement of the imputations of misconduct / misbehaviour,
  - ❑ (iii) Annexure-III - List of Documents
  - ❑ (iv) Annexure-IV -List of Witnesses
- The employee shall be permitted to inspect the documents and also to ask for additional documents to submit his written statements of defence within next **10** days. If the disciplinary authority on consideration of the explanation feels that the ends of justice would be met if a minor penalty is imposed, in such case the competent authority may make an order imposing the minor penalty and it will not be necessary to give the Railway servant any further opportunity to make representation before the punishment could be imposed. Otherwise after receipt of the explanation, the disciplinary authority may himself conduct the D&A enquiry or appoint an Inquiry Officer or a Committee of Officers to enquire into the charges and to submit the report [Rule 9(2)].
- For this purpose first the order appointing an Inquiry Officer shall be issued and copy served on the Officer so appointed to enquiry and also on the Railway employee concerned.

- ▶ The Railway servant shall appear in person before the inquiring authority on such day and at such time within 10 working days from the date of receipt of a notice in writing, or within such further time not exceeding 10 days, as the inquiring authority may allow.
- ▶ The inquiring authority shall, if the Railway servant fails to appear within the specified time, or refuses or omits to plead, require the Presenting Officer if any, to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a later date not exceeding 30 days, after recording an order that the Railway servant may for the purpose of preparing his defence, give a notice within 10 days of the order or within such further time not exceeding 10 days as the inquiring authority may allow for the discovery or production of any documents which are in possession of Railway Administration but not mentioned in the list referred to in sub-rule (6).
- ▶ The Railway servant may represent his case with the assistance of any other Railway servant (including a Railway servant on leave preparatory to retirement) working under the same Railway Administration, subject to whose jurisdiction and control he is working. He cannot engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner or the disciplinary authority having regard to the circumstances of the case, so permits.

- ▶ 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.
- ▶ Nomination of an assisting railway servant or an official of a recognized Railway Trade Union, who is a full time union worker, shall be made within twenty days from the date of appointment of the inquiring authority. Provided that an official of a recognized Railway trade Union may assist in more than three pending disciplinary cases.

#### PROCEDURE FOR CONDUCTING INQUIRIES

- ▶ 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 or on behalf of the disciplinary authority. The articles of charges and the statement of imputations of misconduct or misbehavior against the Railway servant shall be read out to him or alternatively communicated to him in a statement under the signature of the Inquiry Officer
- ▶ The witnesses official side shall be examined first by the, if any, and may be cross-examined by or on behalf of the Railway servant. The witness shall be warned to speak the truth at the enquiry and if it is subsequently ascertained that any one of them has given false evidence he shall render himself liable to disciplinary action. The Inquiring Authority, shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter without the leave of the inquiring authority.




- If it shall appear necessary, the inquiring authority may, in its discretion, may call for new evidence or recall or re-examine any witness but in such the Railway servant shall be entitled to have, if he deems it necessary a copy of the list of further evidence proposed to be produced, an adjournment of the enquiry of 03 clear days before production of such new evidence, exclusive of the day of adjournment and the day on which the enquiry has been adjourned.
- New evidence shall not be permitted or called for or any witness shall be recalled to fill up any gap in the evidence. Such evidence shall be called for only when there is an inherent lacuna or defect in the evidence which has been originally produced. Thereafter, the Railway servant shall be examined.
- The I.O. may also allow the Railway servant to produce new evidence if any, if it is of the opinion that the production of such evidence is necessary in the interest of justice.
- When the case for disciplinary authority is closed, the Railway servant shall be required to state his defence orally, or in writing, if the defence is made orally it shall be recorded and the Railway servant shall be required to sign the record.
- The evidence on behalf of the Railway servant shall then be produced. The Railway servant may examine himself in his own behalf, if he so prefers. The witnesses produced by the Railway servant shall then be examined by or on behalf of him and shall be cross-examined by the Inquiry Officer.

- ❑ The inquiring authority may, after the Railway servant closes his case, and shall, if the Railway servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Railway servant to explain any circumstances appearing in the evidence against him.
- ❑ After the conclusion of the inquiry, a report shall be prepared and it shall contain –
  - (a) the articles of charge and the statement of imputations of misconduct or misbehaviour;
  - (b) the defence of the Railway servant in respect of each article of charge;
  - (c) an assessment of the evidence in respect of each article of charge; and
  - (d) the findings on each article of charge and the reasons therefore.
- ❑ If the Railway servant, to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex parte.

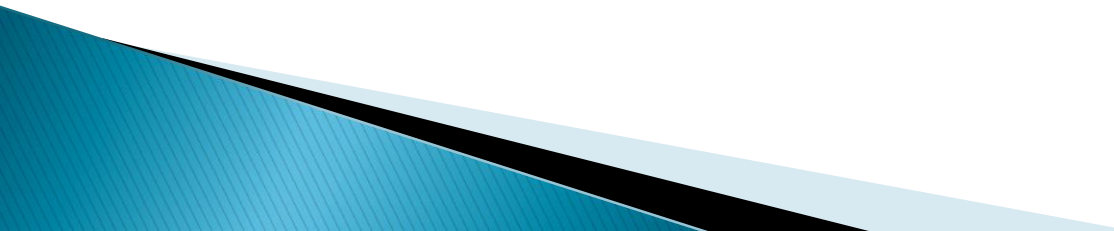
- ❑ If the I.O. ceases to exercise his jurisdiction in the enquiry case due to his transfer or retirement, another officer may be appointed to continue the enquiry and finalize the case.
- ❑ If in the opinion of the enquiry authority the proceedings of the enquiry establishes may articles of charges different from the original articles of charges, it may record its findings on such articles of charges.
- ❑ Provided that the findings on such articles of charge shall not be recorded unless the Railway servant has either admitted the facts on which such articles of charges is based or has had a reasonable opportunity of defending himself against such articles of charges.
- ❑ After completion of the inquiry duly fulfilling the natural justice, the IO shall forward the entire D&A file together with all recorded documents during inquiry and copies of inquiry report to the DA.

## **ACTION ON THE ENQUIRY REPORT**

- If the Disciplinary Authority is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, he may recall the witness to examine, cross-examine him.
- The copy of the report of I.O., is to be furnished to the charged Railway Servant stating that D.A. will take suitable decision after considering the report and he may make a representation or submit in writing within 15 days of receipt such letter.
- In case the D.A. disagrees with the findings of I.O., it would not be necessary for D.A. to come to any tentative conclusion about its findings before forwarding it a copy of enquiry report.
- After giving opportunity of representation to the Railway employee within 15 days against the findings of I.O., the reasons for disagreement with the findings of I.O., can be communicated in the final order of punishment in such cases. Railway servant can appropriately challenge the punishment conclusion of D.A. through an appeal.

- ❑ After perusal of representation, the Disciplinary Authority may impose such penalty as it is within his competence.
  - ❑ Where such authority is of the opinion that the penalty warranted is such as is not within his competence, he may forward the records to the appropriate disciplinary authority.
  - ❑ If the disciplinary authority is competent to impose the penalty decided upon he may straightaway issue a punishment notice on the employee. If the disciplinary authority having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 6 should be imposed on the railway servant, it shall, notwithstanding anything contained in rule 11, make an order imposing such penalty.
  - ❑ The final punishment notice should only signed by the authority who has taken the decision in respect of imposing the punishment.
- 

## **NOTICE OF IMPOSITION OF PUNISHMENT**

- ❑ Orders made by the disciplinary authority which would also contain its findings on each article of charge, shall be communicated to the Railway Servant who shall also be supplied with a copy of the advice, if any, given by the Commission and, where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance'
  - ❑ The final punishment notice should only signed by the authority who has taken the decision in respect of imposing the punishment.
- 

## **SPECIAL PROVISION IN CERTAIN CASES (R-14)**

- ▶ (i) Where any penalty is imposed on a Railway servant on the ground of 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:

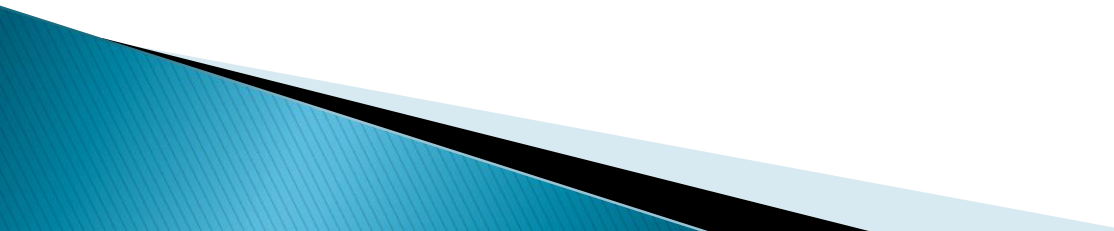


# APPEALS [PART-V / RULE-17-24]

- ▶ The Railway servant may prefer an appeal to the authority higher than the authority who imposes the original penalty within 45 days reckoned from the date of receipt of the punishment notice.
- The appeals should contain facts and should not be worded in disrespectful language or unparliamentarily language.
- ▶ The appeal should be signed by the appellant only and should not be submitted by a Trade Union.
- ▶ The appellate authority may entertain the appeal after the expiry of the limit of 45 days if he is satisfied that the appellant has sufficient cause for not preferring the appeal in time.
- ▶ At the appellate stage where the Railway servant is punished with dismissal, removal, compulsory, retirement, reduction or with-holding of increment, the appellant may be accompanied by his assisting employee who may have the opportunity of perusing the records once again.
- ▶ Both the assisting employee and the railway servant are entitled to T.A. when seeking personal hearing at the appellate stage.



## **SPECIAL PROVISIONS FOR NON-GAZ. STAFF [R-24]**

- ▶ (1) Where the penalty of dismissal, removal, compulsory retirement, reduction or withholding of increment has been imposed, the appellate authority may, at its discretion and if it considers it necessary, give the non-gazetted Railway servant a personal hearing before disposing of the appeal. At this personal hearing, the Railway servant may be accompanied, if he so chooses, by another Railway servant employed on the same Railway Administration, Office of the Railway Board, its attached office or subordinate office, as the case may be, in which the appellant was or is working or an official (who is not a legal practitioner) of a Railway Trade Union recognized by the Railway Administration on which the appellant was or is employed.
- 

- ▶ (2) A Group 'C' Railway servant who has been dismissed, removed or compulsorily retired from service may, after his appeal to the appropriate appellate authority has been disposed of, and within 45 days thereafter, apply to the General Manager for a revision of the penalty imposed on him. In this application, he may, if he so chooses, request the General Manager to refer the case to the Railway Rates Tribunal for advice before he disposes of the revision petition. On receipt of such a request, the General Manager shall refer the case to the Chairman, Railway Rates Tribunal for advice sending all the relevant papers.
- ▶ On receipt of the revision application by the General Manager, or on receipt of advice from the Railway Rates Tribunal, as the case may be, the General Manager shall dispose of the application in accordance with the procedure laid down in Rule 25 and pass such orders as he may think fit

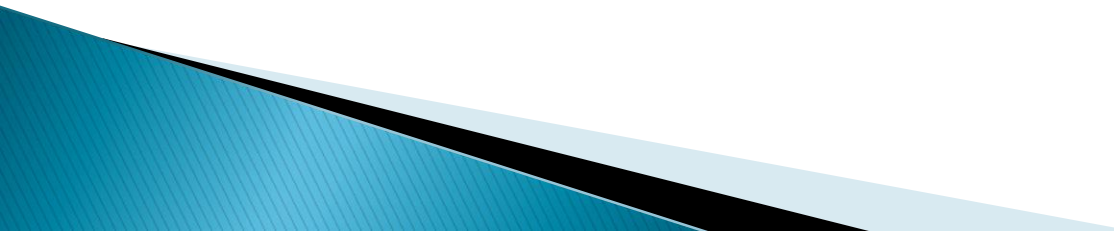
# REVISION [PART – VI/RULE–25]

- ❑ The President, Estt.Srl.No.298/86 the Railway Board or the G.M. of a Zonal Railway or an authority of that status in any other Railway or unit of Administration and an authority not below the rank of a Dy.HOD are delegated with powers to revise any punishment or no punishment imposed by an authority lower to them.
- ❑ Such reversionary power can only be conducted within six months from the date of the order to be reviewed in case it is proposed to enhance the penalty and within one year in cases here it is proposed to mitigate the punishment.
- ❑ The review shall not be conducted during the appeal period and if an appeal has been preferred till the disposal of the appeal. This stipulation of time limit for enhancement or mitigation shall not apply when the revision is conducted by the President of India, Railway Board or the G.M. of a Railway Administration.
- ❑ If an authority who has disposed of the appeal as an appellate authority it cannot function as a Reversionary Authority and the case therefore should be at the disposal of the authority next above him.
- ❑ If the authority who has disposed of the appeal as an appellate authority is subsequently promoted to the next higher post he cannot function as a reversionary authority and as such the review should be conducted by an authority next above him.
- ❑ It should be borne in mind that no successive revisions are permissible and only one revision can be permitted. In other words if a lower reversionary authority has exercised his powers the case cannot be revised by next higher authority.
- ❑ As per latest order a time limit of 45 days from the date of issue of appellate authority's decision or 90 days where no appeal has been made and prescribed for seeking revision.

# REVISION [PART – VI/RULE–25A]

- ▶ The President may at any time either on his own motion or otherwise review any order passed under these rules when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case has come or has been brought to his notice: Provided that no order imposing or enhancing any penalty shall be made by the President unless the Railway servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose any of the major penalties specified in Rule 6 or to enhance the minor penalty imposed by the order sought to be reviewed to any of the major penalties and if an enquiry under Rule 9 has not already been held in the case, no such penalty shall be imposed except after inquiring in the manner laid down in Rule 9, subject to the provisions of Rule 14 and except after consultation with the Commission where such consultation is necessary.

## **RIGHT TO SUBMIT PETITIONS TO THE PRESIDENT [R-31]**

- ▶ Nothing in these rules shall operate to deprive a Railway servant from exercising his right of submitting a petition to the President in accordance with the instructions contained in Appendix II to the Indian Railway Establishment Code, Volume I (Fifth Edition–1985).
- 

# DISCIPLINARY AUTHORITIES

## SCHEDULE-II[ZONAL RLYS, PUs]

	Authority to suspend / Impose Penalties	Class of Rly. Employees over whom D&A powers can be exercised	Nature of Penalties	Appellate Authority
1	Sr. Supervisor with GP Rs 4200/- & above (describe as Supv. Inc. by the Rly. Admn., for the purpose).	All staff who are 03 grades below and lower than the DA.	Penalties specified in clause (i) to (iv) (no such power can be exercised where inquiry under sub-rule (2) of Rule-11 is required ) and suspension subject to report to Divinl. Officer or Asstt. Officer Incharge within 24 hours.	Asstt Officers (Jr. Scale & Gr-B Gaz).
2	Asstt Officers (Jr. Scale & Gr-B Gaz).	All staff with GP of upto & including Rs 2400/-	Penalties specified in clause (i) to (v) and suspension. Also penalties specified in clause (vi) on staff with GP of upto & including Rs 1650/- only.	Sr. Scale officer and Assistant Officer (Jr. Scale & Gr. B (Gaz) holding Indepdt. Charge)

	Authority to suspend / Impose Penalties	Class of Rly. Employees over whom D&A powers can be exercised	Nature of Penalties	Appellate Authority
3	Sr. Scale and Asstt. Officer (Jr. Scale & Gr. B (Gaz) holding Independent Charge)	All staff with GP of upto & including Rs 2800/-	Penalties specified in clause (i) to (vi) and suspension.	JAG & Sr. Scale Officers holding independent Charges
4	JAG & Sr. Scale Officers holding independent Charges.	All cases of Non-Gaz. staff	Penalties specified in clause (i) to (vi) and suspension.	ADRM(s) in relation to the department attached to them or DRM(s)
5	ADRM(s) in relation to the department attached to them or DRM(s)	All cases of Non-Gaz. staff	Penalties specified in clause (i) to (vi) and suspension.	SAG officers in zonal Rlys HQ in PB-4 with GP RS 10000/- including PHODs of the depart. in PB-4 with GP Rs 12000/-.



	Authority to suspend / Impose Penalties	Class of Rly. Employees over whom D&A powers can be exercised	Nature of Penalties	Appellate Authority
6	SAG officers in zonal Rlys HQ in PB-4 with GP RS 10000/- including PHODs of the depart. in PB-4 with GP Rs 12000/-	All cases of Non-Gaz. staff	Penalties specified in clause (i) to (vi) and suspension.	AGM(s) in relation to the depart., attached to them or CAO or GM
7	AGM(s) in relation to the depart., attached to them or CAO or GM	All cases of Non-Gaz. staff	Penalties specified in clause (i) to (vi) and suspension.	Rly. Board.
8	Rly. Board.	All cases of Non-Gaz. staff	Penalties specified in clause (i) to (vi) and suspension.	President
<p>➤ An appointing authority or an authority equivalent or higher rank is competent to impose penalties specified in clause (vii) to (ix) of Rule-6.</p> <p>➤ Where the post of appellate authority as shown above is vacant, then, in that case, the next higher authority shown in the row just below shall be the appellate authority.</p>				



## DISTINCTION BETWEEN DISMISSAL & REMOVAL

- ▶ The procedure for inflicting any of these penalties on a Rly. Servant is same. These penalties carry with them different disadvantages in getting retirement benefits. Both the penalties cause forfeiture of past service, for which no pensionary benefits are admissible to the Rly. Employee who removed or dismissed. A compassionate allowance which shall not exceed  $2/3^{\text{rd}}$  of the pensionary benefits may however be granted at discretion of the DA. Under P.F. rules, special contribution to P.F. will not be credited to the removal, the same may be granted with the sanction of the President for Gaz staff and Competent Officer/GM for Non-Gaz staff.
- ▶ Post retirement passes under normal rules are admissible to an employee removed from service but are not admissible in dismissal case.

THANKS