

THE RAILWAY SERVANTS (DISCIPLINE & APPEAL) RULES, 1968

Title and Commencement

The Railway servants (Discipline and Appeal) Rules 1968 came into force from 1.10.1968.

Application

It is applicable to all Railway servants except-

- Members of Railway Protection Force.
- Casual Labourers not attained temporary status.
- Apprentices, who are with Railways under Apprentice act, 1961.
- Members of All India Services.
- Any person for whom special exemption is made by the President of India.

Suspension

Suspension means debarring a person from doing duty for a temporary period. Suspension is not a penalty and should be resorted to sparingly.

The order of suspension or deemed suspension is valid only for a period of 90 days. If required, the suspension may be extended, after a review, before expiry of 90 days. The review shall be done by the Competent Authority on the recommendation of the Review Committee constituted for the purpose. The extension for a period not exceeding 180 days at a time.

The Review Committee will be constituted by the Appellate Authority and would comprise of the Suspending Authority and two Officials not lower in rank than the Suspending Authority.

Circumstances to keep an Employee under Suspension

- 1) Where a disciplinary proceeding against an employee is initiated or contemplated or pending.
- 2) Where the disciplinary authority is of the opinion that the employee is engaged in activities prejudicial to the interest of the security of the State or committed an offence involving moral turpitude or serious dereliction of duty resulting in considerable loss to the Government.
- 3) Where a case against him in respect of a criminal offence is under investigation or enquiry or trial.

Circumstances to keep an Employee under Deemed Suspension

- 1) When detained by the police for a period exceeding 48 Hours.
- 2) When convicted by Court of Law on criminal charges for a period exceeding 48 Hours until appropriate steps are taken to dismiss/ remove/ compulsorily retire the convicted Railway servant.
- 3) Where a penalty of removal / dismissal / compulsory retirement imposed upon a Railway servant is set aside either departmentally or by Court, with further directions to proceed and decide once again, from the date of the order of removal/ dismissal/ compulsory retirement till finalisation of the case the employee will be deemed under suspension.

Entitlements and Restriction during Suspension

Railway servant placed or deemed under suspension is -

- Paid subsistence allowance.
- Not allowed to perform duty.
- Not paid salary.
- Not granted leave.
- Allowed to avail hospital treatment.
- Not permitted to leave Head quarters, without permission.
- Issued Passes as admissible and 2 sets of PTOs at the discretion of the competent authority on special circumstances.
- Considered for promotion to selection or non-selection posts, but promoted after revocation/ finalisation of the case.
- To surrender RCP, DCP.
- Allowed Educational Assistance, School Pass.
- Allowed to retain Quarters.
- Permitted to attend PNM, but PNM passes will not be issued.

Subsistence Allowance

Railway servants under suspension are paid an amount equal to leave salary on LHAP plus DA admissible and compensatory allowances in full as subsistence allowance.

Subsistence allowance is revised after 90 days and there after at regular intervals. On revision it will be increased or decreased to an extent up to 50% of the subsistence allowance initially granted. Payment of subsistence allowance is always subject to a minimum of 25% and a maximum of 75% of Basic Pay due to revision. Subsistence allowance should be arranged without fail as it is paid for the subsistence of the family.

Deductions from the Subsistence Allowance

Authorised	Unauthorised	Optional
Income Tax.	Court Attachment.	Insurance Premium.
House Rent.	PF/VPF.	School Fees.
Advance from PF.		Club Fees.
Diet Charge, Electricity Charge.		Payment to Cooperative Society and Stores.
Loans and Advances.		Medical Fees.
Debits.		

Minor Penalties

1. Censure.
2. Withholding of promotion for a specific period.
3. Recovery from pay of the whole or part of any pecuniary loss caused by the employee to the Government or Railway administration by negligence or breach of orders.
4. Withholding of Privilege Passes or PTO(s) or both
5. Reduction to lower stage in a time scale of pay by one stage for a period not exceeding 3 years, without cumulative effect and not adversely affecting pension.
6. Withholding of increment for a specific period with further directions as to whether on the expiry of such period, this will or will not have the effect of postponing his future increments of his pay.

Major Penalties

1. Reduction to a lower stage in a time scale of pay for a specific period, exceeding 3 years or cumulative or affecting pension.
2. 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.
3. Compulsory retirement.
4. Removal from the service, which shall not be a disqualification for future employment under the Government or Railway administration.
5. Dismissal from service, which shall ordinarily be a disqualification for future employment under the Government or Railway administration.

Stages of Disciplinary Proceedings

- Preliminary consideration by D.A to determine whether there is a prima facie ground to contemplate DAR action.
- Service of charge memorandum in the prescribed form.
- Consideration of the defence statement submitted by the employee and taking decision as to whether an enquiry under DAR is warranted.
- Appointment of Inquiry Officer.
- Appointment of Presenting Officer, to present the case on behalf of the administration in SPE / vigilance / important cases.
- Conduct of enquiry and submission of report and findings as to whether the charges against the employee are proved or not.
- Supply of a copy of enquiry report to the delinquent giving a chance to make further written defence.
- Consideration of the written defence with the enquiry report by DA.
- Decision of the case to be recorded by the DA in the form of speaking order setting out the reasons leading to his decision.
- Service of penalty advice under the signature of DA duly incorporating his speaking order, specifying the Appellate Authority and the time for appeal.

Procedure for Imposing Minor Penalty

- (a) Charge memorandum (SF11) is issued. On the reverse of the Charge sheet imputation of misconduct should be mentioned.
- (b) On receipt of the Charge Sheet, the charged official should submit defence statement within 10 days.
- (c) D.A should consider the Defence statement and should record whether he accepts the defence or not.
- (d) If the defence statement is not submitted in time, the case can be dealt ex parte.
- (e) If the defence statement is not accepted, reasons in the form of speaking order is recorded and a particular minor penalty is also specified for imposition.
- (f) Penalty advise in the prescribed form is served to the charged official duly incorporating the speaking order and specifying the appellate authority and time allowed for the appeal (45 days)

Procedure for Imposing Major Penalties

1. The charged official is given a copy of the charge sheet in the prescribed proforma along with a statement of imputations of misconduct, list of documents relied upon to prove the charges and a list of witnesses by whom the charges are proposed to be sustained.
2. The charged official is given reasonable time to submit his defence.
3. On receipt of the defence, an enquiry is held in respect of the charge not admitted.
4. The DA himself may inquire or may appoint an Inquiry Officer to inquire the charges.
5. Presenting officer is appointed in important vigilance or CBI or SPE cases for presenting the case on behalf of the administration.
6. The charged official may be permitted to avail the assistance of another Railway servant serving or retired from the same Railway or a recognised trade union official to present the case on his behalf.
7. The charged official may engage a legal practitioner if the presenting officer is a legal practitioner or with the permission of DA.
8. The charged official is also permitted to inspect the documents specified in the list of annexure to the charge sheet, and any other document relevant to the case.
9. In the inquiry the witness of both sides are examined, cross-examined and if necessary re-examined.
10. After the examination of witnesses the charged official may state his defence orally or in writing. Oral defence should be recorded and got signed. A copy of the defence should be given to the Presenting officer.
11. If the charged official has not examined himself, the Inquiry officer should generally examine him, to enable him to explain the circumstances appearing in the evidence against him.
12. The entire proceedings should be recorded and got signed at every page by all concerned, (i.e) the charged official, Inquiry officer and the witnesses involved.
13. If the charged official does not attend the enquiry it should be conducted ex parte and all the stages of the enquiry have to be passed through.
14. The Inquiry Officer should hear the arguments of both sides or permit them to file written briefs.

He should first take the brief from the presenting officer, supply a copy of the same to the charged employee to take the reply brief of the latter.

15. On completion of the inquiry, the enquiry officer should send copy of enquiry proceedings in the form of a report along with his findings.

16. The enquiry report should contain:

- The articles of charge and the statement of imputations of misconduct or misbehaviour;
- The defence of the Railway servant in respect of each article of charge.

- Assessment of the evidence in respect of each article of charge and;
- The findings on each article of charge and the reasons thereof.

17. The DA may accept the findings of the Inquiry Officer or disagree and record his findings on the basis of the evidence on record and make a final order as deems fit.

18. If the DA is competent to impose only any one of the minor penalties, having regard to his decisions and the findings, is of the opinion that a major penalty is to be imposed, the records of the Inquiry are forwarded to the higher competent Disciplinary Authority, for taking a decision.

