

COURT MATTER/URGENT

महानिदेशालय
केन्द्रीय औद्योगिक सुरक्षा बल
(गृह मंत्रालय)

13, सीजीओकॉम्प्लेक्स,
लोधी रोड, नई दिल्ली।
दिनांक: 13 Apr'2018

सं. दी-14013/38/162/2017/विवनि/ 1185

To

The ADG/APS,
All IsG Concerned Sector/NISA

Sub: CIRCULATION OF CASE STUDY: REG.

Recently, a Court case has been noticed by this Directorate in which a CISF person was awarded the penalty of Removal from service for submission of fake SC certificate. Considering the medical problem, he was also sanctioned ½ Pension and gratuity benefits under Rule 41 CCS(Pension) Rules 1972 by the Disciplinary Authority in the final order itself. The decision of the Disciplinary Authority was against the guidelines issued by FHQ vide letter No.(347) dated 30.03.2015 and Rule 41 of CCS(Pension) Rules 1972.

02. The appellate authority has disposed of his appeal by upholding the decision of the disciplinary authority except granting ½ pension and gratuity which was struck down by the Appellate authority without issuing Show Cause Notice to him.

03. The petitioner has filed a WP before High Court and Court observed that before depriving him of the financial benefits, he should have been given a show cause notice. Hence, the Department was compelled to comply the directions of the Court.

04. In this regard, a case study is forwarded herewith for guidance and strict compliance by all concerned to prevent recurrence of similar mistakes in future.

[Signature]

सहायक महानिरीक्षक/विवनि

Copy to :-

1. All Zonal/Plant DIsG, CISF - A copy of aforesaid case study is enclosed
2. All RTCs/FSTI DIsG, CISF - herewith for necessary action please.

Internal

All DIsG/AIsG, -
CISF FHQ, New Delhi

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CASE WHERE THE DISCIPLINARY AUTHORITY FAILED TO FOLLOW THE GUIDELINES ISSUED BY FHQS FOR GRANT OF COMPASSIONATE ALLOWANCE IN DESERVING CASES

Facts of the Case

A Constable was awarded the penalty of Removal from service for submission of fake SC certificate. Considering the medical problem, he was also sanctioned ½ Pension and gratuity benefits under Rule 41 CCS(Pension) Rules 1972.

On appeal, the appellate authority disposed of his appeal by upholding the decision of the disciplinary authority except granting ½ pension and gratuity which was struck down by the Appellate authority without issuing Show Cause Notice to him.

He filed a WP before High Court and Court observed that before depriving him of the financial benefits, he should have been given a show cause notice. The decision of Appellate authority is suspended by the Court and Department was compelled to comply the directions of the Court.

Procedural lacunae observed by the Court/Department

- The High Court has observed that while depriving a person of the benefits by Appellate Authority which were granted by Disciplinary Authority, he should have been afforded an opportunity by way of show cause notice in the interests of natural justice and further decision should have been taken by the Appellate authority. But in the instant case, the Appellate authority has failed to adopt such procedure resultantly we could not succeed before the High Court.
- As per Rule 52(2)(c)(iii) of CISF Rules, 2011 "No order imposing enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provisions of Rule 37, of making a representation against such enhanced penalty."
- It is a fact that the instant case did not qualify for granting Compassionate Allowance as per Rule 41 of CCS(Pension) Rules, 1972 and FHQ guidelines issued vide letter No.(347) dated 30.03.2015, however the Appellate Authority did not follow the Rule 52 of CISF Rules 2001.
- Appellate Authority should invariably issue show cause notice to the appellant whenever there is any enhancement of punishment or curtailment of benefits given in the Final Order by the Disciplinary Authority in the interests of natural justice.