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## MASTER CIRCULAR

### Master Circular No. 66

#### Master Circular on Penalties and Disciplinary Authorities.

#### PENALTIES AND DISCIPLINARY AUTHORITIES

Disciplinary action against Railway Servants is governed by Railway Servants (Discipline & Appeal) Rules, 1968. [Part III](#) of these Rules contains Rules 6, 7 and 8, which pertain to penalties and disciplinary authorities.

2. The penalties specified in [Rule 6](#) can be imposed on a Railway Servant, for good and sufficient reasons, after following the due procedure which has been prescribed in [Part IV](#) of the Rules. The Penalties are classified into two categories - Minor and Major. There are six minor penalties and five major penalties, as listed below: —

##### Minor Penalties:

- (i) Censure;
- (ii) Withholding of promotion for a specified period;
- (iii) Recovery from pay of the whole or part of any pecuniary loss caused 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 a lower stage in the time scale of pay 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 pay.

##### Major Penalties:

- (v) Save as provided for in clause (iii-b), reduction to a lower stage in the time-scale of pay 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 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 that grade, post or service;
- (vii) Compulsory retirement;
- (viii) Removal from service which shall not be a disqualification for future employment under the government or Railway Administration;
- (ix) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government or Railway Administration.

3. The penalty in Rule (iii-b) viz. Reduction of pay to a lower stage in the same time scale of pay for a period not exceeding three years, without cumulative effect and not adversely affecting the pension was carved out of the major penalty in [Rule 6](#) (v) of reduction to a lower stage in the time scale of pay and placed among minor penalties after the penalty of withholding of Passes/PTOs. The three conditions specified in [Rule 6](#) (iii-b) viz. the period of the penalty should not exceed three years, the penalty should be without cumulative effect and the penalty should not adversely affect the pension of the Railway Servant have been borrowed from the provisions relating to imposition of the penalty of withholding of increment under [Rule 11](#) (2). [Rule 11](#) (2) provides that notwithstanding the fact that withholding of increments is a minor penalty, an inquiry has to be held under [Rule 9](#) which has been prescribed for major penalties, if the penalty of withholding of increments is for a period exceeding three years or is with cumulative effect or adversely affects the pensionary benefits. Hence, all the three conditions specified in [Rule 6](#) (iii-b) have to be fulfilled for the penalty of reduction of pay to a lower stage to be a minor penalty.

[[Rule 6](#) (iii-b) was introduced under Board's Notification No. [E\(D&A\)90 RG 6-112 dated 16.11.1990](#) (RBE 204/1990)]

4. Disciplinary action can be taken against an employee in respect of misconduct committed before his employment if the misconduct is of such a nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service.

[Rly. Board's letter No [E\(D&A\)67 RG 6-11 dated 01.06.1968](#)]

5. Special Provisions regarding quantum of penalty- The penalty to be imposed in a case will be decided by the Disciplinary Authority taking into account all the facts and circumstances of the case. However, special provisions exist for imposition of specific penalties in certain types of cases, as indicated below:

- i. 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) of [Rule 6](#) (viz. Removal or Dismissal) shall ordinarily be imposed.
- ii. In cases of persons found guilty of passing Railway Signals at danger, one of the penalties specified in clauses (v) to (ix) of [Rule 6](#) (viz One of the major penalties) shall ordinarily be imposed.
- iii. In case of persons 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) of [Rule 6](#) (viz. Removal or Dismissal) shall ordinarily be imposed.

In all the three types of cases mentioned above, where the specified penalty is not imposed, the reasons therefor shall be recorded in writing.

(Ref.: First and second proviso to [Rule 6](#))

#### 6. What shall not constitute a penalty

A. The following shall not amount to be a penalty under the RS (D &A) Rules as per explanation under [Rule 6](#) :

- i. Withholding of increments of pay of a Railway servant for failure to pass any departmental examination in accordance with the rules or orders governing the Service to which he belongs or post which he holds or the terms of his appointment:
- ii. Stoppage of a Railway servant at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar. (The concept of EB

does not find place in the scales recommended by V-Pay Commission);

- iii. Non-promotion of a Railway servant, whether in a substantive or officiating capacity, after consideration of his case ;
- iv. Reversion of a Railway servant officiating in higher service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post, or on any administrative ground unconnected with his conduct :

(This should be read with the instructions on the subject contained in para 7 below)

- v. Reversion of a Railway servant, appointed on probation to any other Service, grade or post, to his permanent Service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;
- vi. Replacement of the services of a Railway Servant, whose services had been borrowed from any other Ministry or Department of the Central Government or a State Government or an authority under the control of the Central Government or State Government, at the disposal of the government or the authority from which the services of such Railway servant had been borrowed;
- vii. Compulsory retirement of a Railway servant in accordance with the provisions relating to his superannuation or retirement:
- viii. Termination of the services -
  - a. of a Railway servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation, or
  - b. of a temporary Railway servant in accordance with [rule 301](#) container in Volume I of the Indian Railway Establishment Code (Fifth Edition -1985), or
  - c. (c) Of a Railway Servant employed under an agreement, in accordance with terms of such agreement;
- ix. Discharge of Railway Servant -
  - a. For inefficiency due to failure to conform to the requisite standard of physical fitness;
  - b. On reduction of establishment.
- B. Issue of warnings, Govt's displeasure or counselling will not constitute a penalty under the rules. These are administrative steps in the nature of corrective actions.

[Board's letter No. [E\(D&A\)77 RG 6-20 dated 10.05.1977](#)]

## **7. Provision regarding reversion**

- i. Though reversion to a lower post for unsatisfactory work is not a penalty, a Railway Servant who has officiated in a higher grade/post for 18 months or more, should not be reverted for unsatisfactory work without following the procedure prescribed in the RS(D&A) Rules.

[Railway Board's letter No. [E\(D&A\)65 RG 6-24 dated 09.06.1965](#)]

- ii. The above safeguard applies to only those employees who have acquired a prescriptive right to the officiating posts by virtue of their empanelment or having been declared suitable by the competent authority. It does not apply to those officiating on promotion as a stop-gap measure and also to those cases where an employee, duly selected, has to be reverted after a lapse of 18 months because of cancellation of the panel or due to a change in the

panel position consequent to rectification of some mistake.

[Railway Board's letter No. [E\(D&A\)65 RG 6-24 dated 15.01.1966](#)]

- iii. However, the General Managers may, in very special circumstances, revert an officiating employee in relaxation of the time limit of 18 months, in exercise of their personal judgment.

[Railway Board's letter No. [E\(D&A\)65 RG 6-24 dated 22.11.1966](#)]

- iv. The provisions contained in paras (i), (ii) and (iii) above were reiterated to the Railway.

[Railway Board's letter No. [E\(D&A\)85 RG 6-9 dated 20.04.1985](#)]

#### **8. Court's powers to interfere with penalties**

- i. The Central Administrative Tribunal does not have the power to interfere with the decision of the competent authority in so far as quantum of penalty to be imposed is concerned.

[Board's letter No. [E\(D&A\)87 RG 6-87 dated 31.08.1987](#)]

- ii. Supreme Court, vide their judgment dated 14.03.1989 in Civil Appeal No. 1709 of 1988 - UOI Vs. Permanand, upheld the following:
  - a. The jurisdiction of the Tribunal to interfere with disciplinary matters or punishments cannot be equated with an appellate jurisdiction.
  - b. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority unless they are arbitrary or perverse.
  - c. If there has been an enquiry consistent with the rules and in accordance with the Principles of Natural Justice, what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority.
  - d. If a penalty can be lawfully imposed and is imposed on the proof of misconduct, the Tribunal has no power to substitute its own discretion. The adequacy of the penalty, unless it is malafide is not a matter for the Tribunals to be concerned with.
  - e. The Tribunal also cannot interfere with the penalty if the conclusions of the Inquiry Officer or competent authority are based on evidence, some of which may be irrelevant or extraneous.
  - f. As an exception to the above, where a person is dismissed, removed etc., under Rule 14(i) of the RS (D&A) Rules solely on the basis of conviction by a criminal court, the Tribunal may examine the adequacy of the penalty or its reasonableness having regard to the nature of the criminal charges.

[Railway Board's letter No. [E\(D&A\)87 RG 6-87 dated 08.06.1989](#)]

- iii. In Supreme Court judgments in the cases of State Bank of India Vs. Samarendra Kishore Endow [1994 (i) SLR 516] and UOI Vs. Upendra Singh (1994-27 ATC 200), it has been reiterated that a High Court or Tribunal has no power to substitute its own discretion for that of the disciplinary authority. The jurisdiction of the Tribunal is similar to the powers of the High Court under Article 226, which is one of judicial review. The Tribunal has no jurisdiction to go into correctness or truth of the charges and can interfere only if, on the charges framed, no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law.

[Railway Board's letter No. [E\(D&A\)94 RG 6-87 dated 23.01.1995](#) (RBE 5/1995)]

## **9. Censure**

If at the end of the proceedings, it is found that some blame attaches to a Railway Servant, warning/ Govt. Displeasure/ Counselling which are not recognised penalties, should not be imposed. In such cases, at least the penalty of Censure should be imposed.

[Board's letter No. [E\(D&A\)92 RG 6-149\(A\)/\(B\) dated 21.01.1993 \(RBE 13/1993, 14/1993\)](#)]

## **10. Withholding of promotion**

Even though withholding of promotion is a specified penalty under [Rule 6](#), non-promotion during the currency of the penalty of withholding of increment etc., will not amount to imposition of two penalties. A denial of promotion in such circumstances is not a further penalty but a necessary consequence of his conduct.

[Board's letter No. [E\(D&A\)91 RG 6-68 dated 22/29.10.1991](#)]

## **11. Recovery of Loss:**

- i. In cases of loss caused to the Government by negligence, breach of orders, etc., on the part of an employee, it would be open to the competent authority to inflict, in addition to the penalty of recovery from pay of the loss caused, any one of the penalties specified in clauses 1 (i), (ii) and (iv) and clauses 2 (i) and (ii) of Rule 1707-RI (1959 Edition) [equivalent to the penalties specified in Rule 6 (i), (ii). iii(a), iii (b), (i v) and (vi) of RS (D&A) Rules, 1968], by way of one and the same order and in pursuance of one and the same proceedings. It would not amount to double punishment.

[Board's letter No. [E\(D&A\)62 RG 6-26 dated 17.05.1962](#)]

- ii. In the case of large sums of recovery of losses, the instalments can be so fixed as not to cause undue hardship to the Railway Servant and his family.

[Board s letter No. [E\(D&A\)2000 RG 6-64 dated 30.01.2001](#) (RBE 22/2001)]

## **12. Withholding of Passes/PTOs:**

- i. The penalty of withholding of Passes/PTOs for a period of less than one year should be restricted to very minor offences as it may not prove to be an effective punishment, except for the slight inconvenience that may be caused during the period of the punishment since the employee can avail of all the Passes/PTOs due in the calendar year as soon as the period of punishment expires.

[Railway Board's letter No. [E\(D&A\)61 RG 6-34 dated 27.07.1961](#)]

- ii. In order to make the penalty of withholding of Passes/PTOs effective, the penalty should be imposed in terms of sets instead of for a specified period. In cases where the employee has already taken all the Passes/PTOs due in the calendar year, the withholding may be against the next year's account.

[Railway Board's letter No. [E\(D&A\)66 RG 6-57 dated 14.12.1966](#)]

- iii. Though no ceiling has been laid down in RS(D&A) Rules with regard to number of sets of Passes/PTOs which can be withheld, withholding of a large number of Passes/PTOs is not in keeping with the spirit of Rules as also the fact that this is a minor penalty which can be imposed without regular inquiry.

[D.O letter No. [E\(D&A\)97 RG 6-6 dated 19/25.03.1997](#) to N.E. Rly]

- iv. Post-retirement complimentary Passes cannot be withheld as a penalty under the RS(D&A) Rules for offences committed during the service. The only penalty in such cases is a cut in the pensionary benefits under Rule 2308-R II [now incorporated as [Rule 9](#) of Railway Servants (Pension) Rules, 1993].

[Railway Board's letter No. [E\(D&A\)89 RG 6-56 dated 29.05.1989](#)]

However, post-retirement complimentary passes can be disallowed in accordance with the provisions and procedure laid down in the Railway Servants (Pass) Rules for unauthorised retention of Railway quarter. For this purpose, provisions of RS(D&A) Rules need not be invoked.

[Railway Board's letter No. [E\(W\)99 PS 5-1/41 dated 03.11.1999](#)]

### 13. Withholding of Increment:

- i. If a Railway Servant becomes due for promotion after the penalty of withholding of increment is imposed, he should be promoted only after expiry of the penalty. However, where the penalty of withholding of increment is to become operative from a future date, the employee should be promoted in his turn and the penalty imposed in the promotional grade for a period which would not result in a greater monetary loss.

[Railway Board's letter No. [E\(D&A\)92 RG 6-149 \(A\) dated 21.01.1993](#) in respect of non-gazetted staff and No [E\(D&A\)92 RG 6-185 dated 12.02.1993](#) (RBE 27/1993) in respect of officers]

- ii. Different orders of punishment of withholding of increments imposed one after the other should be implemented as indicated in the illustration below:

Date	Pay when no punishment is imposed	Pay when only one punishment of WIT for 1 year is imposed	Pay when two successive punishment of WITs are imposed each for 1 year	Pay when only one punishment of WIT for 1 year is imposed cumulatively	Pay when punishments are imposed first for 1 year cumulatively followed by WIT for a year
	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)
01.01.1985	400	400	400	400	400
<b>Punishments imposed in 1985</b>					
01.01.1986	425	400	400	400	400
01.01.1987	450	450	425	425	400
01.01.1988	475	475	475	450	450
01.01.1989	500	500	500	475	475

[Railway Board's letter No. [E\(D&A\)85 RG 6-57 dated 11.03.1986](#) (RBE 49/1986)]

- iii. The penalty of withholding of increments can be operative only to the increments to which the employee has not become entitled on the date on which the penalty order is issued. An increment, to which the employee had already become entitled (but which was not actually drawn) on the date of imposition of the penalty, cannot be withheld.

[Railway Board's letter No. [E\(D&A\)60 RG 6-20 dated 02.07.1960](#)]

- iv. When the penalty of withholding of increments is imposed it is only the increment(s) accruing in the normal course in the time scale of pay that



should be withheld in terms of the orders of the penalty. The penalty orders should not interfere with the accrual of advance increment(s) granted as an incentive for passing departmental or other technical examination etc. Similarly, in cases where a penalty of reduction to lower stage in the time scale of pay for a specified period is imposed, the accrual of advance increments will not be affected.

[Railway Board's letter No. [E\(D&A\)76 RG 6-2 dated 07.05.1976](#)]

- v. Penalties of "withholding of promotion" or "withholding of increments" cannot, by their very nature, be imposed as a permanent measure. It can only be for a specified period to be laid down by the Disciplinary Authority.

[Railway Board's letter No. [E\(D&A\)66 RG 6-20 dated 27.08.1966](#)]

- vi. Even though the penalty of withholding of increments is a minor penalty, an inquiry under [Rule 9](#) has to be held, if it is to be imposed for a period exceeding three years or if it is to be imposed with cumulative effect for any period or if the penalty is likely to affect adversely the amount of pension or special contribution to Provident Fund payable to the Railway Servant.

[Railway Board's letter No. [E\(D&A\)67 RG 6-13 dated 28.02.1968](#) and [Rule 11\(2\)](#) of RS (D&A) Rules]

- vii. The Disciplinary Authority must make sure before ordering punishment of withholding of increment that the staff concerned has scope to earn those increments, i.e.. he is not at the maximum of the grade. In such a case, the case can be referred back to the DA to review his own orders and pass fresh orders. Incidentally, this is one case where an authority can review its own orders.

[Railway Board's letter No. [E\(D&A\)82 RG 6-84 dated 04.01.1983](#) and Case No [E\(D&A\)92 AE 2-2](#)]

#### **14. Reduction to a lower stage in the same scale of pay**

- i. The penalty of reduction to a lower stage in time scale should indicate:
  - a. The date from which it will take effect and the period for which the penalty will be operated,
  - b. The stage in the time scale (in terms of rupees) to which the pay is reduced and
  - c. The extent (in terms of years and months), if any, to which the period, referred to in (a) above should operate to postpone future increments, i.e. the period, out of the total, for which the penalty will have cumulative effect. This period shall not exceed the period for which the penalty will be operated.
- ii. The reduction to a lower stage in a time scale for an unspecified period or as a permanent measure is not permissible under the rules. When the pay of an employee is reduced to a particular stage, his pay will remain constant at that stage for the entire period of reduction.
- iii. If the penalty of reduction to a lower stage in time scale is not to operate to postpone future increments the employee shall be allowed, on expiry of the penalty, the pay which he would have drawn had he not been reduced. If the penalty is to operate to postpone the future increments for any specified period, the pay shall be fixed on expiry of the penalty, treating the period for which the increments were to be postponed as not counting for increments.

[Railway Board's letters No. [F\(E\)57 FR-1/1 dated 22.01.1960](#) read with [F\(E\)60 FR-1/2 dated 21.12.1960](#)]

## **15. Reduction to a lower service/grade/post**

**i.**

- a. The penalty of reduction to a lower grade or post should invariably be imposed for a specified period unless the clear intention is that the reduction should be permanent or for an indefinite period i.e. till such date as, on the basis of his performance subsequent to the order of reduction, he may be considered fit for promotion. Where the order imposing such penalty does not specify the period of reduction and there is coupled with it an order declaring the Railway Servant permanently unfit for promotion, the question of re-promotion will, obviously not arise.**
- b. Where the reduction to a lower grade or post is for a specified period, the employee should be repromoted automatically, on expiry of the penalty, to the post from which he was reduced. Such an order of reduction should clearly specify;**
  - i. The period of reduction; and**
  - ii. Whether on re-promotion, the Railway Servant will regain the original pay and seniority in the higher grade from which he was reduced.**

**Where the reduction is not to operate to postpone future increments, the seniority of the Railway servant should be fixed in the higher service, grade or post or the higher time-scale at what it would have been but for his reduction. Where the reduction is to operate to postpone future increments, the seniority of the Railway servant should be fixed by giving credit for the period of service rendered by him in the higher service, grade or post prior to his reduction.**

- c. If the order of reduction is intended for an indefinite period, the order should be framed on the following lines:**

**"A is reduced to the lower post/grade/service of X until he is found fit by the competent authority to be restored to the higher post/grade/service of Y."**

**In cases where it is intended that the fitness of the Railway Servant for re-promotion to the original position will be considered only after a specified period, the order should be made on the following lines:**

**"A is reduced to the lower post/grade/service of X until he is found fit, after a period of ..... year(s) from the date of the order, to be restored to the higher post/grade/service of Y."**

**[Board's letter No. [E\(D&A\)62 RG 6-46 dated 30.07.1964](#)]**

- ii. In cases of reduction to lower grade for an indefinite period, re-promotion will be ordered only by the authority competent to promote in higher grade and disciplinary authority has no role to play in the matter.**

**[Board's letter No. [E\(D&A\)70 RG 6-15 dated 26.05.1970](#)]**

- iii. If the penalty of reduction to a lower grade is for a specified period and the order does not specify whether it has an effect on seniority and increment in the higher grade on restoration to the higher grade, it should be assumed that the order will not affect seniority or increments.**

**[Railway Board's letter No. [E\(D&A\)73 RG 6-5 dated 22.02.1974](#)]**

- iv. After expiry of the penalty of reduction to a lower grade for a specified period, the employee is to be re-promoted automatically to the post from which he**



was reduced by reverting, if necessary, the junior-most employee who has started officiating in that grade irrespective of the length of service put in by him. If however, there is another vacant post, the junior-most employee need not be reverted and can be adjusted against that post. If at a later date the question of reversion or promotion to a still higher grade arises, the seniority of the employees based on the length of service in that grade shall be taken into consideration for deciding as to which of them should be reverted or promoted.

[Railway Board's letter No. [E\(D&A\)62 RG 6-46 dated 26.10.1964](#)]

- v. An order of the Disciplinary Authority reducing a Railway Servant to a lower grade and giving further directions on fixing his pay in the lower grade does not amount to double punishment. A ruling to this effect was given by Rajasthan High Court on 15.01.1974, in the case of Shyama & Others V/s. UOI [1975 (1) SLR511]

[Railway Board's letter No. [E\(D&A\)89 RG 6-108 dated 12.12.1989](#) (RBE 302/1989)]

- vi. Once the pay is fixed in the lower grade, the regulation of increments in the lower grade will be made under the normal rules unless the increments in the lower grade, etc., are also withheld.

[Railway Board's letter No [F\(E\)60 FR 1/4\(I\) dated 27.10.1960](#)]

- vii. The penalty of reduction to a lower grade cannot be imposed by reducing the grade of an employee to a level lower than the grade in which he was originally appointed.

[Railway Board's letter No. [E\(D& A\)89 RG 6-17 dated 07.03.1989](#) (RBE 68/1989)]

- viii. If the penalty of reduction to a lower grade for a specified period is not to operate to postpone future increments, the employee shall be allowed, on restoration to the higher grade, the pay which he would have drawn had he not been reduced to the lower grade i. e. the service rendered in the lower grade will count towards increments in the higher grade. If the penalty is to operate to postpone future increments, the pay shall be fixed, on restoration to the higher grade, by treating the period for which he was reduced as not counting for increment in the higher grade.

[Railway Board's letter No. [F\(E\)60 FR 1/4 dated 27.10.1960](#)]

16. When a penalty imposed on a Railway Servant is proposed to be enhanced by the Appellate/ Revising Authority, the feasibility of cancelling the original penalty while imposing the higher penalty should be considered. However if the employee has already undergone the penalty, in whole or in part and it is not feasible to cancel the same, then the facts relating to the original penalty should be kept in view by the Appellate/ Revising Authority while deciding upon the higher penalty to be imposed. Imposition of such an additional penalty by way of enhancement of the punishment in such cases is in order.

[Railway Board's letter No. [E 55 RG 6-14 dated 29.02.1956](#) and [E\(D&A\)71 RG 6-18 dated 12.12.1972](#)]

Illustration on how the penalties of withholding of increment, reduction of pay to a lower stage in the same scale of pay and reduction to a lower grade are to be operated

Scale of pay	5500-175-9000
Pay	6200

<b>Date of Increment</b>	<b>1 st June</b>
<b>Date of imposition of penalty</b>	<b>1.3. 2000</b>

- a. Penalty of withholding of increment for 2 years without having the effect of postponing future increments (also termed as without cumulative effect with temporary effect, etc.)

<b>Date of effect of penalty</b>	<b>01.06.2000 i.e. only from the date on which the next increment falls</b>
<b>Pay on 01.06.2000</b>	<b>6200</b>
<b>Pay on 01.06.2001</b>	<b>6200</b>
<b>Pay on 01.06.2002</b>	<b>6725</b>

(All the increments withheld are released along with the increment which becomes due after expiry of the penalty.)

- b. Penalty of withholding of increments for 2 years which will have the effect of postponing future increments (also termed as with cumulative effect, with permanent effect etc.)

<b>Date of effect of penalty</b>	<b>01.06.2000</b>
<b>Pay on 01.06.2000</b>	<b>6200</b>
<b>Pay on 01.06.2001</b>	<b>6200</b>
<b>Pay on 01.06.2002</b>	<b>6375</b>

(Increments withheld are not released, only the increment which becomes due on expiry of the penalty is granted).

- c. Penalty of reduction of pay by two stages to the lower stage of 5850 in the same scale of pay for 2 years without having the effect of postponing future increments i. e. without cumulative effect.

<b>Date of effect of penalty</b>	<b>01.03.2000</b>
<b>Pay on 01.03.2000</b>	<b>5850 (i. e. immediate effect)</b>
<b>Pay remains static at this level till 28.02.2002</b>	
<b>Pay on 01.03.2002</b>	<b>6550 (Pay restored first to the level from which it was reduced and thereafter, increments not granted during the currency of the penalty are granted)</b>
<b>Pay on 01.06.2002</b>	<b>6725 (next increment granted)</b>

- d. Penalty of reduction of pay by two stages to the stage of 5850 in the same scale of pay for 2 years, with the effect of postponing future increments i. e. with cumulative effect.

<b>Date of effect of penalty</b>	<b>01.03.2000 (i. e. with immediate effect)</b>
<b>Pay on 01.03.2000</b>	<b>5850</b>
<b>Pay remains static at this level till 28.02.2002.</b>	
<b>Pay on 01.03.2002</b>	<b>6200 (Pay restored to the level from which it was reduced but increments not granted during the currency of the penalty are not granted even after the expiry of the penalty).</b>
<b>Pay on</b>	<b>6375 (next increment granted)</b>

01.06.2002

- e. Penalty of reduction to lower scale of 4500-125-7000 for 2 years and pay fixed at Rs. 5000, without having the effect of postponing future increment.

Date of effect of penalty	01.03.2000 (i. e. with immediate effect)
Pay on 01.03.2000	5000
Pay remains static at this level till 28.2.2002, if the penalty order stipulates that no increments will be granted in the lower grade also during the currency of the penalty or if there is no such stipulation, the pay will rise to 5125 on 01.03.2001	
Pay on 01.03.2002	6550 (Higher scale of pay and the pay drawn at the time of imposition of penalty restored and thereafter increment in the higher grade which had accrued during the currency of the penalty are granted on this date.)
Pay on 01.06.2002	6725 (next increment granted)

- f. Penalty same as (e) above but having the effect of postponing future increments.

Date of effect of penalty	01.03.2000 (i. e. with immediate effect)
Pay remains static at this level till 28.02.2002, if the penalty order stipulates that no increments will be granted in the lower grade also during the currency of the penalty or if there is no such stipulation, the pay will rise to 5125 on 01.03.2001	
Pay on 01.03.2002	6200 (Higher scale of pay and the pay drawn at the time of imposition of penalty are restored but increments in the higher grade which accrued during the currency of the penalty are granted.)
Pay on 01.06.2002	6375 (next increment granted)

## 17. Compulsory Retirement

Compulsory retirement is different from premature retirement under [Rules 1802](#), [1803](#) and [1804](#) of Indian Railway Establishment Code Vol. II (Sixth Edition). The latter is not a penalty and is ordered as an administrative measure. Though compulsory retirement has not been mentioned in Article 311(2) of the Constitution, which mentions only the penalties of dismissal, removal and reduction in rank, compulsory retirement has been included as a major penalty in the Rules and is less severe than the penalties of removal and dismissal.

## 18. Grant of pension/gratuity in cases of compulsory retirement, removal and dismissal.

A Railway Servant who is compulsorily retired from service as a penalty may be granted pension/ gratuity in terms of provisions contained in [Rule 64](#) of Railway Services (Pension) Rules, 1993. A Railway Servant who is dismissed or removed from service forfeits his pension and gratuity. However, the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance in terms of [Rule 65](#) of Railway Service (Pension) Rules, 1993.

## **19. Disciplinary Authority:**

Disciplinary Authority has been defined in the Rules for different purposes as follows:

- a. For the purpose of imposition of a penalty on a Railway Servant, the authority competent under the Rules to impose on him that penalty would be the Disciplinary Authority.
- b. For the purpose of [Rule 9](#) (procedure to be followed for imposition of a major penalty - i.e. holding an inquiry etc.), Disciplinary Authority has been defined differently for gazetted and non-gazetted Railway Servants. For Gazetted employees, an authority competent to impose any of the penalties (minor or major) specified in [Rule 6](#) would be the Disciplinary Authority. For non-gazetted employees, an authority competent to impose any of the major penalties specified in [Rule 6](#) would be the Disciplinary Authority.
- c. For the purpose of clauses (a) and (b) of [Rule 11\(1\)](#) (procedure for imposing minor penalties i.e. issuing the charge memorandum, holding an inquiry wherever necessary etc.), for both gazetted and non-gazetted Railway Servants, an authority competent to impose any of the penalties would be the Disciplinary Authority.
- d. The authorities which are competent to impose the penalties specified in [Rule 6](#) have been specified in the [Schedules I, II and III](#) to the RS (D&A) Rules. However, the President can impose any of the penalties in [Rule 6](#) on any Railway Servant, irrespective of whether this authority has been specified in the Schedules or not.

[[Rules 2\(1\) \(c\), 7\(1\) and 7\(2\)](#) of RS (D&A) Rules]

### **Explanations :**

- i. An authority who is competent, in terms of the Schedules, to impose at least one of the penalties specified in [Rule 6](#) on a gazetted Railway Servant can function as Disciplinary Authority for the purpose of issuing minor/major penalty chargesheet, holding of an inquiry under [Rule 9](#) etc. but he can impose only those penalties on the Railway Servant for which he has been authorised by the Schedules. In respect of non-gazetted staff, the same position as mentioned above applies in so far as minor penalty proceedings are concerned but, for major penalty proceedings, an authority can function as Disciplinary Authority for the purpose of [Rule 9](#) only if that authority is competent, in terms of the Schedules to impose at least one of the major penalties.
- ii. [Schedule I](#) specifies the Disciplinary and Appellate Authorities in respect of non-gazetted staff in units other than Zonal Railways and Production Units (in Railway Board's office, RDSO, Railway Training Institutions viz. IRICEN, IRISSET, IRIEEN & IRIMEE, Railway Staff College, Railway Recruitment Boards etc.). [Schedule II](#) gives the disciplinary and appellate powers of different grades of Railway officers and Senior Supervisors in respect of non-gazetted staff of Zonal Railways and Production Units. [Schedules I and II](#) specify that the penalties of compulsory retirement, removal and dismissal can be imposed only by Appointing Authority or an authority of equivalent rank or any higher authority. [Schedule III](#) specifies the Disciplinary and Appellate Authorities in respect of Railway Officers (Group B and Group A). A copy each of the Schedules I, II and III are annexed as Annexures 'A', 'B' and 'C'.
- iii. The disciplinary powers of PHODs under [Schedule III](#) to RS(D&A) Rules can be exercised, in the absence of posts of PHODs in the new Zones and Production Units, by Sr. Administrative grade officers who are acting as co-ordinating HODs or are in independent charge and by Directors of Railway Training Institutions.

[Boards letter No. [E\(D&A\)98 RG 6-52 dated 03.01.2000](#) and [01.06.2000](#)]

- iv. While the Schedules refer to the level of Disciplinary Authority, the authority who actually functions as Disciplinary Authority can be none other than the one under whose administrative control the delinquent employee works. If an employee is transferred during the course of disciplinary proceedings against him, then his Disciplinary Authority would also change accordingly and will be with reference to the new post held by him. Also there can be only one Disciplinary Authority for an employee. e. g. for an operating staff, who is under the administrative control of Divisional Operating Manager (DOM), only the DOM can act as Disciplinary Authority, even if the misconduct pertains to violation of commercial rules or safety rules and not Divisional Commercial Manager or Divisional Safety Officer.

[Railway Board's letter No. [E\(D&A\)60 RG 6-30 dated 28.07.1962](#), [E\(D&A\)72 RG 6-13 dated 16.10.1973](#) & [E\(D&A\)94 RG 6-69 dated 04.08.1997](#) (RBE 82/1997)]

- v. In the case of a Railway Servant officiating in a higher post, the Disciplinary Authority shall be determined with reference to the officiating post held by the Railway servant at the time of disciplinary action.

[Railway [Rule 7\(3\)](#) of RS(D&A) Rules]

- vi. In cases where records or appointment letters to establish the actual appointing authority are not available, the General Manager should be treated as the Appointing Authority.

[Railway Board's letter No. [E\(D&A\)63 RG 6 -23 dated 21.02.1964](#)]

- vii. Authority who has acted as a member or Chairman of a Fact Finding Inquiry or accident Inquiry should not act as Disciplinary Authority because the Charged employee would apprehend that the officer having expressed an earlier opinion would not, as a Disciplinary Authority, depart from his own earlier finding. He may not thus get justice. However, if the report does not indicate a final opinion but only a view, prima facie, he can act as a Disciplinary Authority. A member or chairman of the Fact-Finding Inquiry or Accident Inquiry cannot act as an Inquiry Officer in the same case, since the Inquiry Officer should be an authority who should not have prejudged the guilt, even provisionally at an early stage. Similarly, an officer might have investigated a case arising out of vigilance and is subsequently transferred to executive side. That disciplinary case should not be handled by him and may be passed on to the next higher authority for appropriate decision.

[Railway Bd's letter No. [E\(D&A\)63 RG 6-16 dated 23.12.1968](#) read with letter dated [23.05.1969](#) and [E\(D&A\)91 RG 6-62 dated 30.07.1991](#)]

- viii. If the Disciplinary Authority of a Charged Official is also involved in the same case, then he should not act as Disciplinary Authority in the said case. In such a case, the authority who is next higher in the hierarchy should act as the Disciplinary Authority.

[Railway Board's letter No. [E\(D&A\)90 RG 6 -123 dated 09.11.1990](#)]

- ix. Disciplinary Authority would be w.r.t. the post held by the Charged Official at the time of initiation of disciplinary action and not w. r. t. the post held at the time the alleged misconduct occurred.

[Railway Board's letter No. [E\(D&A\)84 RG 6 -42 dated 08.08.1964](#){[08.08.84](#)}]

## 20. Appointing Authority

- i. Appointing Authority has been defined in [Rule 2\(i\)\(a\)](#) of RS (D&A) Rules as

under:

- a. The authority empowered to make appointments to the Service of which the railway servant is, for the time being, a member or to the grade of the Service in which the railway servant is, for the time being, included, or
  - b. The authority empowered to make appointment to the post which the Railway servant, for the time being holds, or
  - c. The authority which appointed the Railway servant to such service, grade or post, as the case may be, or
  - d. where the Railway Servant having been a permanent member of any other service or having substantively held any other permanent post, has been in continuous employment under the Ministry of Railways, the authority which appointed him to that Service or to any grade in that service or that post, whichever authority is the highest authority.
- ii. For the purpose of determining the authorities specified in the different clauses of [Rule 2](#) (1)(a), one has to restrict oneself to the post or grade of the railway servant and invoke clause (a) or (b), as the case may be.

The whole intent and purpose of [Rule 2](#) (1) (a) is to safeguard against an infringement of Article 311 (1) of the Constitution of India and ensure that a person can be dealt with only by either an authority competent to appoint persons of his class or the authority who actually appointed him, whoever happens to be higher in rank.

It is not necessary for the General Manager to dismiss/remove Group 'C' and Group 'D' staff who were actually appointed by lower authorities.

[Railway Board's letter No. [E\(D&A\)88 RG 6-12 dated 07.05.1990](#) based on Supreme Court's Judgement dated 10.04.1980 in the case of S. C. Railway Vs. Sheikh Khadar Mastan and Nookaraja]

## **21 Authority to institute proceedings :**

- i. President or any other authority empowered by him by a general or special order can institute disciplinary proceedings against any Railway servant or direct a Disciplinary Authority, who is competent to impose at least one of the penalties specified in Rule 6 on a particular Railway servant, to institute disciplinary proceedings against that Railway servant.
- ii. Disciplinary Authority who is competent to impose atleast one of the minor penalties specified in [Rule 6](#) on a gazetted Railway Servant, can also institute major penalty proceedings against that Railway Servant, notwithstanding the fact that that authority is not competent to impose any of the major penalties on that Railway servant. However, in respect of non-gazetted employees, major penalty proceedings can be instituted only by an authority who is competent to impose atleast one of the major penalties.

[[Rule 8](#) of RS(D&A) Rules read with [Rule 2](#)(i)(c)]

## **22 Institution of disciplinary proceedings simultaneous with criminal proceedings:**

Disciplinary proceedings under the Railway Servants (Discipline & Appeal) Rules can be initiated and concluded even if court proceedings are pending since the ingredients of misconduct and the standard of proof required are different in the two types of proceedings. 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. The question whether departmental proceedings should be stayed can be decided by a court of law on merits of each case if the charged official moves the court.



[Railway Board's letter No. [E\(D&A\)71 RG 8-36 dated 06.06.1974](#) and Supreme Courts judgements in the cases of Jang Bahadur Singh Vs. Baij Nath Tiwari [1969 (1) SCR 134] and Kusheshwar Dubey Vs. Bharat Coking Coal Ltd. (AIR 1988 Supreme Court 2118)].

**23. Orders of the Disciplinary Authority:**

The orders of the Disciplinary Authority exonerating the charged official of the Charges against him or imposing any of the penalties specified in [Rule 6](#) should be a reasoned Speaking Order and should reflect clearly the basis for the findings of the Disciplinary authority to the charges.