

संख्या – 023/ वीजीएल/120
केन्द्रीय सतर्कता आयोग

सतर्कता भवन, जीपीओ काम्प्लैक्स,
ब्लाक-ए, आई.एन.ए, नई दिल्ली-110023
दिनांक 19.02.2024

परिपत्र संख्या 03/02/2024

विषय: आरोपित अधिकारियों की पक्षपात की याचिका पर विचार करने के संबंध में।

केन्द्रीय सतर्कता आयोग, अपने अधिकार क्षेत्र के अंतर्गत आने वाले संगठनों के सतर्कता प्रशासन पर अधीक्षण रखने के उद्देश्य से लंबित अनुशासनिक कार्यवाहियों की प्रगति की निगरानी करता है। कई मामलों में ऐसा देखा गया है कि अनुशासनिक कार्यवाहियों को तार्किक निष्कर्ष तक पहुँचने में निर्धारित समय सीमा से अधिक विलंब होता है। इस तरह के विलंब के कारणों में से एक कारण यह है कि विभागीय जाँच के दौरान आरोपित अधिकारी, जाँच अधिकारी के विरुद्ध पक्षपात के मुद्दे उठाते हैं और सक्षम प्राधिकारी द्वारा पक्षपात की याचिका के निपटान तक जाँच कार्यवाही रोक दी जाती है।

2. यह नोट किया जाए कि कार्मिक एवं प्रशिक्षण विभाग ने दिनांक 09.11.1972 के अपने कार्यालय ज्ञापन सं. 39/40/70-एस्टे-ए द्वारा विभागीय कार्यवाहियों पर दिशा-निर्देश जारी किए हैं, जो आरोपित अधिकारी द्वारा दी गई पक्षपात याचिकाओं पर कार्रवाई करने की प्रक्रिया से भी संबंधित है। कार्मिक एवं प्रशिक्षण विभाग के दिनांक 09.11.1972 के कार्यालय ज्ञापन के पैरा 4 में प्रावधान है कि “whenever an application is moved by a Government servant against whom disciplinary proceedings are initiated under the CCS(CCA) Rules against the inquiry officer on grounds of bias, the proceedings should be stayed and the application referred, along with the relevant material, to the appropriate reviewing authority for considering the application and passing appropriate orders thereon”.

3. इसके अतिरिक्त, यह भी नोट किया जाए कि सीसीएस (सीसीए) नियम, 1965 के नियम 22 (iii) और अखिल भारतीय सेवा (अनुशासन और अपील) नियमावली, 1969 के नियम 15 के अनुसार 'जाँच के दौरान जाँच प्राधिकारी द्वारा पारित किसी भी आदेश के विरुद्ध कोई अपील नहीं होगी।'

4. आयोग चाहता है कि पक्षपात याचिका पर विचार करते समय, कार्मिक एवं प्रशिक्षण विभाग के दिनांक 09.11.1972 के कार्यालय ज्ञापन में निहित प्रावधानों के अनुसार, सीसीएस (सीसीए) नियम, 1965 के नियम 22 (iii) के प्रावधान और अखिल भारतीय सेवाओं (अनुशासन और अपील), 1969 के नियम 15 के प्रावधानों को भी ध्यान में रखा जाए। यह सुनिश्चित करने के लिए कि पक्षपात याचिका के कारण अनुशासनिक कार्यवाही पूर्ण होने में कोई अनुचित विलंब न हो, सक्षम प्राधिकारी प्राकृतिक न्याय के सिद्धांतों का पालन करते हुए पक्षपात याचिका का शीघ्रता से, अधिकतम 30 दिनों की अवधि के भीतर निपटान करें।

5. यह भी देखा गया है कि रेलवे बोर्ड ने दिनांक 27.12.2022 के अपने पत्र संख्या ई (डी एंड ए) 2022 आरजी6-12 द्वारा पक्षपात याचिका पर कार्रवाई करने के संबंध में दिशानिर्देश/स्पष्टीकरण जारी किए हैं, जिसे रेलवे बोर्ड द्वारा पक्षपात याचिका के त्वरित निपटान और जाँच कार्यवाही समय पर पूर्ण होने में काफी प्रभावी पाया गया है। इसकी प्रति इन दिशानिर्देशों के साथ संलग्न है। रेलवे बोर्ड के उपर्युक्त दिशानिर्देशों को, जैसा उचित समझा जाए संशोधनों/परिवर्तनों के साथ, संबंधित संगठन इसे अपनाने पर विचार कर सकते हैं।

6. उपर्युक्त दिशानिर्देशों को अनुपालन के लिए नोट किया जाए। संबंधित संगठनों के मुख्य सतर्कता अधिकारी इस संबंध में आवश्यक कार्रवाई के लिए इन दिशानिर्देशों को अपने संगठनों के मुख्य कार्यकारी अधिकारी के ध्यान में लाएं।

हो/-
(राजीव वर्मा)
निदेशक

सेवा में,

- (i) भारत सरकार के सभी मंत्रालयों/विभागों के सचिव।
- (ii) सीपीएसयू/सार्वजनिक क्षेत्र के बैंकों /सार्वजनिक क्षेत्र की बीमा कंपनियों /स्वायत्त निकायों आदि के सभी मुख्य कार्यकारी अधिकारी।
- (iii) भारत सरकार के मंत्रालयों/विभागों /सीपीएसयू/सार्वजनिक क्षेत्र के बैंकों /सार्वजनिक क्षेत्र की बीमा कंपनियों /स्वायत्त निकायों आदि के सभी मुख्य सतर्कता अधिकारी।
- (iv) केन्द्रीय सतर्कता आयोग की वेबसाइट।



**Government of India (Bharat Sarkar)
Ministry of Railways (Rail Mantralaya)
Railway Board**

No. E(D&A)2022 RG6-12

New Delhi, 27/12/2022

The General Managers,
All Indian Railways and Production Units etc.,
(As per standard list).

Sub: Inquiry under Railway Servants (Discipline & Appeal Rules), 1968-Appointment of inquiring authority; clarification.

A mechanism for review of the appointment of Inquiry Officers in a disciplinary proceeding on the grounds of bias was put in place vide this Ministry's letter No. E(D&A)70 RG6-14(1) dated 19.06.1974.

2. Of late, instances have been brought to notice suggestive of a tendency where the charged Railway servants initially participate in the proceedings conducted by the Inquiry Officers and thereafter at a subsequent stage, including the stages approaching the finalization of the inquiry, make representations against some or other of the decisions taken or orders passed by the Inquiry Officer in the course of the inquiry, and terming the same as an allegation of bias quoting the instructions dated 19.06.1974. The grounds raised for alleging bias include the orders/decisions of the inquiring officers not allowing the additional documents demanded by the charged officer, not allowing the defence witnesses as requested by the charged officer, not accommodating the venue and the dates of the hearings as demanded by the charged Railway servants, disallowing the questions asked by the defence side to a witness etc., all of which stand barred from being appealed against under Rule 17(iii) of the Railway Servants (Discipline and Appeal) Rules, 1968. Application of the instructions dated 19.06.1974 to such representations leads to undue prolongation of the proceedings besides interference of the revisionary authority on merits of the case at a wholly premature stage. There is a need to curb this tendency and concern has been expressed by the Central Vigilance Commission also in this regard.

3. To recall, the Railway Servants (Discipline and Appeal) Rules, 1968 do not contain an explicit provision for making of a representation by a charged Railway servant against the appointment of an Inquiry Officer on grounds of bias and, therefore, it was considered appropriate to issue the aforesaid instructions dated 19.06.1974 in order to ensure that a person having a cause or an interest in the case is not appointed as the inquiry officer which, if done, would not only compromise the fairness of the conduct of the inquiry but would also amount to denial of the reasonable opportunity of being heard to the charged Railway servant. It goes without saying that these instructions were neither intended nor can be allowed to be interpreted in a manner as would render redundant the other provisions including the provision contained in Rule 17(iii) of the Railway Servants (Discipline and Appeal) Rules, 1968, which, in turn, also ensure that the appellate/revisionary authorities do not intervene in the proceedings on merits until final orders are passed by the Disciplinary Authority. The statutory scheme has already provided an avenue to the charged Railway servants to make submissions on the Inquiry Officer's report under Rule 10 thereof.

4. The instructions dated 19.06.1974 envisage that a charged Railway servant, if he has reasons to form an opinion that the person appointed as the inquiry officer is already possessed with a such a prejudiced mind that a fair conduct of inquiry cannot reasonably be expected of him in the case, would raise an allegation of bias immediately on receipt of the order of his appointment the inquiry officer. Raising of an allegation after having participated in the inquiry conducted by the very same person as inquiry officer not only indicates acquiescence on his part with the appointment of the said person as the inquiry officer but also reduces his allegation to a representation of convenience emerging from an after-thought arising out of an apprehension that the inquiry is not proceeding in his favour and thus not worth consideration.

5. In order to curb the aforementioned tendencies and to ensure that the instructions dated 19.06.1974 are invoked only for the intended purposes and not for unduly prolonging and protracting the proceedings, it is clarified that:

- (i) The said instructions would apply only to those representations of the charged Railway servants which contain the grounds of pre-existence of bias in the mind of the person at the time of his appointment as the Inquiry Officer.

- (ii) The said instructions would not apply to the representations made by the charged Railway servants on grounds based on the actions and decisions taken and orders passed by the inquiry officer during the conduct of the inquiry as it violates the provisions contained in Rule 17 (iii) of the Railway Servants (discipline and Appeal) Rules, 1968 and invites the revisionary authority to intervene in the proceedings before its finalization by the disciplinary authority.
- (iii) Representations against the appointment of a person as the inquiry officer on grounds of bias should be made by the charged Railway servants immediately after receipt of the order of appointment of the Inquiry Officer by them. In case such a representation is made at a later stage after having participated in the inquiry, the charged Railway servant must disclose the reasons as to why it was not made immediately after the receipt of the order of his appointment as the inquiry officer and a failure in such disclosure would preclude the representation from consideration under the said instructions on the presumption that he has acquiesced with the appointment of the person as the inquiry officer.



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Railway Board

Copy to:

E(O)I, ERB-I, ERB-V, ERB VI, Security(E) and Vigilance -I Branches of Board's Office.