

निलंबन
पर
मास्टर परिपत्र
Master Circular
ON
Suspension

64

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

M.C.No. 64

No.E(D&A)95 RG6-49

New Delhi, dated 1.12.95

The General Managers,
All Indian Railways, etc.,
(As per list I & II).

Sub : Suspension of railway employees -
Master Circular.

At present provisions/instructions regarding suspension of railway employees are contained in Part II of the Railway Servants (Discipline & Appeal) Rules, 1968 and in a number of letters issued by Railway Board from time to time. It has been decided to consolidate, important amongst them in one single Master Circular, for the purpose of facility and convenience, as enclosed herewith.

While referring to this Circular, the original letter referred to herein should be read for a proper appreciation and in case of doubt, the original circular should be relied upon as authority.

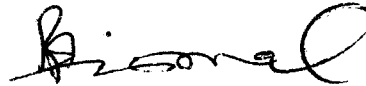
Since effort has been to include only important instructions on suspension in this Master Circular, a number of circulars have not been taken into consideration while preparing this Master Circular.

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Instructions contained in circulars not included herein,
should not be deemed to have been superseded simply
because of their non-inclusion.

Please acknowledge receipt.



(K.BISWAL)

Joint Director Establishment(D&A)
Railway Board.

SUSPENSION

Suspension is an executive action whereby a Railway servant is temporarily kept out of duty, pending final action against him for criminal offences or acts of indiscipline, misconduct etc. Suspension, pending departmental enquiry, is a safeguard against the Government servant interfering with and hampering the preliminary investigation and tampering with material evidence - oral and documentary.

It is not a penalty under Railway Servants (Discipline and Appeal) Rules.

II (A) Circumstances under which a railway servant may be placed under suspension-

In terms of Rule 5(1) of Railway Servants (Discipline & Appeal) Rules, a railway servant may be placed under suspension in the following circumstances:-

- a) Where a disciplinary proceeding against him is contemplated or is pending; or
- b) Where, in the opinion of the authority competent to place a railway servant under suspension, he has engaged himself in 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

(B) Guiding principles for placing a railway servant under suspension -

Public interest should be the guiding factor in deciding to place a railway servant under suspension and the disciplinary authority should have the discretion to decide this, taking all factors into account. However, in the following circumstances, a disciplinary authority may consider it appropriate to place a railway servant under suspension. (These are only intended for guidance and should not be taken as mandatory).

- i) Cases where continuance in office of the railway servant will prejudice the investigation, trial or any enquiry (e.g. apprehended, tampering with witnesses/documents);
- ii) Where the continuance in office is likely to seriously subvert discipline in the office in which the railway servant is working;
- iii) Where the continuance in office of the railway servant will be against the wider public interest (other than those covered by (i) & (ii), e.g. there is a public scandal and it is necessary to place the Government servant under suspension

to demonstrate the policy of Government to deal strictly with officers involved in such scandals, particularly corruption).

- iv) Where allegations have been made against the railway servant and the preliminary enquiry has revealed that a case exists, prima facie, which would justify initiation of criminal departmental proceedings against him and where such proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service.

Notes: (a) In the first three circumstances enumerated above, the disciplinary authority may exercise his discretion to place a railway servant under suspension even when the case is under investigation and before a prima facie case has been established;

- (b) Certain types of misdemeanour where suspension may be desirable in the four circumstances mentioned above are indicated below:

(i) Any offence or conduct involving moral turpitude.

(ii) Corruption, embezzlement or misappropriation of Government

money, possession of disproportionate assets, misuse of official powers for personal gain;

(iii) Serious negligence and dereliction of duty resulting in considerable loss to the Government.

(iv) Desertion of duty.

(v) Refusal or deliberate failure to carry out written orders of superior officers.

In respect of the types of misdemeanour mentioned in items (iii) (iv) & (v) above, discretion has to be exercised with care. (Board's Confidential letter No.E(D&A)64 RG 6-35 dt. 10.12.64).

(C) Deemed Suspension -

In terms of Rule 5(2) of Railway Servants (Discipline & Appeal) Rules, a Railway servant shall be deemed to have been placed under suspension by an order of the Competent authority in the following cases:-

(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 - 48 hours.

- (b) With effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding 48 hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Note: The period of forty-eight hours referred to in clause (b) above, shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

- (2) It shall be the duty of the Government servant who may be arrested for any reason, irrespective of the period of detention, to intimate the fact of his arrest and the circumstances connected therewith to his official superiors promptly even though he might have subsequently been released on bail. On receipt of the information from the person concerned or from any other source, the departmental authorities should decide whether the facts and circumstances leading to the arrest of the person call for his suspension.

Failure on the part of the railway servant to so inform his official superiors will be regarded as suppression of material information and will render him liable to disciplinary action on this ground alone apart from the action that may be called for on the outcome of the police case against him. (Board's letters No.E(D&A) 59 R&E 6-37 dated 5.1.60 and 5.1.61).

3) A Railway servant will be deemed to have been placed under suspension in the following circumstances also:-

- (1) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a railway servant under suspension, is set aside in appeal or on revision under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders. (Rule 5(3) of RS(D&A) Rules).

- (ii) - Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a railway servant, is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement, was originally imposed, the railway servant shall be deemed to have been placed under suspension by the competent authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case. (Rule 5(4) of RS(D&A) Rules.)

- 4) The term 'inquiry' in sub-para 3(ii) above has a wider connotation and refers to any further action under the D&A Rules. (Board's letter No.E(D&A)61 RG 6-43 dt.28.4.65).

(D) Instructions regarding placing a Railway servant under suspension in specified circumstances.

- 1) If a case has been registered by the police against the Railway servant under Section 304-B of the IPC i.e. in a case of 'dowry death', he shall be placed under suspension in the following circumstances by the competent authority invoking the provisions of sub-rule (1) &(2) of Rule 5 of the Railway Servants (Discipline & Appeal) Rules:-

- i) If the railway servant is arrested in connection with the registration of the police case, he shall be placed under suspension immediately, irrespective of the period of his detention.
- ii) If he is not arrested, he shall be placed under suspension immediately on submission of a police report under sub-section (2) of Section 173 of the Code of Criminal Procedure 1973 to the Magistrate,

if the report, prima facie, indicates that the offence has been committed by the Government servant.

(Board's Confidential letter No.E(D&A) 87 RS 6-75 dated 22.7.57).

2) Suspension may be resorted to in very serious cases of corruption/moral turpitude or in cases where direct and specific evidence to implicate the railway servant in corruption cases, is already available. Suspension in such cases will tone up the integrity in the administration, by acting as a deterrent to corrupt employees indulging in such practices. One such instance where there is direct evidence of corruption is where a railway servant is caught red handed while accepting bribe in a trap arranged by a police organisation. After a trap is successfully laid, a criminal case is filed against the railway servant, which generally ends in his conviction. Subsequently, on the ground of conduct which had led to his conviction on a criminal charge, the railway servant is generally dismissed or removed from service. Thus, there is strong justification for placing under suspension, a Government servant who has been caught accepting illegal gratification in a trap case. Invariably, in such cases,

the Government servant should be placed under suspension with a view to making the anti-corruption measures more effective.

(Board's Confidential letter No.E(D&A) 85/RG6-15 dated 16.4.85).

3) In the following types of cases, there may be adequate justification for placing the concerned employee under suspension, whether on the request received from CBI or otherwise, at the stage indicated against each type of case:

- (i) In a case where a trap has been laid to apprehend a government servant while committing an act of corruption (usually receiving illegal gratification) and the Government servant has been so apprehended.
- (ii) In a case where, on conducting a search, it is found that a Govt. servant is in possession of assets disproportionate to his known sources of income and it appears, prima facie that a charge under Section 5(1)(e) of the Prevention of Corruption Act could be laid against him; immediately after the prima-facie conclusion has been reached.
- (iii) In a case where a chargesheet accusing a Govt. Servant of specific acts of corruption or of any other offence involving

moral turpitude has been filed in a criminal court; immediately after the filing of the chargesheet.

(iv) In a case where, after investigation by the CBI a prima facie case is made out and pursuant thereto regular Departmental action for imposition of a major penalty has been instituted against a Government Servant and a chargesheet has been served upon him alleging specific acts of corruption or gross misconduct involving moral turpitude; immediately after the chargesheet has been served upon the Government Servant.

(Board's Confidential letter No.E(D&A) 86 RC 6-58 dated 8.8.86).

4) The Supreme Court, in the case of Miranjan Singh and others Vs Prabekar Raja Ram Kharate and others, have made some observations about the need/desirability of placing a Government Servant under Suspension against whom serious charges have been framed by a criminal court, unless exceptional circumstances suggesting a contrary course exists. As and when criminal charges are framed by a competent court against a Government servant, the disciplinary authority should consider and decide the desirability of placing such a Government servant, under suspension in accordance with the rules,

if he is already not under suspension. If the Government servant is already under suspension or if he is placed under suspension following the criminal charges, the competent authority should also review the case from time to time in accordance with the instructions on the subject and take a decision about the desirability of keeping him under suspension till the disposal of the case by the Court.

(Board's letter No.E(D&A)81/RG 6-29 dated 18.7.81.)

II. REVIEW OF CASES OF SUSPENSION

Even though suspension is not considered a punishment it does constitute a great hardship for a railway servant and in fairness to him, it is essential to ensure that this period is reduced to the barest minimum. Also, unduly long suspension periods involve payment of subsistence allowance without the employee performing any useful service to the Government. Hence in case of railway servants under suspension every effort should be made to complete the investigation and file the charge-sheet in a court of competent jurisdiction in cases of prosecution or serve the chargesheet on the railway servant in cases of departmental proceedings, as the case may be, within three months of the date of suspension and in cases in which it may not be possible to do so, the disciplinary authority should report the matter to the next higher authority explaining the reasons for delay. However, in cases of departmental proceedings where a railway servant has been suspended pending investigation, the total period of suspension viz, both in respect of investigation and disciplinary proceedings, should not ordinarily exceed six months. In cases of this type also, where it is not possible to adhere to this time limit, the disciplinary authority

should report the matter to the next higher authority, explaining the reasons for delay.

(Board's letter No.E(D&A)95 RG 6-21 dt. 6.4.95).

If the investigation is likely to take more time, it should be considered whether the Railway servant should continue to remain under suspension or whether the suspension order should be revoked and the Railway servant permitted to resume duty. If the presence of the Railway servant is considered detrimental to the collection of evidence etc., or if he is likely to tamper with evidence, he may be transferred on revocation of the suspension order.

In regard to cases in which the Central Bureau of Investigation are also concerned with the investigation, the above time limit of three months will have to be reckoned from the date on which the cases are taken up by the CBI for investigation. So far as the CBI are concerned, the instructions above would involve two categories of cases, namely:

- (i) Cases where the suspension order is passed before the cases are taken up by, or entrusted to, the CBI for investigation; and
- (ii) cases where the order of suspension is passed after the cases are taken up by, or entrusted to, the CBI for investigation.

With a view to ensuring that the CBI is posted with information regarding the suspension of the concerned Railway servants, the Board desire that when a Railway servant is placed under suspension either at the request of the CBI or on the initiative of the competent Railway authority in regard to a matter which is under investigation or enquiry by the is CBI or which is proposed to be referred to CBI, a copy of the suspension order should be invariably sent to the Director, CBI, with an endorsement thereof to the Superintendent of Police of the Special Police Establishment of CBI. As there is some time lag between the placing of a Railway servant under suspension and the reference of the case to the CBI[@] promptly after the suspension orders are passed, in case it is not possible to refer such cases before the passing of such suspension orders.

(Board's letters No.E(D&A)65 RG 6-44 dt. 8.7.66 and E(D&A)70 RG 6-14 dt. 15.3.71, E(D&A) S5 RG 6-21 dt. 6.4.95.

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/ for investigation. Such cases should be referred to the CBI.

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III. SUBSISTENCE ALLOWANCE

A. The pay and allowance payable during the suspension is regulated under Rule 1342 - RII(FR 53). Under this rule, a railway servant under suspension or deemed to have been placed under suspension by an order of the competent authority shall be entitled to the following payments, namely -

- a) A subsistence allowance at an amount equal to the leave salary which the Railway servant would have drawn if he had been on leave on half average pay or on half pay and in addition dearness allowance, if admissible, on the basis of such leave salary.

Provided that where the period of suspension exceeds 3 months the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first 3 months as follows:-

- (i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 per cent of the subsistence allowance

admissible during the period of the first three months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the railway servant.

(ii) the amount of subsistence allowance may be reduced by a suitable amount not exceeding 50 per cent of the subsistence allowance admissible during the period of the first three months, if in the opinion of the said authority, the period of suspension has been prolonged, due to reasons, to be recorded in writing, directly attributable to the railway servant;

(iii) the rate of dearness allowance will be based on the increased or as the case may be, decreased amount of subsistence allowance admissible under sub-clauses (i) and (ii) above.

b) Any other compensatory allowances admissible from time to time on the basis of pay which the railway servant was in receipt on the date of suspension, subject to the fulfilment of other conditions laid down for the drawal of such allowances.

(c) No payment as detailed in (a) and (b) above shall be made unless the railway servant furnishes a certificate that he is not engaged in any other employment business, profession or vocation.

Provided that in the case of a Railway servant dismissed, removed or compulsory retired from service, who is deemed to have been placed under suspension or the orders of suspension is deemed to have continued from the date of such dismissal or removal or compulsory retirement, under sub-rule (3) or sub-rule (4) of Rule 5 of Railway Servants (Discipline & Appeal) Rules, 1968, and who fails to produce such a certificate for any period or periods during which he is deemed to be placed under suspension or the orders of suspension is deemed to have continued, he shall be entitled to the subsistence allowance and other allowances equal to the amount by which his earnings during such period or periods fall short of the amount of subsistence allowance and other allowances that would otherwise be admissible to him. If his earnings are equal to or more than the subsistence allowance admissible to him, he will not be paid anything.

B) The quantum of subsistence allowance can be further reviewed as follows:-

- (i) Though the proviso to Rule 1342 (1) (a)/FR53(1)-(a)R-II does not specifically provide for a second or subsequent review, there is no objection to such review(s) being made by the competent authority. Such authority shall be competent to pass orders to increase or decrease the rate of subsistence allowance up to 50% of the amount of the subsistence allowance initially granted, according to the circumstances of each case. A second or subsequent review can be made at any time at the discretion of the competent authority.
- (ii) It is permissible to reduce the amount of subsistence allowance once increased on the basis of the first review up to 50% of the amount of the subsistence allowance initially granted, if the period of suspension has been prolonged for reasons directly attributable to the railway servant i.e. by his adopting dilatory tactics.

Similarly, in a case where the amount of subsistence allowance has been reduced after the first review, the same can be increased ~~up to~~ 50% of the amount initially granted, if the period of suspension has been prolonged for reasons not directly attributable to the Railway servant and the Railway servant has given up dilatory tactics. (Board's Letter No.F(E)66-SPN/1/1 dt. 21.8.66).

C. Grant of subsistence allowance of railway servants selected as Apprentices.

Permanent railway servants selected as apprentices continue to remain as railway servants during the period of apprenticeship and therefore, they can be suspended in terms of D&A Rules. During the period of suspension, they should be deemed to be reverted to their substantive posts and paid subsistence allowance for the period of suspension on the basis of their pay in the substantive posts.

(Board's letter No.E(D&A)67 RG 6-5 dt. 11.12.67)

D. Deduction from subsistence allowance

1. The following deductions can be made from the subsistence allowance:-

(a) Compulsory deductions

- (i) Income Tax where due.
- (ii) House rent and allied charges i.e.
electricity charges, water charges,
- (iii) Station debits, stores debits, workshop
debits.
- (iv) Hospital diet charges.
- (v) Doctors fee under contract system.
- (vi) Recovery towards advances and loans
taken from Government.

(b) OPTIONAL DEDUCTIONS (which may not be
recovered except with the written consent
of the suspended employee)

- (i) LIC premia.
- (ii) Subscription of Railway Institutes and Clubs.
- (iii) Cooperative dues
- (iv) Refund of SBF/PF loans.
- (v) School fees.

(c) Prohibited deductions (which cannot at all
be made)

- (i) Subscription to GPF.
- (ii) Amounts due on court attachments.
- (iii) Recovery of loss to Govt. for which the
Railway servant is responsible until the
issue of formal order fixing responsibility
for the loss.

2. Recovery of over payments.

There is no bar to effect the recovery of over payments from the subsistence allowance but the competent administrative authority will exercise discretion to decide whether the recovery should be held wholly in abeyance during the period of suspension or it should be effected at full or at reduced rate depending upon the circumstances of each case. Where, however, there is an anticipated risk of loss of money by dismissal or death of the Government servant, the recovery should not be deferred. In such of the above cases, where it has been decided that the over payments should be recovered from the subsistence allowance, the quantum of recovery should not ordinarily exceed 1/3rd of the gross amount of subsistence and other allowance admissible under Rule 1342-RII (Beard's letter No.F(E) 49/SPN/1 dated 17.5.57 and F(E)60/SPN-3(1) dt.16.12.60).

E. Ex-parte proceedings during suspension.

The Supreme Court, in the case of Ganshyam Das Srivastava Vs. State of Madhya Pradesh (AIR-1973-SC-1183), had observed that where a Government servant under suspension pleaded his inability to attend the

enquiry on account of financial stringency caused by the non-payment of subsistence allowance to him the proceedings conducted against him ex-parte would be in violation of the provisions of Article 311(2) of the Constitution as the person concerned did not receive a reasonable opportunity of defending himself in the disciplinary proceedings. Keeping in view the fact that, by its very nature, subsistence allowance is meant for the subsistence of a suspended Government servant and his family, during the period he is not allowed to perform any duty and thereby earn any salary, prompt steps have to be taken to ensure that after a Government servant is placed under suspension, he receives subsistence allowance without delay.

(Board's letter No.E(D&A)81/RG 6-22 dt. 18.8.81)

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IV. TERMINATION OF SUSPENSION AND TREATMENT OF THE PERIOD OF SUSPENSION.

A. In terms of Rule 1345-RII, ^{if} a Railway servant who has been suspended is reinstated i.e., taken back on duty (or would have been reinstated but for his retirement while under suspension), the authority competent to order reinstatement shall consider and make a specific order -

(a) regarding the pay and allowances to be paid to the railway servant for the period of suspension or date of his retirement, as the case may be.

(b) whether or not the said period shall be treated as a period spent on duty.

The competent authority is to make above orders in accordance with the provisions given in this Rule. These provisions specify that -

1. Where a railway servant under suspension dies before the disciplinary or the court proceedings instituted against him are concluded, the period between the date of suspension and the date of

death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid.

2. Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the railway servant shall be paid full pay and allowances to which he would have been entitled, had he not been suspended and the period of suspension will be treated as duty for all purposes.
3. Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified by the termination of the proceedings instituted against the railway servant had been delayed due to reasons directly attributable to the railway servant, the railway servant shall be paid for the period of such delay only such proportion

(not being the whole) of the pay and allowances as the competent authority may determine after giving the railway servant an opportunity to make his representation and after considering the representation, if any, submitted by him but this amount shall not be less than the subsistence allowance and other allowances admissible under Rule 1342-RII and the period of suspension shall be treated as a period spent on duty for all purposes.

4. In cases where suspension was not wholly unjustified, the railway servant shall be paid such amount (not being the whole) of the pay and allowances as the competent authority may determine, after giving notice to the railway servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection but this amount shall not be less than the subsistence allowance and other allowances admissible under Rule 1342-RII and the period of suspension

shall not be treated as a period spent on duty unless the competent authority specifically directs that it shall be so treated for any specified purpose, provided that if the railway servant so desires, such authority may order that the period of suspension shall be converted into leave of any kind due and admissible to the railway servant.

Note : -

1. The order of the competent authority for treatment of the period as leave in terms of sub-para (4) above shall be absolute and no higher sanction shall be necessary for the grant of -

(a) extraordinary leave in excess of three months in the case of temporary railway servant; and

(b) leave of any kind in excess of five years in the case of permanent railway servant.

2. The payment of allowances referred to in the above paragraphs shall be subject to all other conditions under which such allowances are admissible.

B. When departmental proceedings against a suspended employee for the imposition of major penalty finally ends with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of rule 1345-RII. (Board's letter No.E(D&A)86 RG6-19 dated 21.3.1986).

C. In cases where the period of suspension is ordered to be treated as leave on the request of the railway servant in terms of para IV(A)(4) above, and if on conversion, it is found that the greater part of the period is to be treated as leave without pay, recovery of subsistence allowance already paid will be inescapable. (Board's letter No.F(E)52/SPN/(1) dated 29.2.1960).

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V. GENERAL

A. Orders for placing a Railway servant under suspension and for revocation of suspension.

(a) Standard forms have been prescribed through Board's letter No.E(D&A)66RG6-7 dated 5.9.70 for placing a railway employee under suspension/deemed suspension and for revocation of suspension. If these standard forms are not found fully to meet the requirements of any case, the competent authority should amplify/modify the appropriate form suitably to meet the requirements of the case and should indicate all the cases (criminal/departmental under investigation/trial/contemplation) on the basis of which it is considered necessary to place Government servant under suspension so that in the event of reinstatement of the Government servant, the outcome of all such cases can be taken into account, while regulating the period of suspension.

(b) The orders to be communicated in these forms are to be issued over the signature

and designation of the authority competent to pass the orders. Sometimes orders are signed by a lower authority on behalf of the competent authority, though the orders of competent authority have been obtained in the concerned file. The above practice is not desirable. Such orders being of statutory nature, it is desirable that the order should be issued over the signature and designation of the authority competent to pass the orders. (Board's letter No.E(D&A)70RG6-58 dated 18.11.70).

- (c) Where the order of suspension is made by an authority lower than the authority competent to suspend the railway servant, in terms of the proviso to Rule 5(1) of the RS(D&A) Rules, a copy of the orders should be sent to the authority competent to suspend the railway servant, for information. This should be done under a separate covering letter in which the details of the case and reasons for suspension should be furnished. (Board's letter No.E(D&A) 66RG6-7 dated 7.9.70).

- (d) Whenever an official is under suspension and any other case is initiated against him and the competent authority considers it necessary that the official should remain under suspension in connection with that case also, then the competent authority should pass another order to this effect in accordance with Rule 5(5)(b) of D&A Rules, so that in the event of reinstatement of the Railway servant, the facts of the latter case can also be taken into account while regulating the period of suspension.

B. Suspension of Railway servants lent to other departments and of officials borrowed from other departments.

- (1) Where the services of a Railway servant are lent to other departments, the borrowing authority shall have the powers of the authority competent to place the railway servant under suspension for the purpose of placing him under suspension provided

that the borrowing authority shall forthwith inform the lending authority of the circumstances leading to the order of his suspension.

- (2) Where the service of a Government servant from other departments are borrowed for appointment to a service or post under the Ministry of Railways, the authority which appointed him to that service/post (i.e., the borrowing authority) shall have the powers of the lending authority for the purpose of placing such Government servant under suspension provided that where an order suspending such Government servant is made, the borrowing authority shall forthwith inform the lending authority of the circumstances leading to the order of suspension.

C. Head Quarters of a suspended railway servant.

An officer under suspension is subject to all other conditions of service applicable generally to Railway servants and cannot leave the station without prior permission. As such, the Head Quarter of a

railway servant should normally be assumed to be his last place of duty. However, where an individual under suspension requests for a change of Head Quarters, there is no objection to a competent authority changing the Head Quarters, if it is satisfied that such a course will not put the Railway administration to any extra expenditure like grant of T.A. etc. or other complications.

D. Attendance of the employee under suspension.

An employee under suspension is not required to attend to his work but he cannot leave his Head Quarters without prior permission of the competent authority. There is, however, no question of his giving daily attendance and marking his presence. (Board's letter No.E(D&A)83RG6-17 dt. 31.5.83).

E. Passes and PTOs to employees under suspension.

Passes and PTOs may be granted to Railway servants under suspension in exceptional circumstances and not as a matter of course when the railway servant is permitted to leave the station by an authority not lower than that which suspended him. Passes and PTOs to Railway employees under suspension are given on the scales specified in para 19 of Schedule

VII of Railway Servants (Pass) Rules, 1986.

F. Resignation during suspension.

As officers are placed under suspension only in cases of grave delinquency it would not be correct to accept resignation from an officer under suspension except where the alleged offence does not involve moral turpitude or where the evidence available is not strong enough to justify assumption that if the proceedings were continued, he would be removed or dismissed from service, or where the proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation. Resignation may however not to be accepted normally unless it is in public interest because one or more of the above conditions are fulfilled, and in any case it must be done with the prior approval of the competent authority to dismiss the railway servant. (Board's letter No.E(NG)II/70 RE/1 dated 24.6.72, E(NG)64RE/1/36 - 26.10.66, 20.11.67, 15.1.68).

G. Forwarding of applications.

Applications of such railway servants who are under suspension or against whom departmental

proceedings are pending should not be forwarded, nor should they be released for any assignment scholarship, fellowship, training etc. under international agency, organisation or a foreign government. Such railway servant should also not be sent or allowed to go on deputation or to foreign service to posts under an authority in India. These instructions should be followed mutatis mutandis while forwarding applications for railway servants for posts/services whether on the Railways (to Railway Service Commission) or outside the Railways (through UPSC etc.).

H. Revocation of suspension by specific order .

In terms of Rule 5(5)(a) of RS(D&A) Rules, an order of suspension made or deemed to have been made shall continue to remain in force until it is modified or revoked by the authority competent to do so. Sometimes orders **are issued to a Railway servant** under suspension asking him to report for duty without specifically revoking the order of suspension. Although an order issued to a railway servant under suspension asking him to report for duty implies that the order of suspension has been revoked, yet with a

view to meeting the requirement of the provisions of the aforesaid rule, it is necessary that a specific order should be made regarding revocation of suspension. The standard form No.4 circulated vide Board's letter No.E(D&A)66RG6-7 dated 5.9.70 should be invariably used in such cases. (Board's letter No.E(D&A)70RG6-66 dated 30.9.70).

I. Voluntary retirement during suspension.

In the case of railway servant under suspension the exercise of the right of voluntary retirement by him shall be subject to the prior approval of the appointing authority. (Board's letter No.E(D&A) 65RG6-54 dated 18.8.66).

Voluntary retirement becomes effective after the expiry of the notice period even if no formal letter of acceptance is issued by the administration. Although, the appointing authority has powers to withhold permission to Railway servant under suspension to retire under Rule 2046(1) Proviso, but if it fails to communicate to such a railway servant under suspension its withholding of permission for him to retire voluntarily within the period of three months notice, automatic retirement at the expiry of his

period will follow.

The Railway servant may however, withdraw the notice at any time before the expiry of notice period.

J. Acting of railway servant placed under suspension as a defence helper in departmental enquiry proceedings.

There is no bar to a railway servant placed under suspension acting as a defence helper.

(Board's letter No.E(D&A)74RG6-31 dt. 11.11.74).

K. Appeal against order of suspension, subsistence allowance and pay and allowances for the period of suspension.

Subject to the provisions of Rule 17, Rule 18 of RS(D&A) Rules allows a railway servant to prefer an appeal against :

- (i) and order of suspension made or deemed to have been made under Rule 5 of RS(D&A) Rules.
- (ii) an order determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be

under suspension or for any portion thereof.

- (iii) an order determining his pay and allowances for the period of suspension.
- (iv) an order determining whether or not the period from the date of his suspension to the date of his reinstatement shall be treated as a period spent on duty for any purpose -

In respect of (i) above, the appeal shall lie to the authority specified in the Schedules. In respect of (ii), (iii), and (iv) above the appeal shall lie as follows :

- (a) In the cases of employees on whom the penalty of dismissal from service can be imposed only by the President, the appeal shall lie to the President.
- (b) In respect of other Railway servants, appeal shall lie to the authority to which the authority who has made the order is subordinate.

List of letters

The consolidation has been made from the following original letters :-

1. F(E)49-SPN/1	dt.17.05.57	
2. E(D&A)59RG6-37	dt. 5.01.60	
3. F(E)52/SPN/(1)	dt.29.02.60	
4. F(E)60 SPN-3(1)	dt.16.12.60	
5.E(D&A)59RG6-37	dt. 5.01.61	
6. E(D&A)64RG6-35	dt.10.12.64	(Confidential)
7. E(D&A)61 RG6-43	dt.28.04.65	
8. E(D&A)65 RG6-44	dt. 8.07.66	
9. E(D&A)65 RG6-54	dt.18.08.66	
10. F(E) 66-SPN/1/1	dt.21.8. 66	
11. E(NG) 64 RE/1/36	dt.26.10.66	
12. E(NG) 64 RE/1/36	dt.20.11.67	
13. E(D&A)67 RG6-5	dt.11.12.67	
14. E(NG) 64 RE/1/36	dt.15.01.68	
15. E(D&A) 66 RG6-7	dt. 5.09.70	
16. E(D&A) 66 RG6-7	dt. 7.09.70	
17. E(D&A) 70 RG6-66	dt.30.09.70	
18. E(D&A) 70 RG6-58	dt.18.11.70	
19. E(D&A)70 RG6-14	dt.15.3. 71	
20. E(NG)II/70 RG/1	dt.24.06.72	
21. E(D&A)74 RG6-31	dt.11.11.74	
22. E(D&A)81 RG6-29	dt.13.07.81	
23. E(D&A)81 RG6-22	dt.18.08.81	
24. E(D&A)83 RG6-17	dt.31.05.83	
25. E(D&A)85 RG6-15	dt.16.04.85	(Confidential)
26. E(D&A)86 RG6-19	dt.21.03.86	
27. E(D&A)86 RG6-58	dt.08.08.86	(Confidential)
28. E(D&A)87 RG6-75	dt.22.07.87	(Confidential)
29. E(D&A)95 RG6-21	dt. 6.04.95	