GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

No. 91-Sec.(E)/DAR-1/1 New Delhi, dated: 4-92

7-5

DIRECTIVE NO. 6

Sub: Disciplinary proceedings and report of Enquiry Officer-Supply of copy to the delinquent.

RPF Rules, 1987 do not provide for issue of show cause notice or supply of copy of the report of Inquiry Officer before final decision is taken by disciplinary authority on receipt of the enquiry report on conclusion of the enquiry. The Hon'ble Supreme Court have in case of Union of India & Others Vs. Mohd. Ramzan Khan reported in 1991 LAB.I.C. 308 considered the effect of non-supply of the report of the Enquiry Officer by Disciplinary authority to the delinquent employee before imposition of punishment. The Court has held as under:-

"There have been several decisions in different High Courts which following the Forty-Second Amendment have taken the view that it is no longer necessary to furnish a copy of the inquiry report to delinquent officers. Even on some occasions this Court has taken that view. Since we have reached a different conclusion the judgement in the different High Courts taking the contrary view must be taken to be no longer laying down goodlaw. We have not been shown any decision of a coordinate or a larger Bench of this Court taking this view. Therefore, the conclusion to the contrary reached by any two judge Bench in this Court will also no longer be taken to be laying down good law but this shall have prospective application and no punishment imposed shall be open to challenge on this ground."

We make it clear that wherever there has been an enquiry officer and he has furnished a report to the disciplinary authority at the conclusion of the enquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."

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2. In view of the Supreme Court's decision supra, it is desired that in cases where the disciplinary authority himself is not the enquiring authority, a copy of enquiry officer's report be given to the delinquent staff to make a representation if he so desires, within a reasonable stipulated time. After receipt of the representation, if any, the disciplinary authority should pass the final orders.

3. In the above view of the matter, the disciplinary authority, if it is different from the inquiring authority, shall, before making a final orders in the case, forward a copy of the inquiry report to the charged staff with the following endorsement.

> "The report of the Inquiry Officer is enclosed. The Disciplinary authority will take suitable decision after considering the report. If you wish to make any representation or submissions, you may do so in writing to the disciplinary authority within 15 days of the receipt of this letter."

Directive No. 3 issued vide this office letter of even number dated 27.1.92 may be treated as cancelled.

Kindly acknouledge receipt.

29/4/92
(RAJA SREEDHARAN)
Director General/RPF
Railway Board.

DA: Nil.

The Chief Security Commissioners/RPF,
All Indian Railways.

The Chief Security Commissioner/RPSF,
Railway Board.

Copy to: Security(Special) Branch for record.