



National Federation of Indian Railwaymen

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Affiliated to :

Indian National Trade Union Congress (INTUC)
International Transport Workers' Federation (ITF)

No. II/5/Part III

Dated: 30/05/2018

The Secretary (E),
Railway Board,
New Delhi
Dear Sir,

Sub: Imposition of penalties of 'Dismissal/Removal or Reduction in rank' on employees in Railways – violation of provisions of the Constitution of India – reg.

Ref: (i) **NFIR's PNM Item No, 31/2012.**
(ii) Railway Board's letter No. E(D&A)2012 RG 6-34 dated 30/09/2015.
(iii) NFIR's letter No. II/5/Part II dated 21/02/2017.
(iv) NFIR's letter No. II/5/Part III dated 19/02/2018.

Pursuant to the NFIR's Agenda Item No. 31/2012, instructions were re-iterated by the Railway Board vide letter dated 30/09/2015 that the penalties of dismissal/removal/compulsory retirement should not be imposed by the lower authorities merely on the ground that such authority has signed appointment/promotion order, which has actually been approved/ordered by the higher authorities.

In this connection, NFIR again invites the attention of Railway Board vide Federation's letter dated 21/02/2017, followed by reminder dated 19/02/2018 that under the Article 311 of the Constitution of India no person, who is a member of a Civil Service of the Union or an All India Service or a Civil Service of a State or holds a Civil post under the Union or a State, shall be dismissed or removed by an authority subordinate to that by which he was appointed, as the Schedule of Powers (SoP) created by the Zonal Railways with the approval of General Managers in the Zones/Production Units are in violation of the Article 311.

It is not understood as to how a Group 'C' Railway employee appointed by a SA Grade Officer can be removed from service by a Sr. Scale/JA Grade Officer when he is not competent to exercise such power. Federation desires to mention that still the cases of removal/dismissal/compulsory retirement from Railway service in respect of Group 'C' employees, imposed by incompetent authorities are being reported to the Federation. In this connection, Federation cites a classic case of Northern Railway, facts of the same are placed below for proper appreciation and issuing suitable clarificatory instructions to the Zonal Railways etc., in general and Northern Railway in particular.

- Shri Harminder Singh, Ticket Collector while working in Ferozpur Division of Northern Railway was issued major penalty charge sheet as a result of check conducted by Railway Board Vigilance. He was transferred inter-divisionally to Ambala Division. The DAR inquiry was conducted by the Inquiry Officer.
- The Divisional Commercial Manager, Ferozpur (Sr. Scale Officer), though wrongly acting as Disciplinary Authority in this case had imposed punishment of removal from service (w.e.f. 03/01/2008) on employee. Surprisingly, the Sr. DCM, Ferozpur acted as Appellate Authority in this case, who while setting aside the punishment of removal from service, reduced the same to reduction in rank as Ticket Collector for a period of ten years vide order dated 27/08/2008.

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- The Appointing Authority viz., ADRM, Ferozpur, acted as Revisionary Authority in the instant case and further reduced the punishment imposed by the Appellate Authority (Sr. DCM) i.e. reduction in rank for two years vide order dated 06/10/2008. Interestingly, the case has not seen the door of head quarters office and at no stage the Competent Revisionary Authority in head quarters has been involved in this major penalty case.
- The employee in the meantime was relieved from Ferozpur Division to Ambala Division. Surprisingly, the ADRM, Ambala instead of implementing the order passed by the ADRM, Ferozpur referred the case to the General Manager, Vigilance, Northern Railway knowing fully well that the punishment of reduction in rank for a period of two years falls within the definition of 'Major Penalty', therefore there was no necessity to make reference to the Vigilance organization. This action of the ADRM, Ambala for not implementing the order by the same Authority is highly irregular and in gross violation of Board's order issued vide letter No. 2012/VI/Meet/5/2 dated 28/11/2017.

The points cited above are sufficient to prove that in the Divisions/Zones/Units, the Administrative Authorities do not care to implement directives issued by the Railway Board from time to time while at the same time the rules/schedule of powers created on the Zones/Units with the approval of General Managers etc., are in gross violation of Article 311 of the Constitution. Federation also reiterates that relevant provisions framed by the Railway Board and the SOPs on the Zones etc., if challenged by the employee before the Court of Law, the Railways and the Railway Board has no ground to defend as the decisions are against the spirit of the Constitution.

NFIR, therefore, requests the Railway Board to kindly issue instructions for modification of the SOPs in terms of constitutional provision, and also to settle the above mentioned case in accordance with the law. Action taken in the matter may be conveyed to the Federation.

Yours faithfully,


(Dr. M. Raghavaiah)
General Secretary . .

Copy to the General Manager, Northern Railway, Baroda House, New Delhi for information and necessary action please.

Copy to the Principal Executive Director (Vig), Railway Board, New Delhi for information and necessary action please.

Copy to the General Secretary, URMU, 166/2 P.K. Road, New Delhi with reference to letter dated 18/05/2018.

Copy to the General Secretaries of affiliated Unions of NFIR (except URMU).
Media Centre/NFIR.

File No. 31/2012 (PNM).