Government of India
Ministry of Railways
Railway Board

No.2012/V-1/CBI/1/7

New Delhi, dated 29 July, 2013

The General Managers,
All Zonal Railways, PUs,
CORE & Metro

The General Managers
(Vigilance)
All Zonal Railways

Sub: Action to be taken in cases where the Railway Servants are convicted by criminal courts.

Please find enclosed Board Establishment’s letter No. E(D&A)/2013/RG6-1 dated 8.7.2013 on the subject referred above, for guidance and necessary action.

DA/As above.

(Vikas Purwar)
Director Vigilance(M)
Railway Board

All Officers in Vigilance Directorate
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E(D&A) 2013 RG6-1

New Delhi, dated 8.7.2013

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

Sub:- Action to be taken in cases where the Railway Servants are convicted
by criminal courts.

A Zonal Railway had in the year 2011, referred to the Ministry of Railways for
appropriate action, the case of a Railway servant who had retired from service on
superannuation in January, 1992 and had been convicted by the CBI court on a criminal
charge in November, 1992. The trial court had sentenced the retired Railway Servant
concerned to undergo rigorous imprisonment of one year and to also pay a fine of ₹1000.
The retired Railway servant concerned filed an appeal against his conviction which was
admitted in December, 1992. While admitting the appeal the appellate court had granted
ball to the convicted Railway servant and also stayed the realisation of fine from him
pending disposal of his appeal.

2. The matter was examined by the concerned Directorate in this office and papers
thereafter, were submitted to the Hon’ble Minister for Railways for consideration on behalf
of the President under Rule 9 of Railway Services (Pension) Rules, 1993. Hon’ble Minister
for Railways has taken a very serious view of the abnormal delay of as much as about two
decades that has taken place in referring this case to the Board’s office for further action.

3. The case records has revealed that the abnormal delay as aforesaid took place in the
case mainly due to lack of clarity on the part of Zonal Railway authorities as to whether
action could be taken against a Railway servant based on his conviction when the appeal
filed by him against his conviction is pending. In this connection, attention of the Railways is
invited to Instructions contained in Board’s letter No. E(D&A) 93 RG6-65 dated 6.6.1994. It
may be noticed that these instructions clearly answers the issue in question. It has been
categorically provided in Board’s letter dated 6.6.1994 mentioned above that the mere filling
of an appeal and/or stay of the execution of the sentence do not take away the effect of
conviction, unless the appeal is allowed and the conviction is set aside by the appellate
court. The competent disciplinary authority may proceed with the institution/completion of
disciplinary proceedings, including imposition of the penalty as prescribed in the disciplinary
rules, on the basis of conviction imposed on the Railway servant by a criminal court
notwithstanding the fact that a higher court on an appeal filed by the railway servant
concerned may order suspension of the “sentence” passed by the trial court till the final
disposal of the appeal.

4. The instructions brought out in para 3 above are hereby reiterated for the
information and guidance of all concerned. It may please be ensured that in case of
conviction of a Railway servant on a criminal charge prompt action is taken in the light of
the position stated in Railway Board's letter dated 6.6.1994 under reference so that the type of the situation as took place in the case referred to in this letter, be avoided in future.

5. Please acknowledge receipt.

Deputy Director Establishment (D&A)
Railway Board

New Delhi, dated: 7.7.2013

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi (with 35 spares).
2. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi (with 35 spares).
3. All Members, Departmental Council & National Council and Secretary, Staff Side, National Council, 13-C, Ferozshah Road, New Delhi (60 spares).
4. The Secretary General, IRPOF, Room No.268, Rail Bhawan, New Delhi (6 copies).
5. The Secretary General, FROA, Room No.256-A, Rail Bhawan, New Delhi (6 copies).
6. The Secretary, RBSSS 'Group A' Officers' Association, Room No.462, Rail Bhawan, New Delhi.
7. The Secretary, RBSSS 'Group B' Officers' Association.
8. The Secretary, Railway Board Ministerial Staff Association.
9. The Secretary, Railway Board 'Group D' Employees' Association.
10. The Secretary General, AIRPFA, Room No.256-D, Rail Bhawan, New Delhi.
11. The Secretary, RBSSS 'Group A' Officers' Association, Room No.506, Rail Bhawan, New Delhi.
12. M/s Bahri Brothers, 742, Latpat Rai Market, Delhi-110 006, P.O. Box No.2032.
13. Adviser (Safety), Railway Board, New Delhi.
15. The General Secretary, All India SC/ST Railway Employees Association, Room No.7, Ground Floor, Rail Bhawan, New Delhi-110001.
16. The General Secretary, Retired Railway Employees' Welfare Association (Regd.), 490A/16, Gurudwara Road, Gurgaon.
17. The Manager(HRD), Rail Land Development Authority, Near Safdarjung Railway Station, Motibagh-1, New Delhi-110021.
18. The Chief Mechanical Engineer, Indian Railways Organisation for Alternate Fuels, 12th Floor, Core-1, Scope Minor, District Centre, Laxmi Nagar, Delhi-110092.
19. Office of Chief Administrative Officer, Indian Railways (Workshop Projects), Chamber Bhawan, Judge's Court Road, Anata Ghat, Patna-800001, Bihar.
20. Adviser (Projects), Room No.548, M/o Railways, Rail Bhawan, New Delhi.
21. Chief Administrative Officer, Rail Coach Factory/Raebareli Project, Kishanganj, Delhi-110007.

Copy to:

PS/MR, PS/MSR(A), PS/MSR(K)
PSO/PPSS to CRB, FC, MS, MT, ME, MM, ML/DG/RPF, DG/RHS, Secretary, AM(Staff), Adv(Vig.), ED(TR)
JS, JS(G), JS(E), JS(Conf.), EDE, EDE(Rsc),
DE(D&A), Dr.(EII), DS(D&A), DE(O), USE(O), US(A), IV,
V-I, ERB-I, ERB-VI, ERB-V, E(Rep), I, E(Rep)II, E(Rep)III, E(SCT)I, E(SCT)II,
E(O)I and
E(O)I CC branches in Board's Office.
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

CONFIDENTIAL

No.5(L/M)93/R GD-55

New Delhi, dated 6.6.1994

The General Manager (F),
all Indian Railways etc;
(As in standard List I & II)

Sub : Action to be taken in cases where Government servants are convicted by Criminal Courts.

In Board's Confidential letter No.5(L/M)76/66-4 dated 4.3.1978, it was clarified that the disciplinary authority may, if it comes to the conclusion that an order, with a view to imposing a penalty on a railway servant on the ground of conduct which has led to his conviction on a criminal charge, should be issued, issue such an order without waiting for the period of filing an appeal or, if an appeal has been filed, without waiting for the decision in the first court of appeal.

2. Doubts have been expressed whether disciplinary action against a Government servant could be taken if there is -

(i) a stay of the sentence awarded to the Government servant, or

(ii) a stay of the conviction of the public servant, in cases where he has gone in appeal and challenged the conviction.

The matter has been considered by the Department of Personnel and Training in consultation with the Ministry of Law and the Central Vigilance Commission and the position as clarified by DO&T, Vice their C.R.No.371/45/92-IV dated 4.3.1994 is as follows.

5. Legally speaking, when a person is convicted by a Criminal Court, the same shall remain in force until and unless it is reversed or set aside by a competent court in appeal. The mere filing of an appeal and/or stay of the execution of the sentence do not take away the effect of conviction, unless the appeal is allowed and the conviction is set aside by the appellate court. In the case of Om Prakash Narang Vs. Union of India and Ors.,(1930) 12 AIC 365, the full Bench of Calcutta held
that during pendency of appeal in a criminal case, only the sentence is suspended - not the conviction itself. In view of this, the competent disciplinary authority may proceed with the institution/completion of disciplinary proceedings, including imposition of the penalty as prescribed in the relevant disciplinary rules, on the basis of conviction imposed on a public servant by a criminal court not instancing the fact that a higher court on an appeal by the public servant concerned, may order suspension of the "sentence" passed by the trial court till the final disposal of the appeal.

4. The above clarification may be brought to the notice of all the disciplinary authorities for their guidance.

[V.M. Del.]
Deputy Director Establishment
Railway Board

No. 2(D-I)93 RS6-65
New Delhi, dated 3-6-1994

Copy to: - The Department of Personnel and Training,
(C.A. Singh, Deputy Secretary), North Block,
New Delhi.

[V.M. Del.]
Deputy Director Establishment (Usa)
Railway Board.

Copy to: - (1) 2(D-I), 3(A)-I, 3(Aa)-D, 3(Aa)-V, Sec(3) and
VI-II Branches of Railway Board,
(2) 3(Aa)(Usa), 3(C)(Usa) Railway Board.