

RBE No. 35/2008

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E(D&A) 2008 RG6-9

New Delhi, 11/3/2008

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

Sub: Advice of the Union Public Service Commission (UPSC) in
the disciplinary cases to be communicated to the delinquent
employee along with the final order of penalty.

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A copy of Department of Personnel and Training's O.M. No. 11012/10/2007-
Estt. (A) dated 7.1.2008 on the above subject is sent herewith. The contents of the
above O.M. may please be brought to the notice of all concerned on your Railway for
their information and guidance. The corresponding provisions to Rule 32 of the
Central Civil Services (Classification, Control and Appeal) Rules, 1965; mentioned in
the first para of the O.M. dated 7.1.2008, are contained in Rule 28 of the Railway
Servants (Discipline and Appeal) Rules, 1968.

Please acknowledge receipt.

Sd/-
(Harish Chander)
Dy. Director Estt. (D&A) III
Railway Board

DA: As above

“In view of the law settled by the Constitution Bench of this Court in the case of Srivastava (supra) we hold that the provisions of Article 320(3)(c) of the Constitution of India are not mandatory and they do not confer any rights on the public servant so that the absence of consultation or any irregularity in consultation process or furnishing a copy of the advice tendered by the UPSC, if any, does not afford the delinquent government servant a cause of action in a court of law. “

3. The judgement of the Hon'ble Supreme court in the case of S.N. Narula vs. Union of India and others [SLP(c)12188/2003], on the facts and circumstances of that case apparently did not lay down any law. Whereas in the later judgement in T.V. Patel's case delivered on 19.4.2007, the Apex Court has laid down law relying on two earlier decisions of the Apex Court, one of the Constitution Bench and another of a three Judge Bench. In view of the judgment dated 19.04.2007 of the Hon'ble Supreme Court it is clear that the Disciplinary Authority is not required to furnish a copy of the advice tendered by the Union Public Service Commission to the Charged Officer before the final order of penalty is passed.

4. All Ministries/Departments/Offices etc. are, therefore, requested to comply with the existing provisions of CCS(CCA) Rules, 1965 and bring the contents of this O.M. to the notice of all concerned for adopting a uniform stand and to make serious efforts to get the litigation cases on this subject disposed of by the various courts on the basis of the law laid down by the Hon'ble Supreme Court in the judgements referred to in the preceding paragraphs.

sd/ (P. Prabhakaran)
Deputy Secretary to the Government of India

To

All Ministries/Departments of the Government of India.

Copy forwarded to :

1. Comptroller and Auditor General of India, New Delhi

2. Lok Sabha Secretariat/Rajya Sabha Secretariat/Ministry of Parliamentary Affairs.
3. Union Public Service Commission, New Delhi.
4. President's Secretariat/Vice-President's Secretariat/ Prime Minister's Office.
5. Election Commission of India, New Delhi.
6. Central Vigilance Commission, New Delhi.
7. Staff Selection Commission, New Delhi.
8. Central Bureau of Investigation, New Delhi.
9. Chief Secretaries of all State Governments/Union Territory Administrations.
10. All Attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.
11. All Officers and Sections in the Ministry of Personnel, PG and Pensions and Ministry of Home Affairs.
(200 spare copies).