

Sub: Choice of Assisting Railway Servant (Defence Helper) in major penalty disciplinary proceedings.

1. Item (a) of Rule 9(13) of the Railway Servants (Discipline and Appeal) Rules provides that a charged Railway servant may present his case with the assistance of any other Railway servant employed on the same Railway Administration on which he is working. If the railway servant is employed in the office of Railway Board, its attached office or subordinate office, he may present his case with the assistance of any other Railway servant employed in the office of the Railway Board, attached office or subordinate office, as the case may be, in which he is working. Item (b) of Rule 9(13) also provides that a charged Railway servant may present his case with the assistance of a retired Railway servant subject to such conditions as may be specified by the President from time to time by general or specific order in this behalf. In the special orders which have been issued in this behalf vide Board's letter No.E(D&A)77 RG6-33, dated 09.12.1977 and E(D&A)83 RG6-19, dated 13.05.1984 ,it is provided that the retired Railway servant, who is to act as Defence Helper should have retired from Railway service under the same Railway Administration on which the charged Railway servant is working.
2. Representations have been received that the above restrictions are causing hardship in the matter of getting an effective Defence Helper (a) for those charged Railway servants where the delinquency occurred on a certain Railway, but they are transferred to a different Railway on which the disciplinary enquiry is processed, (b) in cases of retired Railway servants facing action under para 2308-R.II where they settle down far off from the Railway on which they retired and (c) those working in small Railway Administrations, i.e., Railway Administrations other than Zonal Railways, CLW, DLW and ICF. After careful consideration, it has been decided to give the following relaxations in the matter of choice of Defence Helper. These relaxations will be applicable to both gazetted and non-gazetted charged officers/ staff:
 - (a) If the delinquency for which the Railway servant is charged, occurs on a certain Zonal Railways/ CLW/ DLW/ ICF, but he is transferred to another such Railway Administration, the concerned charged officer may, if he so desires, be allowed a serving or retired Railway servant belonging to the Railway Administration on which the delinquency occurred.

- (b) In the case of disciplinary inquiry against retired Railway servant for pension cut under para 2308-R.II, if they are settled down in a remote area away from the Railway Administration from which the retired, such persons may also be allowed, if they so desire, the choice of having a serving or retired Railway servant working on any Railway Administration within those jurisdiction the place of their present residence falls. They may also be allowed Defence Helpers from amongst retired Railway servants irrespective of the Railway Administration from which they retired, who have settled in the vicinity of the place where the charged officer is also settled.
- (c) In the case of Railway Board's office, its attached office or sub-ordinate office or small Railway Administration other than Zonal Railways/ CLW/ DLW/ ICF, the charged Railway servants may, if they so desire, have as Defence Helper a Retired servant who is serving or has retired from a continuous Railway Administration from amongst Zonal Railways/ CLW/ DLW/ ICF. If a retired Railway servant belonging to a small Railway Administration (other than Zonal Railways/ CLW/ DLW/ ICF) is being taken up for pension cut, he may have the option of having a serving or retired Railway servant belonging to one of the bigger Railway Administration, viz., Zonal Railway/ CLW/ DLW/ ICF within whose jurisdiction the place of his present residence falls. He may also be allowed Defence Helper from amongst retired Railway servants irrespective of the Railway Administration from which they retired, who have settled in the vicinity of the place where the charged officer has also settled.
3. The Board are also anxious that this liberalization should not result in delay in finalization of disciplinary inquiries on account of charged officials resorting to delaying tactics on this account. It is, therefore, desired that in cases of charged officers belonging to the gazette category, the liberalization should be extended only in cases where the General Manager is personally satisfied on the facts of the case, that such liberalization is warranted. Similarly, in the case of charged Railway servant belonging to the non-gazetted category, the liberalization should be allowed only with the personal satisfaction of the Divisional Railway manager in the case of Divisional staff or the Head of the Workshop In-charge in the Workshops. In the case of those working in other Extra Divisional Offices/ Units as also those working in the Headquarters office, that liberalization should be permitted in the Zonal Railways Headquarters.
4. It should be made clear to the charged officers that if the Defence Helpers are retired persons, it is their responsibility to ensure the attendance of such Defects Helpers on

the appointed days for disciplinary inquiries. Postponement of the inquiry for non-appearance of the Defence Helper cannot be allowed save in exceptional circumstances like sickness, which is certified by authorized Railway Medical Attendant etc. So far as cases where the Defence Helpers are serving Railway servants, the disciplinary authority and the inquiring authority should ensure by timely communication in writing and over the phone to the Controlling Officer of such nominated Defence Helpers, that they are relieved in time to act as Defence Helpers so that no delay takes place.

5. The decisions mentioned in paragraph 2 above as the approval of the President. Formal amendment to the rules and administrative instructions mentioned in paragraph 1 above shall be made in due course.

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