

RBE No.150/1991: Disciplinary Action – Missing person.

No.E(D&A)91 RG6-41, dated 22.08.1991

Sub: Cancellation of penalty of removal from service imposed on charge of un-authorized absence where it later transpires that the case is one of 'genuine missing' and grant of consequent benefits to the missing person 's family.

1. Some cases have come to notice where Railway servants who were missing and whose whereabouts were not known to their family were removed from service for un-authorized absence. It has been represented by the NFIR in PNM meeting with Railway Board that initiation of disciplinary action in such cases where even the police after all-out efforts have not been able to trace the employee, is not justified since they are to be presumed as dead under Section 108 of the Indian Evidence Act. The NFIR also represented that in such cases, the disciplinary action / punishment should be annulled and the families be granted pension and their request for compassionate appointment to wards etc. to which they would have been entitled but for the disciplinary action be also considered.
2. The Board have considered the matter and it is clarified that in cases of the type mentioned above where it is established that the railway employee was really missing and not un-authorizedly absent, the disciplinary action should be treated as initiated on invalid premises and the on-going disciplinary action or the punishment order should be annulled. While the annulment of on-going disciplinary proceedings in such cases may be made by the disciplinary authority, in the cases of punishment orders already issued, the annulment may be made by the appellate / revisionary authority, as the case may be, for this purpose. It is not necessary to follow any 'Revision' or 'Review' procedure since the charges / punishment are obviously based on invalid premises. After dropping of the disciplinary action and annulment of the punishment of removal, as the case may be, the relevant benefits like grant of leave encashment, salary dues, retirement benefits, etc. may be extended as outlined in Board's letter No.F(E)III/86/PN1/17, dated 19.09.1986.
3. In the cases of aforesaid type, the question of giving compassionate appointments to wards may also be considered after a period of 7 years/ 3 years as provided in item (iii) of para 1 of Board's letter No.E(NG)III/78/RC1/1, dated 07.04.1983.

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Forward reference ⇒ RBE No.