

No. 11012/13/85-Estt. (A)  
Government of India  
Department of Personnel & Training

North Block, New Delhi-110001

Dated, the 21 June, 1989

OFFICE MEMORANDUM

Subject:-Rule 15 of CCS(CCA) Rules, 1965- Supply of copy of inquiry report to the accused Government servant before final orders are passed by the disciplinary authority.

The undersigned is directed to state that the issue as to whether in cases, where the disciplinary authority itself is not the inquiry officer, a copy of the inquiry report should be furnished to the accused Government servant to enable him to make his submissions, if any, before the disciplinary authority in regard to the findings of the report, before such authority passes its final orders, has been examined. The constitutional requirements laid down in Article 311(2) of the Constitution of India, and the provisions of Rule 15 and 17 of the CCS(CCA) Rules, 1965 and rulings of the various benches of the Central Administrative Tribunal and of various courts on the matter have been kept in view.

2. The full bench of the Central Administrative Tribunal in the case of Prem Nath Sharma Vs. Union of India (represented by Ministry of Railways) have held that to fulfil the constitutional requirement of affording a reasonable opportunity, it is necessary that in all cases where the disciplinary authority is itself not the inquiry authority, a copy of the inquiry report shall be furnished to the accused Government servant to enable him to make his submissions in regard to the findings of the inquiry, before the disciplinary authority passes its order imposing the penalty. While giving its verdict, the full bench had taken into account rulings of the various courts pronounced earlier on this issue. Although the special leave petition filed by the Ministry of Railways against the aforesaid judgement has been admitted for hearing and a stay order has been

(1). J. K. SARKAR, I.D.L. ON  
granted by the Supreme Court against its operation, the various benches of the Tribunal continue to follow the ratio laid down by the full bench. The special leave petitions filed by the concerned Ministries and Departments in some of the subsequent cases have not been admitted by the Supreme Court. In another similar case of E. Bashyam Vs. Department of Atomic Energy, in the special leave petition filed by the Department against the judgement of the CAT, the Supreme Court has expressed its view in favour of the principle laid down by the Tribunal, but directed that the matter be referred to a larger bench of the court.

3. In the light of the aforesaid judgements, the matter has been examined in consultation with the Department of Legal Affairs and it has been decided that in all cases, where an inquiry has been held in accordance with the provisions of Rule 14 of the CCS(CCA) Rules, the disciplinary authority, if it is different from the inquiry authority shall before making a final order in the case, forward a copy of the inquiry report to the Government servant concerned with the following endorsement:

"The report of the Inquiry Officer is enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If you wish to make any representation or submission, you may do so in writing to the Disciplinary Authority within 15 days of receipt of this letter."

4. The aforesaid instructions will operate prospectively from the date of issue and accordingly will apply only in cases where the disciplinary authority is yet to pass orders. Past cases need not be reopened for consideration. These instructions will be reviewed after the final decision of the Supreme Court in the cases of Prem Nath K. Sharma and E. Bashyam.

5. Ministry of Agriculture, etc. are requested to bring the above instructions to the notice of all Administrative Authorities under their control for compliance in all future cases including those in which the Central Administrative Tribunal has directed that a copy of the inquiry report be furnished to the accused Government servant before the Disciplinary Authority passes the order. In such cases the directive of the CAT should be complied with and no SLP should be filed. However, in cases where the SLPs on this issue are pending before the Supreme Court, the concerned Ministries/Departments may continue to pursue the cases for having an early hearing and an authoritative ruling on the issue.

*K. Sarkar*  
( K. SARKAR )  
DEPUTY SECRETARY TO THE GOVT. OF INDIA

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To

All Ministries/Departments of the Government of India with usual number of spare copies.

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( K. SANKAR )

DEPUTY SECRETARY TO THE GOVT. OF INDIA.