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No. 11012/3/86-Estt. (A)
Government of India
Ministry of Personnel P.G. & Pensions
(Department of Personnel & Training.)

New Delhi, dated 29 April 1986.

OFFICE MEMORANDUM

Subject:- Removal of restriction on engaging Defence Assistant - Rule 14(8) of CCS(CCA) Rules, 1965 - recommendation of National Council (JCM)

The undersigned is directed to say that sub-rule (8) of Rule 14 of CCS(CCA) Rules, 1965 provides that a Govt. servant may take the assistance of any of the Govt. servants posted in any office either at his headquarters or at the place where the inquiry is held, to present his case on his behalf. A Govt. servant may, however, take the assistance of any other Govt. servant posted at any other station on being permitted by the Inquiring Authority to do so.

2. The Staff Side of the National Council (JCM) represented that the aforesaid provision in the rules was restrictive, amounting to denial of justice, and should, therefore, be removed. The matter was also discussed in the 28th Ordinary Meeting of the National Council held on 14th/15th January, 1986.

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3. Rule 14(8) of CCS(CCA) Rules, 1965, does not totally prohibit having a Defence Assistant from any station other than the headquarters of the charged Govt. servant or the place of inquiry. It is open to the inquiring authority to permit the appointment of a Defence Assistant from any other station, having regard to the circumstances of each case. However, at present, there is no provision for appeal against the decision of the inquiring authority in the matter, should it decide to refuse permission.

4. It has, therefore, been decided, after discussion with the Staff Side, that a Govt. servant should be allowed to make a representation to the Disciplinary Authority if the Inquiring Authority rejects a request for permission to take a Defence Assistant from a place other than the headquarters of the charged Govt. servant or the place of inquiry. Accordingly, in all cases where the inquiring authority rejects the request of the charged Govt. servant for engaging a defence assistant, from any station other than the headquarters of such Govt. servant or the place where the inquiry is conducted, it should record its reasons in writing and communicate the same to the charged Govt. servant to enable him to make a representation against the order, if he so desires, to the disciplinary authority. On receipt of the representation from the charged Govt. servant, the Disciplinary Authority, after applying its mind to all the relevant facts and circumstances of the case, shall pass a well-reasoned order either upholding the orders passed by the inquiring authority or acceding to the request made by the charged employee. Since such an order of the disciplinary authority will be in the nature of a step-in-aid of the inquiry, no appeal shall lie against that order.

5. Ministry of Agriculture etc. are requested to bring the above decision to the notice of all authorities concerned, under their control.

6. These orders will become effective from the date of issue. Past cases already decided need not be reopened.

A. Jayaraman

(A. Jayaraman)
Director (E).

To All Ministries/Departments (with usual number of spare copies).

Copies with usual number of spare copies.

1. U.P.S.C. New Delhi.
2. Central Vigilance Commission, New Delhi.
3. Office of the C&AG, New Delhi.
4. All Union Territory Administration.
5. JCA Section, Deptt. of Personnel & Trg.
6. All members of Staff Side, National Council, (JCM)
7. Secretary, Staff Side National Council (JCM) 13-C, Feroz Shah Road, New Delhi.
8. All Attached/subordinate offices of the Ministry of Home Affairs and the Ministry of Personnel and Public Grievances and Pensions.
9. All administrative Section in the Ministry of Personnel Public Grievances & Pensions & the Ministry of Home Affairs.

A. Jayaraman

(A. Jayaraman)
Director.