

SOUTHERN RAILWAY

Headquarters Office,
Personnel Branch,
Chennai-600 003.

No.P(A)227/P/Vol.XXVII (Pt)

Dated 05.10.2023.

PBC No. 184/2023

All PHODs/HODs
DRMs/MAS, TPJ, MDU, SA, PGT & TVC
CWMS/CW/PER, LW/PER, S&T/PTJ, GOC.

Sub: Need for issuing self contained 'Reasoned' and Speaking order by Disciplinary/Appellate Authority/ Revisionary Authority in Discipline & Appeal cases.

Ref: i) Railway Board's letter No.E(D&A)2002/RG 6-27 dt.24.09.2002 (RBE No.168/2002).
ii) Railway Board's letter No.2003/V-1/CVC/12/19 dt.08.12.2003 (PBC No.204/2003).

Attention is drawn to the instructions contained in Railway Board's letters No. E(D&A)2002/RG 6-27 dt.24.09.2002 (RBE No.168/2002) and No.2003/V-1/CVC/12/19 dated 08.12.2003 (PBC No.204/2003). These letters mandate that while exercising Disciplinary Powers, the Disciplinary, Appellate and Revisionary Authorities perform the quasi-judicial functions.

2. It has come to notice that in many DAR cases, the Disciplinary Authority/Appellate Authority/Revisionary Authority did not record detailed speaking orders and this in many cases have led to avoidable legal issues.

3. (i) As per Para 16(i) of Master Circular No.67 on "Important points to be kept in view by the Disciplinary/Appellate/Revisionary/Reviewing authorities and Inquiry Officers while handling disciplinary case", Disciplinary Authority/Appellate Authority while exercising Disciplinary powers are performing '*quasi-judicial*' functions and shall therefore pass a "reasoned and speaking orders" which shall be self-contained.

(ii) The final orders of the Disciplinary/Appellate Authority should cover all the important points relating to the disciplinary case.

(iii) It should also indicate that the representation of the charged official has been considered and if possible certain points raised in the representation should also be commented upon, in brief.

(iv) The order of the Disciplinary/Appellate Authority should clearly indicate that the same has been passed with due application of mind and by addressing the contention raised in the case.

(v) The practice of passing Disciplinary/Appellate/Revisionary order in printed form militates against the very concept of passing "reasoned and speaking order" and should be discontinued wherever in practice.



4. A study of the Judgements passed by judicial authorities like the Hon'ble Central Administrative Tribunal and High Court would be very beneficial in understanding how to write a Speaking Order. Quasi Judicial authorities can also follow similar pattern in passing the speaking orders. Eventhough no specific format can be prescribed for passing a Speaking order, ideally it should essentially contain the following parts mentioned below. These parts need not be specifically titled as "Contest", "Contentions", "Consideration" or "Conclusion", but should form part of a well written Speaking Order.

(i) Context : The order should narrate the back ground of the disciplinary case, the circumstances that have caused the issue of the orders being passed by the Disciplinary/Appellate/Revisionary Authority. This can be brought out clearly in the introductory portion of the orders.

(ii) Contentions : The charges/imputations of misbehavior as per the charge memorandum, representation/submissions by the charged official and the evidence on record and findings in the inquiry proceedings, if any, must be brought out clearly in this part. The evidence in support of the charges as per the charge memorandum and those evidences submitted by the charged employee for refuting the charges should be discussed, in detail.

(iii) Consideration : The order should explicitly evaluate the submissions/contentions made by the charged official and the charges/imputations in the charge memorandum and the evidences brought on record. Each of the contentions must be considered carefully and the reasons should be recorded for arriving at findings against the charges .

(iv) Conclusions: Outcome of the consideration as indicated above should be recorded as findings of the authority and thereafter the order of the Disciplinary/Appellate/Revisionary Authority must be passed based on these findings.

(v) Order: The speaking order should conclude with the clear and unambiguous order passed by the Disciplinary/Appellate/Revisionary Authority in accordance with the relevant provisions of the RS(D&A) Rules.

5. This may kindly be brought to the notice of all the officers working under your administrative control for information and guidance.



(B.A. ARAVIND)

Deputy Chief Personnel Officer/Co-ord.
for Principal Chief Personnel Officer

Copy to: All Sr.DPO/Dy.CPOs/SPOS/APOS – for information and necessary action.

- * The General Secretary/SRMU,
- * The General Secretary AISCSTREA,
- * The General Secretary/AIOBCREA,
- * The General Secretary/NFIR