

No. 39/2/68-Ests. (A)
Government of India,
Ministry of Home Affairs.

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New Delhi-11, the

11 May, 1968
21 Vaisakha, 1990

OFFICE MEMORANDUM

Subject: Review of disciplinary proceedings against Government servants - Procedure to be followed while proposing enhancement of the penalty already imposed on a Government servant.

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Instances have been brought to the notice of this Ministry in which when orders of punishment passed by the subordinate authorities were reviewed under rule 29(1) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and a provisional conclusion reached that the penalty already imposed was not adequate, the authorities concerned set aside/cancelled the orders of punishment already passed by the subordinate authorities and simultaneously served show-cause notices for the imposition of higher penalties. Thereafter, the replies of the Government servants to the show-cause notices were considered and the Union Public Service Commission also consulted, wherever necessary, before the imposition of enhanced penalties.

2. It is clarified that in cases of the kind mentioned in the preceding paragraph, it is not appropriate to set aside/cancel the penalty already imposed on the Government servants, more so when the reviewing authority is the President, as, strictly speaking, cancellation of the penalty, if done in the name of the President, amounts to modification by the President of the earlier order of the subordinate authority, for which prior consultation with the Union Public Service Commission is necessary under Regulation 5(1)(c) of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958. The correct procedure in such cases will, therefore, be to take action in accordance with the first proviso to rule 29(1) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, without cancelling/setting aside the order of the subordinate authority. It is only at the final stage when

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order are issued modifying the original penalty, that it would be necessary to set aside the original order of penalty.

3. All Ministries/Departments etc. are requested to bring the above clarifications to the notice of all authorities concerned.

P. N. Kalra

(P.N. KALRA)
UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

To

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

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No.39/2/68-Ests. (A) Dated the 11 May, 1968.

Copy forwarded for information and necessary action to:

1. The Comptroller and Auditor General of India New Delhi, with usual number of spare copies.
2. The Union Public Service Commission, New Delhi with usual number of spare copies. This has reference to their letter No.F.6/11/68-S.I dated 7.2.68.
3. All Union Territories.
4. All Zonal Councils.
5. All Vigilance Officers.
6. Commissioner for Linguistic Minorities, Allahabad.
7. All Attached and Subordinate Offices of the Ministry of Home Affairs.

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UNDER SECRETARY TO THE GOVT. OF INDIA.

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