

CONFIDENTIAL

No.134/1/81-AVC-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Department of Personnel and Administrative Reforms
(Karmik Aur Prashnik Sushar Vibhag)

New Delhi, the 13th Jul., 1981.

OFFICE MEMORANDUM

Subject:- Disciplinary cases- need for issuing speaking orders
by competent authorities.

The undersigned is directed to state that it is well known and settled by courts, disciplinary proceedings against employees conducted under the provisions of (DS(DCA) Rules, 1955, or under other corresponding rules, are quasi-judicial in nature and as such, it is necessary that orders in such proceedings are issued only by the competent authorities who have been specified as disciplinary/appellate/reviewing authorities under the relevant rules and the orders issued by such authorities should have the attributes of a judicial order. The Supreme Court, in the case of Behar Prasad Vs State of U.P. (AIR 1970 SC 1302) observed that recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. The necessity to record reasons is greater if the order is subject to appeal.

2. However, instances have come to the notice of this Department where the final orders passed by the competent disciplinary/appellate authorities do not contain the reasons on the basis whereof the decisions communicated by that order were reached. Since such orders may not conform to legal requirements, they may be liable to be held invalid, if challenged in a court of law. It is, therefore, impressed upon all concerned that the authorities exercising disciplinary powers should issue self-contained speaking and reasoned orders conforming to the aforesaid legal requirements.

3. Instances have also come to notice where, though the decisions in disciplinary/appellate cases were taken by the competent disciplinary/appellate authorities in the files, the final orders were not issued by that authority but only by a lower authority. As mentioned above, the disciplinary/appellate reviewing authorities exercise quasi-judicial powers and as such, they cannot delegate their powers to their subordinates. It is, therefore, essential that the decision taken by such authorities are communicated by the competent authority under their own signatures, and the order so issued should comply with the legal requirements as indicated in the preceding paragraphs. It is only in those cases where the President is the prescribed disciplinary/appellate/reviewing authority and where the Minister concerned has considered the case and given his orders that an order may be authenticated by an officer, who has been authorized to authenticate orders in the name of the President.

4. The contents of this O.M. may kindly be brought to the notice of all concerned for their information and guidance.

sg/-

K.G. GOEL

UNDER SECRETARY TO THE GOVT. OF INDIA.

1. Chief Vigilance Officers of all the Ministries/Departments of the Govt. of India.
2. General Vigilance Commission, New Delhi.

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