

No.F.6/26/60-Ests (A)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi-11, the 16th February, 1961
27th Magh, 1882

OFFICE MEMORANDUM

Subject: Recommendations of the Pay Commission regarding disciplinary proceedings - Decisions on the-

In Chapter LI of their report, the Pay Commission have made the following recommendations regarding disciplinary proceedings:-

- (i) All memorials etc. as well as appeals which come to the Central Government against imposition of major penalties, should be disposed of only in consultation with the Public Service Commission.
- (ii) The power to withhold appeals, memorials or petitions under prescribed circumstances should be exercised by an authority higher than the one which had passed the orders against which the appeal etc. is made.
- (iii) A disciplinary enquiry should not be conducted by the immediate superior of the Government servant being proceeded against or by an officer at whose instance the enquiry was initiated.

These recommendations have been carefully examined by Government and the conclusions reached are contained in the following paragraphs.

2. The Government of India note that the Pay Commission have observed that the information available with them does not at all suggest that disciplinary action is taken in far too many cases or that major penalties are imposed too freely or that memorials and appeals are dealt with perfunctorily. It is considered that the acceptance of recommendation at (i) above would considerably increase the work of the Union Public Service Commission. It may also lead to delays in completing disciplinary cases, which would neither be in the interest of public service nor in that of the individual government servant. It has, therefore, been decided not to make any change in the existing procedure.

3. As regards recommendation under (ii), the instructions contained in this Ministry's Office Memorandum No. 40/5/50-Ests (B), dated the 8th September, 1954 lay down the procedure for submission of petitions, memorials etc. to the President. In these instructions the power to withhold petitions, etc. has been granted only to high authorities like the Secretaries to the Government and the Heads of Departments. An appeal can be withheld only under prescribed circumstances; the appellant is required to be informed of the fact; and, the reasons for withholding the appeal are required.

to be communicated to the appellate authority and a quarterly return giving the list of withheld appeals has to be submitted to the appellate authority. These are sufficient safeguards against unjustified withholding of appeals.

It is considered that these instructions and rules do not require any modification. The authorities dealing with positions, memorials and appeals are, however, expected to apply the instructions and rules in a liberal spirit and they should ordinarily refrain from withholding any appeal, representation, petition or memorial except in rare cases where the justification for contrary action may be obvious.

4. As regards recommendation (iii) it is obviously desirable that only disinterested officers should be appointed as Enquiry Officers in departmental proceedings. There is no bar to the immediate superior officer holding an inquiry but, as a rule, the person who undertakes this task should not be suspected of any bias in such cases. The authorities concerned should bear this in mind before an Enquiry Officer is appointed in a disciplinary case.

5. The Ministry of Finance etc. may kindly bring the contents of this office Memorandum to the notice of the authorities under their administrative control.

Sd/-

(B. SHUKLA)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

To

All Ministries etc. etc.

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Union Territory Administrations.
All Zonal Councils.
All Attached and subordinate Offices of
Ministry of Home Affairs.
All Officers and Sections of Ministry of
Home Affairs.

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