



भारतीय प्रतिरक्षा मजदूर संघ Bharatiya Pratiraksha Mazdoor Sangh

(AN ALL INDIA FEDERATION OF DEFENCE WORKERS)

(AN INDUSTRIAL UNIT OF B.M.S.)

(RECOGNISED BY MINISTRY OF DEFENCE, GOVT. OF INDIA)

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To whom it may concern

Subject: Invitation for Views on Rectifying Anomalous Situation in Disciplinary Proceedings and Departmental Promotion Committee.

Dear Sir/Madam,

I am writing to seek your valuable insights and suggestions regarding an anomalous situation that has arisen in the disciplinary proceedings of government employees. The matter pertains to the implementation of Department of Personnel & Training (DoPT) guidelines on the sealed-cover procedure and its implications on promotions, as well as the non-implementation of the time limit for completion of departmental inquiries as per the Central Vigilance Commission (CVC) instructions.

The DoPT has issued various instructions outlining the sealed-cover procedure and its implications on government servants at the time of promotion. As per these guidelines, government servants falling under certain categories, such as those under suspension, facing disciplinary proceedings, or facing criminal charges, are placed in sealed covers during the consideration for promotion. The sealed covers are opened upon the conclusion of the respective cases, and if a government servant is completely exonerated, their due date of promotion is determined based on the findings in the sealed cover.

However, in certain instances, due to delays in the disciplinary proceedings or decision-making process, the period of penalty faced by an employee exceeds the intended penalty duration. This can lead to situations where an employee, despite being recommended for promotion by the Departmental Promotion Committee (DPC), is unable to be promoted and has to endure an extended period of penalty. This discrepancy arises due to the interaction between the DoPT rules on the sealed-cover procedure and the non-implementation of CVC guidelines specifying a time limit for completing departmental inquiries.

Suppose, if an employee is charged under Rule 14 or 16 of the CCS (CCA) Rules, 1965, and after a period of two years or more due to a departmental inquiry/decision, the employee is awarded a minor penalty but not the specific penalty of withholding promotion,

the following scenario arises. Let's assume the employee is awarded the minor penalty of withholding increments of pay for six months, and their next increment is due after 11 months. Meanwhile, a Departmental Promotion Committee (DPC) convenes for the employee's promotion, and the recommendations of the DPC are kept in a sealed cover. However, the sealed cover remains unopened, and the employee has to wait for his promotion until the next DPC is convened. During the currency of the penalty, the employee cannot be promoted, even if the DPC has recommended him as fit for promotion. As a result, the employee ends up suffering a penalty period of two years of inquiry, plus 11 months until the next increment, plus six months of withholding increments.

In this case, the intention of the Disciplinary Authority is to award a penalty of increment withholding for six months only. However, due to the implementation of DoPT/GOI Rules on DPC and the non-implementation of CVC/GOI instructions on the time limit for completion of departmental inquiries by the concerned authorities, the actual penalty period extends to two years, 11 months, and six months. This discrepancy creates a tragic paradox, as the penalty duration significantly exceeds the intended duration solely due to procedural issues.

We recognize that this situation presents a significant challenge and a disheartening experience for the affected employees. Hence, it is crucial for us to seek your expertise and insights to rectify this anomalous state and ensure fairness in the disciplinary proceedings. We highly value your knowledge and experience in this domain, and your perspective will greatly contribute to the development of a suitable resolution.

In light of the above, we kindly request your views and suggestions on the following matters:

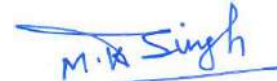
1. How can we harmonize the DoPT guidelines on the sealed-cover procedure with the CVC instructions on the time limit for completion of departmental inquiries, to ensure that penalties are commensurate with the intended duration, to ensure that promotion cannot be denied if minor penalty, except withholding of promotion, is awarded.
2. Are there any specific court judgments or legal precedents that support the rectification of the current anomalous situation in disciplinary proceedings?
3. What measures can be taken to minimize delays in disciplinary proceedings and decision-making processes, thereby preventing employees from enduring extended periods of penalty?
4. Are there any specific reforms or modifications that you would recommend to streamline the disciplinary proceedings and promotion processes, while maintaining fairness and efficiency?

Furthermore, we kindly request you to provide any relevant court judgments or legal precedents that support the rectification of the current anomalous situation. These judgments will help us in understanding the legal perspective and finding a comprehensive solution.

We kindly request you to provide your valuable insights, suggestions, and any relevant court judgments to enable us to analyze and incorporate them into the ongoing discussions and decision-making processes. Your contributions will be treated with utmost confidentiality, and we assure you that your views and the provided court judgments will be given careful consideration.

Thank you in advance for your cooperation and support in addressing this important matter. We look forward to your prompt response.

Sincerely yours



(MUKESH SINGH)

General Secretary/BPMS &
Member, National Council (JCM)