

## STATE ELECTRICITY BOARD

From

To

1. All Chief Engineers/C.A. O./Chief Auditor
2. All S.As. (in the field)
3. All Executive Engineers (in the field)

Memo No. 811/LB3(2)/74

Dated:- 26-11-80  
99586/87/LB (3) 24/74

Subject

Termination of employees convicted but dealt with under, the probation of offenders act, 1950.

1. According to Board's existing instructions issued vide this office letter memo no. 5102/432/LB3(24)74 dated 6.1.75, the persons guilty of an offence and released after admonition or on probation of good conduct under the provisions of Section 3 or Section 4 of the Probation of offenders act, 1950, do not suffer disqualification, if any, attaching to conviction of an offence which means that no action should be taken against them on the basis of their conviction but this does not debar the appointing/punishing authority to proceed against the officials convicted of an offence but dealt with under section 3 or Section 4 of the act abid, on the basis of original mis-conduct which led to their conviction, under the punishment & Appeal Rules/Regulations.

2. The matter has further been examined in the light of civil appeal No. 1664 of 1974 filed by V.K. Krishna Iyer R. reported as A.I.R. 1975 sc. 2316, wherein it was held that an order of release under the Probation of offenders act comes into existence only after the accused is found guilty and is convicted of the offence. Thus, the conviction of the accused or the finding of the Court that he is guilty cannot be washed out at all because that is the sine qua non for the order of release on probation of the offender. The order of release on probation is merely in substitution of the sentence to be imposed by the Court.

3. It will therefore, be observed that according to section 3, 4 or 6 of the Probation of offenders act, 1950, the factum of guilt does not wash out because a person is found guilty of an offence and released under the provisions of Probation of offenders Act 1950, action should therefore be taken against them on the basis of misconduct, which led to punishment. To make it clear it is stated that if the appointing authority/punishing authority wants to proceed against such a person for disciplinary action under P.A./rules/Regulations, it is to be borne in mind that proceedings against concerned delinquent official are directed on the basis of his misconduct leading to the punishment and not on the conviction under the probation of offenders Act.

4. The receipt of this communication may kindly be acknowledged.

B.V.N.S.I.

*M. V. N. S. I.*  
Deputy Secretary/Welfare,  
for Secretary, PSEB Patiala.