

Immediate


F.No.28027/1/2016-Estt.A-III
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training

North Block, New Delhi
Dated the 22nd January, 2016

OFFICE MEMORANDUM

Subject: Court orders against Government of India instructions on service matters-consultation with Ministry of Law and Department of Personnel and Training on question of filing appeals.

This Department intends to issue instructions on the above mentioned subject. Before the instructions in the Draft O.M. (copy enclosed) are finalized, all stakeholders, Ministries / Departments are requested to offer their comments / views, if any, in this regard latest by **5th February, 2016** at the e-mail address mp.ramarao@nic.in.


(M.P. Rama Rao)

Under Secretary to the Government of India
Tel: 23040264

To
All Ministries / Departments of the Government of India

Copy to:

✓ NIC, DoP&T with the request to place the above O.M. alongwith its enclosures on the website of this Ministry on the homepage for 15 days under "what is New?"

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OFFICE MEMORANDUM

Subject: Court orders against Government of India instructions on service matters-consultation with Ministry of Law and Department of Personnel and Training on question of filing appeals.

The undersigned is directed to refer to this Department's O.M.No.28027/9/99-Estt.(A) dated 1st May, 2000 on the above subject (copy enclosed) and to say that the Department of Personnel and Training is the nodal Department that formulates policies on service matters and issues instructions from time to time. These instructions are to be followed by the Ministries/Departments of the Central Government scrupulously. All the Court cases filed by employees have to be defended on the basis of the facts available with the Administrative Ministry/Department concerned, keeping in view the instructions issued on the subject by this Department.

2. Reference is also invited to the Cabinet Secretariat's D.O letter No. 6/1/1/94-Cab dated 25.02.1994 and the Department of Expenditure's O.M. No. 7(8)/2012-E-II(A) dated 16.05.2012 inter-alia provide that (i) a common counter reply should be filed before a Court of Law on behalf of the Union of India by the concerned administrative Department/Ministry where the petitioner is serving or has last served; and (ii) a unified stand should be adopted instead of bringing out each Department's/Ministry's point of view in the said reply. It further provides that it is primarily the responsibility of the Administrative Ministry to ensure that timely action is taken at each stage a Court case goes through and that a unified stand is adopted on behalf of Government of India at every such stage. In no case should the litigation be allowed to prolong to the extent that it results in contempt proceedings.

3. However, it is noticed that the Ministries/Departments are making several references to this Department seeking interpretation of the guidelines without exercising due diligence. The Ministries/Departments are advised not to make any references to this Department unless there are difficulties relating to interpretation/application of these guidelines or any relaxation in Rules/instructions is warranted to mitigate a genuine hardship faced the Government servant. While seeking advice of this Department, instructions contained in this Department's O.M. number 43011/9/2014-Estt (D) dated 28.10.2015 may be followed.

4. The comments/advice of the Department of Personnel & Training may be sought in following cases:-

Sl. No.	Orders of Court	Action to be taken
1.	A decision/order has been quashed by Tribunal/Court on the ground that it is violative of the Rules/Government instructions, but Government's policy has not come in for adverse comments.	The Administrative Department may implement the CAT Order/Judgement if it is in consonance with Government policy and the Government case has been lost due to Admn. infirmities.

2.	Where the policy of DoPT has not been quashed, but the judgment/order of Court/Tribunal has gone in favour of Respondents/Applicants.	The Administrative Department may take a decision to file Writ Petition/Special Leave Petition (as the case may be) in consultation with Department of Personnel & Training (DoPT) and Department of Legal Affairs (DOLA).
3.	Where in (2) above the Administrative Ministry is in favour of implementing the judgment.	The Administrative Ministry may take a decision in consultation with DoPT and DOLA keeping in view its repercussions.
4.	Where the judgment has gone in favour of Applicant/Petitioner/Respondent and a scheme/guideline/OM outlining Government policy has been quashed.	The Administrative Department may take a decision to file WP/SLP (as the case may be) in consultation with DoPT and DOLA.
5.	Where the Hon'ble Supreme Court has upheld the order/judgement of CAT/High Court which is against the Government policy.	The Administrative Department may take a decision to implement the order of Apex Court in consultation with DoPT and DOLA.
6.	CAT or a Higher Court has upheld Government's stand	DoPT may only be informed with all details.

(Mukesh Chaturvedi)
Director (E)
Tele: 2309 3176

Copy to :

1. All Ministries/Departments of the Government of India
2. All Officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate offices of the Ministry.
3. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/Supreme Court/ Rajya Sabha Secretariat/Lok Sabha Secretariat/Cabinet Secretariat/UPSC/CVC/C&AG/Central Administrative Tribunal(Principal Bench), New Delhi.
4. NIC, DOPT, North Block for placing this OM on the Website of DoPT.
5. Hindi Section for Hindi version.

No.28027/9/99-Estt.(A)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi, dated the 1st May 2000.

OFFICE MEMORANDUM

Subject: Court orders against Government of India instructions on service matters – consultation with Ministry of Law and DoP&T on the question of filing appeals, before implementation of Court's orders.

The undersigned is directed to say that it has come to the notice of this department that in cases where the Courts have passed orders against the Government of India instructions, the administrative Ministry/Department has not consulted the Law Ministry on the question of filing appeal against such orders, before implementation of such orders.

2. The matters has been considered in this Department and it has been decided that whenever there is any Court order against the Government of India instructions on service matters, the administrative Ministry/Department/Office shall consult the Department of Legal Affairs and the Department of Personnel and Training on the question of filing appeal against such an order, as far as possible, well in time, that is before the time limit, if any, prescribed in such order or before the time limit for filing appeal. No such orders shall be implemented by the concerned Departments/Ministries without first referring the matter to the Department of Legal Affairs for advice and to Department of Personnel and Training.
3. The Ministries/Departments are requested to note the above instructions for strict compliance.
4. These instructions are issued in consultation with the C&AG, in regard to its applicability to Indian Audit and Accounts Department.


(**Smt.S.Bandopadhyay**)
DIRECTOR

To
All Ministries/Departments of the Government of India .

Copy to:

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.
4. Central Bureau of Investigation, New Delhi.
5. All Union Territory Administrations.
6. Lok Sabha/Rajya Sabha Secretariat.
7. All Attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.


(**Smt.S.Bandopadhyay**)
DIRECTOR