

No. 20036/23/88-Estt(D)
Government of India
Ministry of Personnel, P. G. and Pensions
Deptt. of Personnel and Training

New Delhi, the 6 January, 1989.

OFFICE MEMORANDUM

SUB:- Petitions relating to personnel matters filed in Courts, Central Administrative Tribunals etc., - handling of.


The undersigned is directed to say that while the Ministry of Personnel, Public Grievances and Pensions is the nodal Ministry responsible for formulating policies and framing rules relating to pension and other retirement benefits, seniority, promotion, fixation of pay, disciplinary proceedings, reservation for scheduled castes, scheduled tribes, ex-service-men etc. and other aspects of personnel administration, the administrative Ministries/Departments are responsible for considering individual cases of Government servants and issuing appropriate orders thereon in accordance with the rules and instructions on the subject and in consultation with the Ministry of Personnel, Public Grievances and Pensions, if considered necessary.

2. A number of petitions are filed by Government servants in various Courts and the Central Administrative Tribunals challenging the orders issued by the administrative Ministries/Departments in individual cases in which the relevant rules and instructions on the basis of which the impugned orders have been issued are also challenged. In most of these cases, the Ministry of Personnel, Public Grievances and Pensions is also impleaded as one of the respondents for the reason that the relevant rules and instructions were issued by that Ministry or that the impugned orders were issued in consultation with that Ministry.

3. The existing practice is that in all such cases the petitions are contested by the administrative Ministry/Department concerned both on its behalf and on behalf of the Ministry of Personnel, Public Grievances and Pensions, if necessary, in consultation with the latter. However, recently in some cases, the administrative Ministries/Departments insisted on the Ministry of Personnel, Public Grievances & Pensions defending the Government action on the ground that the rules/instructions challenged in the petitions were issued

by that Ministry. This is not the correct procedure to follow. Since each case is to be contested on the basis of the specific facts and circumstances relevant to it, the administrative Ministry/Department will be in a better position to defend the case. If, however, any clarification is required on the interpretation or application of the rules or instructions relevant to the case, the concerned Department, in the Ministry of Personnel, Public Grievances & Pensions may be approached for that purpose. References relating to pension and other retirement benefits may be made to the Department of Pensions & Pensioners' Welfare and in respect of other matters relating to seniority, promotion etc., the Department of Personnel and Training may be consulted. This Ministry will continue to handle such references with utmost priority. However, the primary responsibility for contesting such cases on behalf of the Government will be that of the administrative Ministry/Department concerned.

4. The Ministry of Agriculture etc. are requested to bring these instructions to the notice of their attached and subordinate offices.


(M.V. KESAVAN)
DIRECTOR.


To

1. All the Ministries/Departments of the Govt. of India.
2. All attached Offices of Deptt. of Personnel & Training.
3. Secretary, UPSC, New Delhi.
4. Secretary, SSC, New Delhi.
5. Rajya Sabha Sectt. (Admn. Branch), New Delhi.
6. Lok Sabha Sectt. (Admn. Branch), New Delhi.
7. Supreme Court of India, New Delhi.
8. Commission for SCs/STs, New Delhi.
9. Central Vigilance Commission/Election Commission.
10. Secretary, Staff Side, National Council, 9 Ashok Road, New Delhi.
11. All Members of the Staff Side of the National Council.
12. All Sections of the Deptt. of Personnel & Training.

Copy forwarded for information and similar action to:-

1. Comptroller & Auditor General of India, New Delhi.
2. President's Sectt./Vice-President's Secretariat.
3. Secretary, Ministry of Surface Transport (Deptt. of Railways (Railway Board), New Delhi.

Copy forwarded to Chief Secretaries of all States Governments/Union Territories for information.


(M.V. KESAVAN)
DIRECTOR.