



No. DJB/AO (F&G)/2015/

142937

Dated: ~~30 OCT~~ 2015  
2-11

The following instructions endorsed to Chief Executive Officer, DJB is circulated for information and strict compliance please.

Office Memorandum No.	Issued by	Subject
F. No. 18/26/2011-Estt (Pay-I) dated 06.02.2014	Deputy Secretary to Govt. of India, Ministry of Personnel, PG and Pension, DoPT	Recovery of wrongful / excess payments made to Government Servants
No. 7/7/08-CS.I (A) dated 22.12.2010	Under Secretary to the Govt. of India, Ministry of Personnel, PG and Pension, DoPT	Stepping up of pay of senior Assistants/ PAs of CSS/CSSS promoted prior to 01.01.2006 and drawing less pay than Assistants/PAs of CSS/CSSS promoted after 01.01.2006
IC U.O. No. 10/1/2009-IC dated 14.12.2009	Director (IC), Govt. of India, Ministry of Finance, Department of Expenditure, Implementation Cell	Grant of the pay structure of grade pay of Rs. 4600 in the PB-2 to Assistants and Personnel Assistants of Central Secretariat Service, Armed Forces Headquarter Service, Indian Foreign Service's and Railway Board Secretariat Service and their counterpart Stenographer Services-Clarification reg.

Encls. As above

29/10/15  
Sr. Accounts Officer (F&G)

All DDO's

Copy to:-

- 1) Chairman, DJB, for kind information please.
- 2) Vice-Chairman, DJB, for kind information please.
- 3) CEO (DJB) for kind information Pl.
- 4) CVO (DJB) for kind information pl.
- 5) All Members of Delhi Jal Board for information Pl.
- 6) All Directors /Addl. CEO /Secy. DJB for information Pl.
- 7) All Chief Engineers for kind information pl.
- 8) All SEs/LO/All Assistant Commissioners/Jt. Director (F&A)-I/II/  
Dy. Dir. (F&A)- I/II/III/IV, Dy. Dir. (LW)/DTQC/Dy. Dir.(Vig.)-I/II  
**EE (EDP), for upload on DJB website.**
- 9) All Sr. AO/CSO, AOs
- 10) All A.A.O.s

29/10/15  
Sr. Accounts Officer (F&G)

EE EDP

5805  
3/11/15

Sh. Gagan  
Pg-1

F. No. 18/26/ 2011-Estt (Pay-I)  
Government of India  
Ministry of Personnel, PG and Pension  
Department of Personnel and Training

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North Block, New Delhi,  
Dated the 6<sup>th</sup> February, 2014

OFFICE MEMORANDUM

Subject: Recovery of wrongful/excess payments made to Government servants.

The undersigned is directed to say that the issue of recovery of wrongful/excess payments made to Government servants has been examined in consultation with the Department of Expenditure and the Department of Legal Affairs in the light of the recent judgement of the Hon'ble Supreme Court in *Chandi Prasad Untyal And Ors vs State Of Uttarakhand And Ors*, 2012 AIR SCW 4742, (2012) 8 SCC 417, decided on 17<sup>th</sup> August, 2012. The Hon'ble Court has observed as under:

15. We are not convinced that this Court in various judgments referred to hereinbefore has laid down any proposition of law that only if the State or its officials establish that there was misrepresentation or fraud on the part of the recipients of the excess pay, then only the amount paid could be recovered. On the other hand, most of the cases referred to hereinbefore turned on the peculiar facts and circumstances of those cases either because the recipients had retired or on the verge of retirement or were occupying lower posts in the administrative hierarchy.
16. We are concerned with the excess payment of public money which is often described as "tax payers money" which belongs neither to the officers who have effected over-payment nor that of the recipients. We fail to see why the concept of fraud or misrepresentation is being brought in such situations. Question to be asked is whether excess money has been paid or not may be due to a bona fide mistake. Possibly, effecting excess payment of public money by Government officers may be due to various reasons like negligence, carelessness, collusion, favouritism etc. because money in such situation does not belong to the payer or the payee. Situations may also arise where both the payer and the payee are at fault, then the mistake is mutual. Payments are being effected in many situations without any authority of law and payments

have been received by the recipients also without any authority of law. Any amount paid/received without authority of law can always be recovered barring few exceptions of extreme hardships but not as a matter of right, in such situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment.

2. Hon'ble Supreme Court also distinguished the cases like *Shyam Babu Verma v UOI*, 1994 SCR (1) 700, 1994 SCC (2) 52, *Syed Abdul Qadir and Ors. v. State of Bihar and Ors*, (2009) 3 SCC 475, *Sahib Ram v. State of Haryana*, 1995 Supp (1) SCC 18 etc., where it had not allowed recovery of excess payment in view of the peculiar facts and circumstances of those cases so as to avoid extreme hardship to the concerned employees, for example, where the employees concerned were mostly junior employees, or they had retired or were on verge of retirement, the employees were not at fault, and recovery which was ordered after a gap of many years would have caused extreme hardship.

3. In view of the law declared by Courts and recently reiterated by the Hon'ble Supreme Court in the above cited case, *Chandi Prasad Uniyal And Ors vs State Of Uttarakhand And Ors*, 2012 AIR SCW 4742, (2012) 8 SCC 417, the Ministries/Departments are advised to deal with the issue of wrongful/excess payments as follows:

- i. In all cases where the excess payments on account of wrong pay fixation, grant of scale without due approvals, promotions without following the procedure, or in excess of entitlements etc come to notice, immediate corrective action must be taken.
- ii. In a case like this where the authorities decide to rectify an incorrect order, a show-cause notice may be issued to the concerned employee informing him of the decision to rectify the order which has resulted in the overpayment, and intention to recover such excess payments. Reasons for the decision should be clearly conveyed to enable the employee to represent against the same. Speaking orders may thereafter be passed after consideration of the representations, if any, made by the employee.
- iii. Whenever any excess payment has been made on account of fraud, misrepresentation, collusion, favouritism, negligence or, carelessness, etc., roles of those responsible for overpayments in such cases, and the employees who benefitted from such actions should be identified, and departmental/criminal action should be considered in appropriate cases.
- iv. Recovery should be made in all cases of overpayment barring few exceptions of extreme hardships. No waiver of recovery may be allowed without the approval of Department of Expenditure.
- v. While ordering recovery, all the circumstances of the case should be taken into account. In appropriate cases, the concerned employee may be allowed to refund the money in suitable installments with the approval of Secretary in the Ministry, in consultation with the FA.

- vi. Wherever the relevant rules provide for payment of interest on amounts retained by the employee beyond the stipulated period etc as in the case of TA, interest would continue to be recovered from the employee as heretofore.

  
(Mukesh Chaturvedi)

Deputy Secretary to the Government of India  
Phone No. 23093176

To

All Ministries/ Departments (as per standard list)

Copy also forwarded to:

1. Secretary General / Registrar General, Supreme Court of India.
2. Secretary General of Lok Sabha Sectt. / Rajya Sabha Sectt.
3. Secretaries in Cabinet Sectt. / Central Vigilance Commission / President's Sectt. / Vice-President's Sectt./ Prime Minister's Office / UPSC / Planning Commission.
4. Controller General of Accounts/Controller of Accounts, Ministry of Finance.
5. Governors of all States/Lt. Governors of all Union Territories.
6. Secretary, National Council of JCM (Staff Side), 13-C, Feroz Shah Road, New Delhi.
7. All Members of Staff Side of the National Council of JCM/ Departmental Council.
8. All Officers / Divisions / Sections of Deptt. of Personal & Training / Deptt. of Administrative Reforms & Public Grievances / Department of Pensions & Pensioners Welfare/ PESB
9. Joint Secretary (Pers.), D/o Expenditure, Ministry of Finance.
10. Additional Secretary (Home), Ministry of Home Affairs.
11. Director NIC, DoPT- for uploading on the web site of the Department under Establishment "Pay Rules".
12. 25 Spare copies.

**No. 7/7/08-CS.I (A)**  
**Government of India**  
**Ministry of Personnel, P.G. and Pensions**  
**Department of Personnel & Training**

2<sup>nd</sup> Floor, Lok Nayak Bhavan,  
Khan Market, New Delhi-110003  
Dated: 22nd December, 2010

**OFFICE MEMORANUM**

Subject: Stepping up of pay of senior Assistants/PAs of CSS/CSSS promoted prior to 01.01.2006 and drawing less pay than Assistants/PAs of CSS/CSSS promoted after 01.01.2006.

A large number of references were received from various Ministries/Departments and service Associations regarding stepping up of pay of senior Assistants/PAs of Central Secretariat Service (CSS)/Central Secretariat Stenographers' Service (CSSS) promoted prior to 01.01.2006 and drawing less pay than Assistants/PAs of CSS/CSSS promoted after 01.01.2006.

2. The matter has been examined in consultation with Ministry of Finance. The Department of Expenditure vide UO No.10/1/2009-IC dated 14.12.2009 (copy enclosed) had issued a clarification regarding manner in which pay of Assistants/PAs would be fixed consequent upon grant of revised pay structure of Grade pay of Rs. 4600 in the pay band PB-2 to them on the basis of OM dated 16.11.2009.

3. In this context, it is clarified that benefit of stepping up of pay as per Note 10 under Rule 7 of CCS(RP) Rules 2008 would be admissible to senior Assistants/PAs of CSS/CSSS promoted prior to 01.01.2006 and drawing less pay than Assistants/PAs of CSS/CSSS promoted after 01.01.2006.

4. All Ministries/Departments may regulate stepping up cases of Assistants/PAs of CSS/CSSS accordingly.

*K. Suresh Kumar*

(K. Suresh Kumar)

Under Secretary to the Government of India

Tel: 2464 2706

Encl: As above.

To  
All Cadre Units of CSS/CSSS  
Ministry/Department.....  
Director/Deputy Secretary (Admn./Estt)  
New Delhi.

Government of India  
Ministry of Finance  
Department of Expenditure  
Implementation Cell

Department of Personnel & Training may please refer to their File No.7/7/2008-CS.1(A) regarding the manner in which pay of Assistants/PAs is to be fixed consequent upon the grant of revised pay structure of grade pay of Rs.4600 in the pay band PB-2 to them on the basis of this Department's O.M. dated 16.11.2009.

2. The matter has been considered in this Department in the light of the points raised by DOPT (CS Division) at pre-page and also clarifications on similar lines sought by certain other cadre controlling ministries of Services covered by this Department's O.M. dated 16.11.2009. Based on the points raised, the following clarifications are issued for guidance: -

Point raised	Clarification
(a) The manner in which pay of Assistants/ PAs in position on 1.1.2006 is to be fixed as per the provisions of CCS (RP) Rules, 2008. Whether there will be any bunching in this case.	The pay in the pay band of Assistants/PAs working as on 1.1.2006 will be fixed with reference to the fitment table of the pre-revised pay scale of Rs.5500-9000 annexed with this Department's O.M. No.1/1/2008-IC dated 30 <sup>th</sup> August, 2008 and they will be granted the grade pay of Rs.4600. Since the minimum pay in the pay band in the revised pay structure corresponding to the stage of Rs.5500 (pre-revised scale of Rs.5500-9000) is more than the minimum of the pay band PB-2 i.e., Rs.9300, <b><u>no benefit of bunching is admissible in this case.</u></b>
(b) The manner of fixation of pay of officials promoted as Assistants/ PAs before 1.1.2006 but who have given option for pay fixation w.e.f. 15.9.06 w.r.t. pre-revised scale of Rs.6500-10500.	In the case of those Assistants/PAs who were already working as Assistants/PAs as on 1.1.2006, but who had given option for pay fixation w.e.f. 15.9.2006 with reference to the pre-revised scale of Rs.6500-10500, their pay will be fixed as per their option by determining their pay in the pay band with reference to the fitment table of the pre-revised scale of Rs.6500-10500 annexed with this Department's O.M. No.1/1/2008-IC dated 30 <sup>th</sup> August, 2008. In such cases, they shall not be entitled for arrears of pay from 1.1.2006 till the date of option.  However, if fixation of pay as per this option is no longer beneficial for any particular employee, he may be allowed to revise his option without referring the matter to Department of Expenditure.
(c) The manner of fixation of pay of officials promoted as Assistants/ PAs between 1.1.2006 and 31.8.2008	In the case of Government servants who were promoted as Assistants/PAs between 1.1.2006 and 31.8.2008, their pay will be fixed as per the option exercised by them. In terms of CCS (RP) Rules, 2008, they have the option to (i) either have their pay fixed w.e.f. 1.1.2006 with reference to the lower scale which they were holding as on 1.1.2006, or (ii) from the date of promotion which took place after 1.1.2006; in such cases, their pay will be fixed with reference to the fitment table of the higher pay scale, however, they will not be

	<p>entitled to arrears of pay from 1.1.2006 till the date of option.</p> <p>Accordingly, in the case of officials who were promoted as Assistants/PAs between 1.1.2006 and 31.8.2008, they have the option to have their pay fixed w.e.f. 1.1.2006 with reference to the pre-revised scale of the lower grade i.e. UDC/Steno 'D'. In such cases, on the date of their promotion, their pay will be fixed by granting them one increment in the pay band (subject to the minimum pay in the pay band being Rs.9300) and grade pay of Rs.4600.</p> <p>Alternatively, they can opt to have their pay fixed from the date of promotion with reference to the fitment table of the upgraded pay scale i.e. pre-revised scale of Rs.7450-11500, in which case, they shall not be entitled to arrears of pay from 1.1.2006 till the date of option.</p>
(d) The manner of fixation of pay of officials promoted as Assistants/ PAs between on or after 1.9.2008.	<p>In the case of UDCs/Stenographers Gr.D promoted as Assistants/PAs on or after 1.9.2008, their pay will be fixed by granting them one increment in the pay band (subject to the minimum pay in the pay band being Rs.9300) and grade pay of Rs.4600.</p>

3. Insofar as the point raised by DOPT regarding the difference between the pay of Assistants/PAs directly recruited in the Central Government on or after 01.01.2006 and the revised pay of those Assistants/PAs who are already serving on 1.1.2006, it is clarified that the pay of those Government servants who joined the Government as direct recruits on or after 1.1.2006 is to be fixed as per Section II, Part 'A' of the First Schedule to the CCS (RP) Rules, 2008. This provision of CCS (RP) Rules, 2008 and the procedure of pay fixation are based on a specific recommendation of the Sixth Pay Commission, which has been accepted by the Government. As far as pay fixation in respect of those Government servants who were already in service on 1.1.2006 is concerned, their revised pay will be fixed in the manner indicated above. Further, in this context, it needs to be noted that the revised pay structure comprises grade pays and running pay bands and in the case of those Government servants who were already in service before 1.1.2006, Sixth Pay Commission has not prescribed a minimum pay in the running pay band with reference to the minimum entry level pay prescribed for direct recruits appointed on or after 1.1.2006. Accordingly, as per the provisions of CCS (RP) Rules, 2008, pay of those Government servants who were already in service on 1.1.2006 can not be fixed with reference to the pay of those who joined the Government as direct recruits on or after 1.1.2006. However, stepping up of pay can be considered in cases where a Senior Government servant is drawing lesser pay than his directly recruited junior borne on the same gradation list.

4. Further, it is noticed that DOPT proposes to issue a separate order on the subject of grant of pay structure of grade pay of Rs.4600 in the pay band PB-2 to Assistants of Central Secretariat Service. In this connection, it is intimated that generally the Government issues only one Order regarding modification in pay scales of a particular category of Government servants. In the present case, since Department of Expenditure has already issued an

O.M. on the subject of grant of pay structure of grade pay of Rs.4600 in the pay band PB-2 to Assistants and Personal Assistants of CSS and CSSS respectively, there does not seem to be any need to issue another Order on the same subject. Internal instructions may, however, be issued on matters like manner of fixation of pay, etc.

5. This issues with the approval of Joint Secretary (Per).

  
( ALOK SAXENA )  
DIRECTOR (IC)

Joint Secretary (AT & A), DOPT, North Block, New Delhi.  
MoF, D/o Expenditure, IC U.O. No.10/1/2009-IC dated 14.12.2009