

परिपत्र

कार्यालय, रक्षा लेखा महानियंत्रक

उलन बटार रोड, पालम, दिल्ली छावनी -10

सं. AN/XI/11051/MACP/2016/Vol I

दिनांक: 31.05.2016

सेवा में,

सभी र.ले.प्र.नि./र.ले.नि.
(र.ले.म.नि. वैबसाइट द्वारा)

विषय : न्यायालय/केन्द्रीय प्रशासनिक अधिकरण के समक्ष प्रस्तुतीकरण और कोर्ट मामलों पर कार्रवाई करना.

कोर्ट मामलों पर कार्रवाई करने के दौरान, किन्हीं एक नियंत्रक ने ऐसे कोर्ट मामलों पर कार्रवाई करने एवं दस्तावेजों पर हस्ताक्षर करने संबंधी मुद्दे को उठाया है जहां पर ओए (OA) में उत्तरदाता के रूप में नियंत्रक को नहीं बल्कि र.ले.म.नि./मंत्रालय को उत्तरदाता बनाया गया है।

इस संबंध में, वित्त मंत्रालय के व्यय विभाग के दिनांक 16.05.2012 के पत्र सं. 7(8)/2012-E-III (A) तथा कार्मिक एवं प्रशिक्षण विभाग की दिनांक 28.9.1993 की अधिसूचना सं. A-11019/105/87-AT को देखें जिसकी प्रतियां संलग्न की गई हैं और जो स्वतः स्पष्ट हैं।

तदनुसार, केन्द्रीय प्रशासनिक अधिकरण/कोर्ट के सभी मामलों को अधीनस्थ कार्यालय द्वारा शीघ्र प्रतिवाद किया जाए। यह कार्य उस अधीनस्थ कार्यालय द्वारा किया जाए जहाँ सरकारी कर्मचारी (मुख्य आवेदक) कार्यरत हो या जहाँ वह अंतिम बार सेवारत रहा हो। इसके अलावा, प्रतिवाद करने वाले उस कार्यालय का, कोई भी वर्ग "क" स्तर का अधिकारी, अभिवचन और अन्य दस्तावेजों पर हस्ताक्षर करने के लिए भी प्राधिकृत किया जा सकता है।

(एस.सी.गुप्ता)
कृते र.ले.म.नि.

CIRCULAR

CONTROLLER GENERAL OF DEFENCE ACCOUNTS
ULAN BATAR ROAD, PALAM, DELHI CANTT.-110010

No .AN/XI/11051/MACP/2016/Vol I

Dated: 31 .5.2016

To


All the PCsDA/CsDA
(Through CGDA Website)

Subject: Submission before Courts/Central Administrative Tribunals and handling of Court Cases.

During the handling of court case, one of the Controllers has raised the issue regarding dealing of court cases & signing of documents, where the Controller has not been named as respondent in OA but CGDA/Ministry has been made respondent.

In this connection, please find enclosed a copy of Department of Expenditure, Ministry of Finance letter bearing No. 7 (8)/2012-E-III (A) dated 16.5.2012 & DOP&T notification No. A-11019/105/87-AT dated 28.9.1993, which is self explanatory.

Accordingly, all cases, filed in CATs/ Courts are to be defended expeditiously by the subordinate office, where the Government servant (main applicant) is serving or has last served. Further, any Group "A" officer from the office, defending the case, can be authorized to sign the pleadings, other documents.



(S.C. Gupta)
For CGDA

F. No. 7(8)/2012-E-III(A)
D/o Expenditure
M/o Finance
(E-III A Branch)

North Block, New Delhi
Dated the 16th May, 2012

Office Memorandum

Subject: Submissions before Courts/Central Administrative Tribunals and handling of Court cases on pay and allowances and service conditions etc.

The Allocation of Business Rules, 1961 forms the basis for transacting business of the Government of India by the different Departments/Ministries. Individual Departments/Ministries are responsible for discharging the business "allocated" to them on behalf of the Government of India and to handle the administrative issues relating to service conditions of the employees under its administrative control. In the context of CAT/Court cases related to pay scales, allowances and other service conditions of Government employees/ employees of autonomous bodies, etc., attention is invited to M/o Finance, D/o Expenditure OM No. 7(32)/E-III/92 dated 24th May, 1993 (copy enclosed) stipulating 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.

2. Of late it has been observed that Ministries/Departments are not following these instructions as a result of which either the Government's stand is weakened in the case or sometimes the Government is put in an embarrassing position. All Ministries/ Departments are therefore, requested to comply with the following while handling cases filed by Government servants or their Associations/Unions on matters related to pay and allowances and other service conditions:

- (i) Court/CAT cases should be handled expeditiously and within the required time frame. Sometimes, references are made to the nodal ministries/departments dealing with policy matters at the eleventh hour, i.e. a few days before the last date fixed by the Court/Tribunal. This does not give sufficient time to these Ministries/Departments to carefully examine the issues involved. It is, therefore, stressed that on receipt of the Notice along with the original Application/Petition, the Administrative Department/ Authority should immediately prepare para-wise comments /counter-affidavit. Wherever necessary, the specific points on which comments of other nodal Departments like Department of Expenditure, Department of Personnel & Training, Department of Pensions and Pensioners' Welfare, etc. are required

may be brought out clearly. Thereupon, reference should be made to the concerned nodal Ministry/Department on priority basis. The matter may thereafter be referred to the Ministry of Law/ Standing Government Counsel engaged in the matter for vetting and filing the same before the Tribunal/Court.

- (ii) It has also been observed that at times the Standing Counsels appointed do not attend the Court hearings. In such an event, the matter must be taken up with the Department of Legal Affairs, Ministry of Law for taking action against Counsels who absent themselves from hearings without valid reasons. Further, the Ministry should ensure arrangements for appearance before the Court/Tribunal as and when the matter comes for hearing and for this purpose proper liaison with the Government counsel should always be maintained. In addition, the Counsels must necessarily be briefed thoroughly before they attend Court proceedings.
- (iii) All cases filed in CATs or Courts have to be defended by the Admn. Ministry/Department/Organisation where the Government servant is serving or has last served. In case other Ministries/Departments have been arrayed as respondents, they are to be treated merely as pro-forma parties and the matter has to be dealt with by the Admn. Ministry itself on behalf of the Government of India i.e. on behalf of all the other Ministries/Departments involved. In other words, there has to be only one counter affidavit submitted before the Court on behalf of the Government and it has to be prepared by the Ministry/Department where the applicant is serving / has last served. However, since other Ministries/Departments are also involved, they have to necessarily be consulted at the stage of formulating the draft counter reply.
- (iv) It has further been observed that while handling service matters/cases of the Government servants, the administrative Ministries/Departments in their communications to the Government servants/Associations etc. or even in the affidavits filed/submissions made before the Supreme Court/Tribunal etc. make specific references to a Ministry/Department under whose advice/directives a particular decision has been taken. This given an impression that the decision is that of the Ministry/ Department which has been consulted and not that of the Government. Such allusions place the Government in an embarrassing position. It is, therefore, stressed that while communicating decision(s) on the representation(s)/complaint(s) etc. submitted by the Government servants or their Associations, etc. the final decision should be in the name of the appropriate authority and in no circumstances, the communication should convey or give an impression that the decision was based on the advice of a particular Ministry/Department which accepted/ rejected the demand(s). Exceptions may be made in respect of the sanctions etc. where according to financial regulations

under rules or other mandatory provisions, it may be obligatory to mention the name of the specific authority with whose concurrence, or in consultation with whom the sanction has been issued.

- (v) Similarly, in case of affidavits filed or oral submissions made before the Courts/CAT, a unified stand should be adopted instead of bringing out each Department's/Ministry's point of view in the said reply. Even in cases where the matter is pending before a Ministry/Department the submissions made should be that the matter is under consideration of the Government and not that of any particular Admn. Ministry/Department. In one such instance, the Admn. Ministry has in its submissions before the Court stated that while it agrees "in principle" to concede to the demands of the petitioners/applicants, it is D/o Expenditure which is not agreeing to the proposal. This position was adopted even as consultations between the two Departments were still underway and the issue at hand was yet to be resolved. A situation like this must be avoided.
 - (vi) In cases where the Court takes a decision against the Government, ~~the Admn. Ministry/Department should take immediate steps to~~ analyse the judgement and arrive at a view in consultation with the nodal Ministry/s concerned as to whether the same should be implemented or filing of an appeal or SLP is called for. The reference to nodal Ministry/s for their advice needs to be made well before the last date for filing Review Application before the CAT itself/an appeal before the High Court/SLP in the Supreme Court. The grounds on which the same are being filed have to necessarily be spelt out in the event of deciding that filing of such a Review application / SLP is necessary.
 - (vii) In case a delay in filing the reply is apprehended, necessary steps to seek extension in time or stay orders should be taken on an urgent basis with the assistance of Standing Counsels.
 - (viii) In certain cases, the Tribunal/Courts may not deliver substantive judgements in the matter and may direct the Government to consider/take a final view in the matter based on certain guidelines etc. The Tribunal/Court may desire final decision by a specific date. In all such cases, it is essential to ensure compliance of the orders within the specified time. In case any delay is expected on this score, extension of time from Tribunal/Court should always be sought. In such cases also, it has to be ensured that the matter is referred to different nodal agencies/Departments well before the last date of taking a final decision
3. In a nutshell, 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. For this purpose, a proper mechanism for monitoring of court cases must be put in place by each Ministry/Department. Financial Advisers may ensure that cases requiring a reference to Department of Expenditure are invariably processed in a timely manner and the timelines monitored so that any contempt proceedings do not arise.

4. This issues with approval of Secretary (Expenditure).

Madhulika Prasad
(Madhulika P. Sukul)
Joint Secretary (Pers.)

1. Secretaries of all Ministries/Depts.
2. Chief Administrators of all UTs.
3. All Financial Advisers

Ministry of Law for their advice. It is the primary duty of the administrative Ministry concerned to follow the matter at every stage and ensure filing of the counter-affidavit or SLP within the time schedule laid down by the Tribunal/Court. In case delay in filing the reply is apprehended, necessary steps to seek extension in time or stay orders may be taken with the assistances of Standing Counsels.

- VII In certain cases, the Tribunal/CAT may not deliver substantive judgement in the matter and may direct the Government to take a final view in the matter based on certain guidelines etc. The Tribunal/Court may desire final decision by a specific date. In all such cases, it is essential to ensure compliance of the orders within the specified time. In case any delay is expected in reaching a final decision in the matter, extension of time from tribunal/Court should always be sought for. In such cases also, it has to be ensured that the matter is referred to different consulting agencies/Departments well before the last date of taking a final decision.
- VIII In brief, the administrative Ministry has to ensure that in all cases timely action is taken and in no case the litigation is allowed to prolong to the extent that it results in contempt proceedings.
- IX All the Ministries and U.T. administrations are requested to ensure that these instructions are strictly followed by all concerned under their administrative control.

[GOI Min of Finance, Deptt of Expdr OM F.No.7 (32)-E-III/92 dated 24/05/93]

17.13 Officers Authorised To Sign And Verify Pleadings

Deptt of Pers & Trg. Notification No. A-11019/105/87-AT dated 28/09/1993

GSR 630(E)

In exercise of the powers conferred by Article 77 of the Constitution and in supersession of the Government of India (Authorization of Officers for Verification of Pleadings and Other Documents to be filed in the Central Administrative Tribunal) rules, 1992, except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules namely:—

1. **Short title and commencement –**

- (1) These rules may be called the Government of India (Authorization of officers for Verification of Pleadings and Other Documents to be filed in the Central Administrative Tribunal) Rules, 1993.
- (2) They shall come into force on the date of their publication in the Official Gazette (published on 28-9-1993)

2. **Authorization of officers—**

(1) The officers specified in the Schedule annexed to these rules are hereby authorized to sign all pleadings and other documents to be filed for and on behalf of the Union of India, before Central Administrative Tribunal established under sub-section (1) of Section 4 of the Administrative Tribunals Act, 1985 (13 of 1985).

(2) Such of the officers referred to in sub-rule (1) as are acquainted with the facts of the case are also authorized to verify such pleadings.

SCHEDULE

[See Rule 2(1)]

1. (i) Any Group 'A' Officer in any Ministry/Department of the Government of India
- (ii) Any Desk Officer in any Ministry/Department of the Government of India;
2. Any Group 'A' Officer in any non-Secretariat office of the Government of India.