

Prasar Bharati
(India's Public Service Broadcaster)
Inspection Unit, Room No. 903, Tower-B
Directorate General: Doordarshan
Doordarshan Bhawan, Mandi House,
Copernicus Marg, New Delhi

No. 15(2)/DG: DD/2016-IU/1914-18

Dated: 17.10.2019

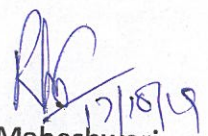
**Sub: Recovery of outstanding amount towards irregular payment of Scheduled/
Tribal Area Allowance-Reg.**

Kindly find **enclosed** herewith instructions issued by **Ministry of I & B** vide letters No.G-25012/1/2016-B (Fin) dated **27.03.2019 and 11.02.2019** on the subject mentioned above enclosing therewith orders from the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training vide letter No. 18/03/2015-Estt (Pay-I) dated 02.03.2016 (**copy enclosed**) regarding recovery of wrongful/ excess payments made to Government servants. The DOP&T (Ministry of Personnel, Public Grievances & Pensions) has directed to all the concerned units for taking necessary action in this regard.

Prasar Bharati Secretariat and Ministry of I&B have expressed their displeasure on the delay in furnishing the information from the concerned units and directed again to furnish the requisite information urgently.

Therefore, all the Zonal ADGs are requested to issue necessary instructions to all the concerned units for strict compliance of the instructions and furnish the required information urgently latest by 31st October 2019 by mail at sraoiudgdd@gmail.com.

Encl: As above


R. K. Maheshwari
Asstt. Director (IU)

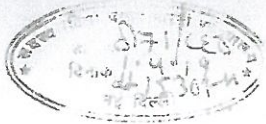
To

1. ADG (Prog-North, East and Central Zone), DG: DD, Copernicus Marg, New Delhi-110001 for necessary action.
2. ADG (Prog-West Zone), 6th Floor, P.B.Marg, Doordarshan Kendra Mumbai, Worli, Mumbai- 400030 for necessary action.
3. ADG (Prog-South Zone), Doordarshan Kendra, Doordarshan Complex, J.C.Nagar, Bengaluru-560006 for necessary action.
4. All Heads of office, DDKs/DMCs/HPTs.

Copy:

1. Shri Rajesh Kumar Sharma, Director (B&A), Prasar Bharati Secretariat, Copernicus Marg, New Delhi-110001.
2. IT Cell with the request to upload the above on the official Web site.





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No. G-25012/1/2016-B(Fin)
Government of India
Ministry of Information & Broadcasting
B (Finance) Section

Shastri Bhawan, New Delhi
Dated: 27.03.2019

ADS
2/4/19
ADG (B&A)
on Elect. in
Ruty.
DDG (F)

To,
CEO,
Prasar Bharati Secretariat,
Prasar Bharati House,
Copernicus Marg,
New Delhi- 110001

Subject: Recovery of Outstanding amount towards irregular payment of Scheduled/Tribal Area Allowances- regarding.

Sir,

I am directed to refer to this Ministry's letter of even no. dated 11.02.2019 (copy enclosed) and subsequent reminder dated 28.02.2019 requesting therein to stop the recovery from the employees falling in the categories mentioned in DOPT's O.M No. 18/03/2015-Esst. (pay-I) dated 02.03.2016 and furnish the category-wise details of recovery of Tribal Area Allowances along with the latest status of the recovery. The requisite information is still awaited from Prasar Bharati.

2. It is, therefore, again requested to furnish the requisite information to the Ministry immediately to take up the matter with MoF.

Encl.: As above

Yours faithfully

(Signature)

(Padmja Vashistha)
Deputy Secretary to the Government of India
Tele: 2338 8340

*so do see, ss
11/4/19.*

ADG (E&A)

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No. G-25012/1/2016-B(Fin)
Government of India
Ministry of Information & Broadcasting
'A' Wing, Shastri Bhawan

New Delhi
Dated: 11.02.2019

To,
The CEO,
Prasar Bharati Secretariat,
Prasar Bharati House,
Copernicus Marg,
New Delhi- 110001

Subject: Recovery of Outstanding amount towards irregular payment of Scheduled/Tribal Area Allowances- regarding.

Sir,

I am directed to refer to Prasar Bharati's letter No. PB/Draft Para/STA/2016/126 dated 05.10.2018 furnishing therewith Action Taken Note (ATN) on the above cited subject.

2. The ATNs furnished by Prasar Bharati has been examined in the Ministry and it is noticed that the recoveries is being made from the employees which is impermissible in law in purview of Hon'ble Supreme Court's order in Rafiq Masih case mentioned by DOPT's OM No. 18/03/2015-Esst.(pay-I) dated 02.03.2016 (copy enclosed) . Accordingly, the following few situations, wherein recoveries by the employers would be impermissible in law:-

(i) Recovery from employers belonging to Class-III and Class-IV service (or Group 'C' or Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery

(iii) Recovery from employers, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent as would far outweigh the equitable balance of the employer's right to recover.

As (iv)

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No. G-25012/1/2016-B(Fin)

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3. In view of the above, Prasar Bharati is requested to stop the recovery from the employees falling in the above mentioned categories till further orders and furnish the categories wise details of recovery of Tribal Area Allowances made so far as mentioned in para No. 2 above. The latest status of recovery may also be furnished to the Ministry. It may kindly be accorded Top Priority.

Encl.: As above

Yours Faithfully

Arnab

(Arnab Bhattacharyya)

Under Secretary to the Government of India

Tele: 23389695

etc

*Issued with
enclosure & mail
CA 11/27/19*

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F.No.18/03/2015-Estt. (Pay-1)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, the 2nd March, 2016

OFFICE MEMORANDUM

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

The undersigned is directed to refer to this Department's OM No.18/26/2011-Estt (Pay-I) dated 6th February, 2014 wherein certain instructions have been issued to deal with the issue of recovery of wrongful / excess payments made to Government servants in view of the law declared by Courts, particularly, in the case of *Chandi Prasad Uniyal And Ors. vs. State of Uttarakhand And Ors., 2012 AIR SCW 4742, (2012) 8 SCC 417*. Para 3(iv) of the OM *inter-alia* provides that recovery should be made in all cases of overpayment barring few exceptions of extreme hardships.

2. The issue has subsequently come up for consideration before the Hon'ble Supreme Court in the case of *State of Punjab & Ors vs Rafiq Masih (White Washer) etc in CA No.11527 of 2014 (Arising out of SLP(C) No.11684 of 2012)* wherein Hon'ble Court on 18.12.2014 decided a bunch of cases in which monetary benefits were given to employees in excess of their entitlement due to unintentional mistakes committed by the concerned competent authorities, in determining the emoluments payable to them, and the employees were not guilty of furnishing any incorrect information / misrepresentation / fraud, which had led the concerned competent authorities to commit the mistake of making the higher payment to the employees. The employees were as innocent as their employers in the wrongful determination of their inflated emoluments. The Hon'ble Supreme Court in its judgment dated 18th December, 2014 *ibid* has, *inter-alia*, observed as under:

"7. Having examined a number of judgments rendered by this Court, we are of the view, that orders passed by the employer seeking recovery of monetary benefits wrongly extended to employees, can only be interfered with, in cases where such recovery would result in a hardship of a nature, which would far outweigh, the equitable balance of the employer's right to recover. In other words, interference would be called for, only in such cases where, it would be iniquitous to recover the payment made. In order to ascertain the parameters of the above consideration, and the test to be applied, reference needs to be made to situations when this Court exempted employees from such recovery, even in exercise of its jurisdiction under Article 142 of the Constitution of India. Repeated exercise of such power, "for doing complete justice in any cause" would establish that the recovery being effected was iniquitous, and therefore, arbitrary. And accordingly, the interference at the hands of this Court."

"10. In view of the afore-stated constitutional mandate, equity and good conscience, in the matter of livelihood of the people of this country, has to be the

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basis of all governmental actions. An action of the State, ordering a recovery from an employee, would be in order, so long as it is not rendered iniquitous to the extent, that the action of recovery would be more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer, to recover the amount. Or in other words, till such time as the recovery would have a harsh and arbitrary effect on the employee, it would be permissible in law. Orders passed in given situations repeatedly, even in exercise of the power vested in this Court under Article 142 of the Constitution of India, will disclose the parameters of the realm of an action of recovery (of an excess amount paid to an employee) which would breach the obligations of the State, to citizens of this country, and render the action arbitrary, and therefore, violative of the mandate contained in Article 14 of the Constitution of India."

3. The issue that was required to be adjudicated by the Hon'ble Supreme Court was whether all the private respondents, against whom an order of recovery (of the excess amount) has been made, should be exempted in law, from the reimbursement of the same to the employer. For the applicability of the instant order, and the conclusions recorded by them thereafter, the ingredients depicted in paras 2&3 of the judgment are essentially indispensable.

4. The Hon'ble Supreme Court while observing that it is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement has summarized the following few situations, wherein recoveries by the employers would be impermissible in law:-

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.
- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

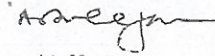
5. The matter has, consequently, been examined in consultation with the Department of Expenditure and the Department of Legal Affairs. The Ministries / Departments are advised to deal with the issue of wrongful / excess payments made to Government servants in accordance with above decision of the Hon'ble Supreme Court in CA No.11527 of 2014 (arising out of SLP (C) No.11684 of 2012) in State of Punjab and others etc vs Rafiq Masih (White Washer) etc. However, wherever the waiver of recovery in the above-mentioned situations is considered, the same may be allowed with the

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express approval of Department of Expenditure in terms of this Department's OM No.18/26/2011-Estt (Pay-I) dated 6th February, 2014.

6. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued with the concurrence of the Comptroller and Auditor General of India.

7. Hindi version will follow.



(A.K. Jain)

Deputy Secretary to the Government of India

1. All Ministries / Departments of Government of India
2. NIC, DOP&T - with a request to upload this OM on the Department's website under OMs & Orders (Establishment → Pay Rules) and also under "What is New".

Copy also forwarded to:

1. The Comptroller & Auditor General of India.
2. Secretary General, Supreme Court of India.
3. Controller General of Accounts / Controller of Accounts, Ministry of Finance.
4. Union Public Service Commission / Lok Sabha Sectt. / Rajya Sabha Sectt. / Cabinet Sectt. / Central Vigilance Commission / President's Sectt. / Vice-President's Sectt. / Prime Minister's Office / Niti Aayog.
5. Governments of all States and Union Territories.
6. Department of Personnel and Training (AIS Division) / JCA / Admn. Section.
7. Secretary, National Council of JCM (Staff Side), 13-C, Feroz Shah Road, New Delhi.
8. All Members of Staff Side of the National Council of JCM / Departmental Council.
9. All Officers / Sections of Department of Personnel and Training / Department of Administrative Reforms & Public Grievances / Department of Pensions & Pensioners' Welfare / PESB.
10. Joint Secretary (Pers), Department of Expenditure, Ministry of Finance.
11. Additional Secretary (Union Territories), Ministry of Home Affairs.