

GOVERNMENT OF HARYANA
FINANCE DEPARTMENT

NO.14/69/2015-5FA

Dated, Chandigarh, the 26th May, 2016

To

1. All the Heads of Department and Commissioners of Divisions.
2. All the Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.
3. The Registrar, General Punjab & Haryana High Court, Chandigarh.

Subject:- Monitoring of Court cases in the Hon'ble Courts and to minimize the litigation.

for further n/s

Sir/Madam,

Reference to Government letter Memo. No. 21/2/2015-5JJ(I), dated 03.11.2015 issued by the Additional Chief Secretary to Government Haryana, Administration Of Justice Department on the subject cited above.

After detailed examination of the issue to monitor the court cases in the Hon'ble Courts and to minimize the Court cases, it has been decided to handle the Court cases in the following manner:-

(i) After the receipt of notice of Hon'ble Court in Civil Suit/Civil Writ Petition, the matter should be examined by the Members of SAS Cadre posted in the Department/Boards/Corporations in the light of provisions of Service Rules/Instructions /Litigation Policy applicable in the case. Members of SAS cadre after detailed examination with regard to claim of the petitioner shall give their comments alongwith relevant provisions of service rules applicable in that case.

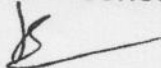
(ii) It has come into the notice of FD that in some cases erroneous benefit contrary to the provisions of service rules is given to government employee either by the officials/officers of department which has been approved by the Members of SAS cadres or given on the advice of Members of SAS cadres. The law has already been laid down by the Hon'ble Supreme Court of India that excess amount cannot be recovered in the following cases:-

- (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.

In view of this position, State has no other option but to fix the responsibility of officers/officials of the department (if they are responsible for erroneous benefit) or the Members of SAS cadre (if they are responsible for erroneous benefit) alongwith the recovery of total amount from them. Because, there is loss to State exchequer which is public money and public money cannot be permitted to misuse in these manner.

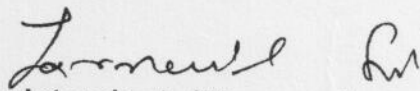
- (iii) It has also come into the notice of FD that in some cases, the right of government employees accrues under the provisions of service rules is not given by the officers/officials of the department or on the advice of Members of SAS cadres. The department concern is not competent to stop any benefit at their own level which has been accrued under the provisions of service rules/Govt. instructions. If there is any ambiguity in the language of service rules/Govt. instructions in that eventuality the matter may be referred to FD seeking clarification immediately without any delay. After adopting this procedure, the litigation on these subject shall be minimized.
- (iv) To achieve the object of minimize litigation in future, if it is found that the said procedure has not been followed by the Officers/officials of the department or by the Members of SAS Cadres, the responsibility of officers/officials concerned of the Department or the Member of SAS



-3-

Cadres shall be fixed under the provision of Rule 7 of the Punishment and Appeals Rules 1987.

- (v) In all the cases wherein provisions of service rules/Govt. instructions of Pay Revision Branch, Pension Branch or FR Branch are involved, written statement cannot be filed by the department without the approval of Finance Department.

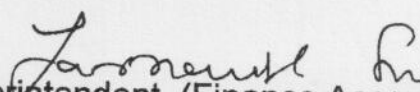

Superintendent, (Finance Accounts),
for Additional Chief Secretary to Govt., Haryana,
Finance Department.

Endst.No. 14/69/2015-5FA

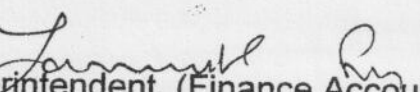
Dated, Chandigarh, the 26th May, 2016

A copy is forwarded for information and necessary action to the:-

- (i) Principal Accountant General (A&E) and Audit, Haryana, Chandigarh.
- (ii) Director, Treasuries and Accounts Department, Haryana.
- (iii) In-charge, Computer Cell (Finance Department) Haryana Civil Secretariat for placing these orders on Finance Department website.


Superintendent, (Finance Accounts),
for Additional Chief Secretary to Govt., Haryana,
Finance Department.

A copy is forwarded to all the Administrative Secretaries to Government, Haryana for information and necessary action.


Superintendent, (Finance Accounts),
for Additional Chief Secretary to Govt., Haryana,
Finance Department.

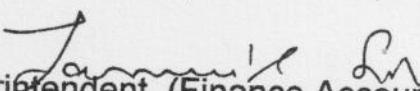
To

All the Administrative Secretaries to Government, Haryana.

U.O.No. 14/69/2015-5FA

Dated, Chandigarh, the 26th May, 2016

A copy each is forwarded to the Principal Secretary/ Additional Principal Secretary/Officers on Special Duty/ I,II,III,IV,V/Senior Secretaries/Private Secretaries/ for the information of Chief Minister/Ministers/Ministers of State/Chief Parliamentary Secretaries, Haryana.


Superintendent, (Finance Accounts),
for Additional Chief Secretary to Govt., Haryana,
Finance Department.

To

The Principal Secretary/ Additional Principal Secretary I,II/Officers on Special Duty/ I,II,III,IV,V/Senior Secretaries/Private Secretaries/ for the information of Chief Minister/Ministers/Ministers of State/Chief Parliamentary Secretaries, Haryana.

U.O.No. 14/69/2015-5FA

Dated, Chandigarh, the 26th May, 2016