



कार्यालय: रक्षा लेखा प्रधान नियंत्रक
Office of the Principal Controller of Defence Accounts
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No. Pay Tech/Pay Fix Corr/2022

Dated 2-02-2023

To

All units/formations under the
Audit Jurisdiction of PCDA, Bangalore

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

Ref: DoPT OM No.18/03/2015-Estt(Pay-I) dated 03-10-2022

Please refer to above cited OM(copy enclosed) regarding recovery of wrongful/excess payments made to Government Servants.

2. The OM is self explanatory and units/formations are requested to strictly adhere to the advise mentioned at para 5 of the OM dated 03-10-2022. With reference to para 5 (iii), it is suggested that list of employees(Industrial & Non-Industrial Employees) who are retiring within next 4 years may be prepared and these cases may please be submitted to Audit Authorities along with Service Books for review of any errors/mistakes occurred earlier, while approving the Pay fixation cases.

Shanab

Assistant Controller of Defence Accounts (Civ Pay)

Copy to:

To All LAOs, RAO(MES)	For information please. Copy of DoPT OM Cited above is enclosed herewith. Necessary action may please be taken to obtain a service books of industrial employees due to retire within next four years for review of any errors/mistakes occurred earlier while approving Pay fixation cases.
All AO GEs	

P. S. V.

Assistant Controller of Defence Accounts (Civ Pay)

F.No.18/03/2015-Estt. (Pay-I)
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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