

No. 11012/10/76-Estt(A)
Government of India/Bharat Sarkar
Cabinet Secretariat/Mantrimandal Sachivalaya
Department of Personnel and Administrative Reforms
(Karmik Aur Prashasanik Sudhar Vibhag).

....

New Delhi-1, dated the Oct. .76

OFFICE MEMORANDUM

Subject: CCS (CCA) Rules, 1965- Recourse to exparte proceedings under Rule 14(20) - Clarification Regarding.

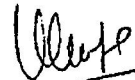
The undersigned is directed to say that in the case of Ghanshyam Das Srivastava Vs. State of Madhya Pradesh (AIR 1973 SC 1183), the Supreme Court had observed that where a Government servant under suspension pleaded his inability to attend the enquiry on account of financial stringency caused by the non-payment of subsistence allowance to him, the proceedings conducted against him exparte would be in violation of the provisions of Article 311(2) of the Constitution as the person concerned did not receive a reasonable opportunity of defending himself in the disciplinary proceedings.

2. In the light of the judgment mentioned above, it may be impressed on all authorities concerned that they should make timely payment of subsistence allowance to Government servants who are placed under suspension so that they may not be put to financial difficulties. It may be noted that, by its very nature, subsistence allowance is meant for the subsistence of a suspended Government servant and his family during the period he is not allowed to perform any duty and thereby earn a salary. Keeping this in view, all concerned authorities should take prompt steps to ensure that after a Government servant is placed under suspension, he received subsistence allowance without delay.

3. The judgment of the Supreme Court referred to in para 1 above indicates that in that case, the disciplinary authority proceeded with the enquiry exparte notwithstanding the fact that the Government servant concerned had specifically pleaded his inability to attend the enquiry on account of financial difficulties caused by non-payment of subsistence allowance. The Court had held that holding the enquiry exparte under such circumstances would be violative of Article 311(2) of the Constitution on account of denial of reasonable opportunity of defence. This point may also be kept in view by all authorities concerned. before involving the provisions of rule 14(20) of the CCS (CCA) Rules, 1965.

.....2/-

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all concerned under their control.


(R.C. Gupta)

UNDER SECRETARY TO THE GOVT. OF INDIA.


To

All Ministries/Departments of Govt. of India, etc.
with usual number of spare copies.

No. 11012/10/76-Estt(A) dated the 6 Sept.76.

Copy, with usual number of copies, also forwarded for information and necessary action to the

- 1) Central Vigilance Commission, New Delhi
- 2) Union Public Service Commission, New Delhi
- 3) Comptroller and Auditor General, New Delhi
- 4) Director, Central Bureau of Investigation, New Delhi
- 5) All Union Territories Administrations.
- 6) All Chief Vigilance Officers.
- 7) All Sections of Department of Personnel and A.R.)


(R.C. Gupta)

UNDER SECRETARY TO THE GOVT. OF INDIA.