

No. 22011/1/99-Estt.(A)
Government of India
Ministry of Personnel, Public
Grievances & Pensions
(Department of Personnel & Training)

.....
New Delhi, the 25th February, 1999.

OFFICE MEMORANDUM

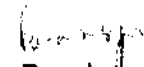
Subject: Sealed Cover Procedure - Guidelines regarding.

The undersigned is directed to refer to the Department of Personnel & Training's O.M. No.22011/4/91-Estt. (A) dated 14th September, 1992 on the subject mentioned above and to say that as stated in the O.M., these instructions have been issued in the light of the Judgement dated 27.8.91 of the Supreme Court in the case of Union of India etc. Vs. K.V. Janakiraman etc. (AIR 1991 SC 2010).

2. It has come to notice of this Department that in some cases decided by the Central Administrative Tribunal were contrary to these instructions, the matter was not contested in appeal by some Ministries/Departments. Perhaps, it was because of lack of knowledge on the part of the officers/advocates handling the cases.

3. Attention in this connection is invited to para 3.1 of the O.M. dated 14.9.92 wherein it has been provided that "if any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him." In Janakiraman's case, the Supreme Court has upheld a similar provision (as quoted above) contained in the O.M. dated 30.1.82. A Full Bench of the Central Administrative Tribunal had struck down the said provision contained in the O.M. dated 30.1.82 but the Supreme Court set aside the finding of the Tribunal holding that an employee found guilty of misconduct cannot be placed at par with other employees and that treating his case differently is not discriminatory.

4. All Ministries/Departments, therefore, requested to follow these instructions without fail and contest the cases relating to the subject matter, if any, before the Tribunal/High Court bringing to their notice the decision rendered by a three-Judge Bench of the Supreme Court in Janakiraman's case. In terms of Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within the territory of India.

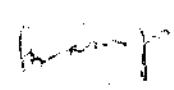

(Smt. S. Bandopadhyay)
Director

To

All Ministries/Departments of the Government of
India

Copy forwarded for information to:

1. Central Vigilance Commission, New Delhi.
2. Central Bureau of Investigation, New Delhi.
3. Union Public Service Commission, New Delhi.
4. Comptroller & Auditor General of India, New Delhi.
5. President's Secretariat/Vice-President's Secretariat/
Lok Sabha /Rajya Sabha Secretariat and Prime
Minister's Office.
6. Chief Secretaries of All States and Union
Territories.
7. All Officers and Administrative Sections in the
Ministry of Personnel, Public Grievances and
Pensions and MHA.


(Smt. S. Bandopadhyay)
Director