

No. 43011/4/2015-Estt(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi
Dated the 07th June, 2016

OFFICE MEMORANDUM

Subject:- - References from Ministries/Departments seeking advice of the DoP&T regarding further course of action to be taken on the order of Tribunal /Courts.

The Ministries/ Departments make references to this Department seeking advice regarding the course of action to be taken on the order of Tribunal / Courts. Generally, if the directions of the Tribunals / Court is not in consonance with the policy of DoP&T, the administrative Ministry / Department concerned is advised for filing an appeal / review in the High Court in consultation with the Department of Legal Affairs. In a few of these cases, the advice of the Department of Legal Affairs is contrary to the advice of the DoP&T. Under such circumstances, the administrative Ministries / Departments make a second reference to DoP&T and DoLA for resolving the matter. The matter has been considered in the DoP&T and it also discussed with DoLA and representatives of Department of Revenue, Ministry of Health & Family Welfare, who have in the recent past made a few references of this type. In order to avoid second reference and to effectively deal with Court Cases, it has been decided that the following course of action may be followed:-

- (a) Wherever the direction of the Tribunal or court is not in consonance with the policy of DoP&T, the DoP&T may not insist on the Administrative Ministry obtaining the advice of Department of Legal Affairs.
- (b) In all the cases filed in Tribunals/Courts, the administrative Ministry shall defend the policy of DoP&T as laid in various OMs and instructions by filing an appeal or review in the appropriate court.
- (c) The Ministry of Law and Justice to designate a counsel for each Ministry so that the court cases are defended well.
- (d) The Administrative Ministry / Department must ensure that an officer of the level of Under Secretary or above is present in the court when important issues having policy issues or contempt petitions come up for hearing in the court.
- (e) Where necessary, DOP&T while giving advice on the references pertaining to court cases, will indicate that an officer of DOP&T shall be co-opted for briefing ASG. In such cases, the administrative Ministry/Department shall fix an appointment with ASG and inform this Department in advance accordingly (i.e., venue, date and time).
- (f) Wherever there is a case of delay, the Administrative Ministry may fix responsibility for the same.

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2. While defending court cases, as far as possible the DoP&T, Ministry of Law and line Ministry / Department should be on the same page and put up arguments on behalf of Union of India in a coherent manner and uphold the policy of the Government applicable in the relevant case.


(Rajesh Sharma)

Under Secretary to the Govt. of India
Tele. No. 23040340

All Ministries/Departments of the Government of India.

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Vice-president's Sectt, New Delhi
3. The Prime Minister's Office, New Delhi.
4. The Cabinet Secretariat, New Delhi.
5. The Rajya Sabha Secretariat, New Delhi.
6. The Lok Sabha Secretariat, New Delhi.
7. The Comptroller and Audit General of India, New Delhi.
8. The Secy, Union Public Service Commission, New Delhi
9. The Staff Selection Commission, New Delhi.
- 10 All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
11. All Officers and Sections in the Department of Personnel and Training.
12. Establishment(D) Section, DoP&T (**10 copies**)
13. NIC for updation on the website.


(Rajesh Sharma)

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