

F. No. 219/12/2009-AVD.II
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training
(AVD.II Desk)

Dated: 19.01.2012

Office Memorandum

Subject:- Authorization of the Central Government to file an application under Section 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property acquired by any person by means of the scheduled offence.

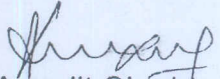
The undersigned is directed to refer to this office OM of even number dated 13.05.2009 whereby instructions were issued regarding authorization of the Central Government to file an application under Section 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence by the person, who is employed in connection with affairs of the Union and is not removable from his office save by or with the sanction of the Central Government.

2. References have been received in this office pointing out the difficulties in the matter of authorization of the Central Government to file Authorization of the Central Government to file an application under Section 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence in respect of persons who retired before filing the charge sheet, or in the cases where the competent authority cannot be equated with the Central Government.

3. The matter has been examined in consultation with Ministry of Law & Justice (Deptt. of Legal Affairs) and position is clarified as below:-

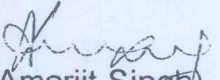
- (i) In the case of retired public servants, even though the charge sheets are filed without obtaining sanction for prosecution under section 19(1) of the PC Act, 1988, the Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed should be competent to give authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of money or property procured by means of scheduled offences.

- (ii) In the cases where the competent authority cannot be equated with the Central Government, the administrative Ministries of the concerned competent authorities should be competent to give authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of money or property procured by means of scheduled offences.
- (iii) The cases, which are not covered by the above dispensation or under the instructions issued vide OM dated 13th May, 2009, may continue to be processed as per the practice prevalent before the issue of OM dated 13th May, 2009.


(Amarjit Singh)

Under Secretary (AVD-II)

1. All Ministries/Departments of the Government of India.
2. Director, CBI, CGO Complex, New Delhi.
3. Joint Director (Policy), CBI, Room No.27, North Block, New Delhi.
4. All Directors/Deputy Secretaries/Under Secretaries/Section Officers of the Vigilance Division, Deptt. of Personnel & Training, New Delhi.
5. Director, NIC, North Block, New Delhi with the request to put the OM on the website of DOPT under "Circulars" head of the Vigilance Division.
6. 100 Spare copies.


(Amarjit Singh)

Under Secretary (AVD-II)