



भारतीय आयुर्विज्ञान अनुसंधान परिषद
INDIAN COUNCIL OF MEDICAL RESEARCH

वी. रामलिंगस्वामी भवन, अन्सारी नगर, पोस्ट बॉक्स 4911, नई दिल्ली - 110 029
V. RAMALINGASWAMI BHAWAN, ANSARI NAGAR, POST BOX 4911, NEW DELHI - 110 029

No.16/138/2014-Admn.II

By Spend Post

Dated 27.7.2015

To

The Directors/Directors-in-Charge
Of all permanent Institutes/Centres of ICMR.

Subject: Grant of Transport Allowance to Scientist 'G'


Sir/Madam,

I am directed to invite a reference to this office letter of even number dated 23.12.2014 and 30.1.2015 on the subject mentioned above and to inform that the matter of payment of Transport Allowance to Scientist-'G' promoted under Five-yearly Assessment Scheme has been considered. The Department of Health Research *vide* their letter No.V.25011/262/2015-HR, dated 10th July, 2015 has informed that the Scientists promoted under Five-yearly Assessment Scheme are not eligible for Transport Allowance @ Rs.7,000/- per month.

Hence, the payment of Transport Allowance @ Rs.7,000/- per month and DA thereon to ineligible officers may be stopped and recovery of excess payment, if any, be made under intimation to this Office.

This issues with the approval of the Competent Authority.

Yours faithfully,


29/7/15

(Bharat Bhushan)
Administrative Officer
for Director-General

V.25011/262/2015-HR
Government of India
Ministry of Health & Family Welfare
(Department of Health Research)

2nd Floor Indian Red Cross Society
Red Cross Road New Delhi
Dated: 10th July, 2015

To

Shri T.S. Jawahar
Sr. DDG & Sr. FA
Indian Council of Medical Research
Ansari Nagar
New Delhi-110029

Cous (P+A) + Ao (Ad-II)
(By HAND)
R. discuss.
16/7

Subject: Grant of Transport Allowance to scientist 'G'.

Sir,

This has reference to your D.O letter No. 16/138/2014 Admn. II dated 29/6/15 regarding transport allowances to Scientist 'G' of ICMR.

The matter has been considered in the Deptt. of Health Research & following are observed-

i) As per the records of DHR, ICMR's earlier letter dated 5/5/15 was not received in the Deptt. A copy has been obtained from Admn. II on 6/7/15. The dispatch records of ICMR may be checked for its delivery in DHR so as to avoid such situation in future.

ii) The competent authority in ICMR which has recommended non-recovery of T.A. & continuation of T.A @ Rs. 7000/- has not been indicated in the letter dated 5/5/15.

iii) ICMR is required to take corrective measures to settle audit observation. The audit observation may be internally examined in consultation with the finance division in terms of extant rules & regulations and proposal sent to DHR only with the approval of DG, ICMR.

iv) Any ineligible payment should be recovered and ICMR should take all necessary action including fixation of responsibility for overpayments, in terms of DOPT' O.M. No. 18/26/2011 Estt. Pay I dated 6th February 2014. Copy of DOPT's order dated 6/2/14 is enclosed for ready reference and compliance of the provisions.

ICMR is requested to take urgent necessary action in the matter & report to DHR within seven days.

Sharma

(Sunita Sharma)
Deputy Secretary

Sr. DDG (A), ICMR OF FICL
DIARY NO. 1922
DATE: 16/7/15

F. No. 18/26/ 2011-Estt (Pay-I)
Government of India
Ministry of Personnel, PG and Pension
Department of Personnel and Training

North Block, New Delhi,
Dated the 6th February, 2014

OFFICE MEMORANDUM

Subject: Recovery of wrongful/excess payments made to Government servants.

The undersigned is directed to say that the issue of recovery of wrongful/excess payments made to Government servants has been examined in consultation with the Department of Expenditure and the Department of Legal Affairs in the light of the recent judgement of the Hon'ble Supreme Court in *Chandi Prasad Uniyal And Ors vs State Of Uttarakhand And Ors*, 2012 AIR SCW 4742, (2012) 8 SCC 417, decided on 17th August, 2012. The Hon'ble Court has observed

as under:

15. We are not convinced that this Court in various judgments referred to hereinbefore has laid down any proposition of law that only if the State or its officials establish that there was misrepresentation or fraud on the part of the recipients of the excess pay, then only the amount paid could be recovered. On the other hand, most of the cases referred to hereinbefore turned on the peculiar facts and circumstances of those cases either because the recipients had retired or on the verge of retirement or were occupying lower posts in the administrative hierarchy.
16. We are concerned with the excess payment of public money which is often described as "tax payers money" which belongs neither to the officers who have effected over-payment nor that of the recipients. We fail to see why the concept of fraud or misrepresentation is being brought in such situations. Question to be asked is whether excess money has been paid or not may be due to a bona fide mistake. Possibly, effecting excess payment of public money by Government officers may be due to various reasons like negligence, carelessness, collusion, favouritism etc. because money in such situation does not belong to the payer or the payee. Situations may also arise where both the payer and the payee are at fault, then the mistake is mutual. Payments are being effected in many situations without any authority of law and payments

have been received by the recipients also without any authority of law. Any amount paid/received without authority of law can always be recovered barring few exceptions of extreme hardships but not as a matter of right, in such situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment.

2. Hon'ble Supreme Court also distinguished the cases like *Shyam Babu Verma v UOI*, 1994 SCR (1) 700, 1994 SCC (2) 52, *Syed Abdul Qadir and Ors. v. State of Bihar and Ors*, (2009) 3 SCC 475, *Sahib Ram v. State of Haryana*, 1995 Supp (1) SCC 18 etc., where it had not allowed recovery of excess payment in view of the peculiar facts and circumstances of those cases so as to avoid extreme hardship to the concerned employees, for example, where the employees concerned were mostly junior employees, or they had retired or were on verge of retirement, the employees were not at fault, and recovery which was ordered after a gap of many years would have caused extreme hardship.

3. In view of the law declared by Courts and recently reiterated by the Hon'ble Supreme Court in the above cited case, *Chandi Prasad Uniyal And Ors vs State Of Uttarakhand And Ors*, 2012 AIR SCW 4742, (2012) 8 SCC 417, the Ministries/Departments are advised to deal with the issue of wrongful/excess payments as follows:

- i. In all cases where the excess payments on account of wrong pay fixation, grant of scale without due approvals, promotions without following the procedure, or in excess of entitlements etc come to notice, immediate corrective action must be taken.
- ii. In a case like this where the authorities decide to rectify an incorrect order, a show-cause notice may be issued to the concerned employee informing him of the decision to rectify the order which has resulted in the overpayment, and intention to recover such excess payments. Reasons for the decision should be clearly conveyed to enable the employee to represent against the same. Speaking orders may thereafter be passed after consideration of the representations, if any, made by the employee.
- iii. Whenever any excess payment has been made on account of fraud, misrepresentation, collusion, favouritism, negligence or, carelessness, etc., roles of those responsible for overpayments in such cases, and the employees who benefitted from such actions should be identified, and departmental/criminal action should be considered in appropriate cases.
- iv. Recovery should be made in all cases of overpayment barring few exceptions of extreme hardships. No waiver of recovery may be allowed without the approval of Department of Expenditure.
- v. While ordering recovery, all the circumstances of the case should be taken into account. In appropriate cases, the concerned employee may be allowed to refund the money in suitable installments with the approval of Secretary in the Ministry, in consultation with the FA.

- vi. Wherever the relevant rules provide for payment of interest on amounts retained by the employee beyond the stipulated period etc as in the case of TA, interest would continue to be recovered from the employee as heretofore.


(Mukesh Chaturvedi)

Deputy Secretary to the Government of India
Phone No. 23093176

To

All Ministries/ Departments (as per standard list)

Copy also forwarded to:

1. Secretary General / Registrar General, Supreme Court of India.
2. Secretary General of Lok Sabha Sectt. / Rajya Sabha Sectt.
3. Secretaries in Cabinet Sectt. / Central Vigilance Commission / President's Sectt. / Vice-President's Sectt./ Prime Minister's Office / UPSC / Planning Commission.
4. Controller General of Accounts/Controller of Accounts, Ministry of Finance.
5. Governors of all States/Lt. Governors of all Union Territories.
6. Secretary, National Council of JCM (Staff Side), 13-C, Feroz Shah Road, New Delhi.
7. All Members of Staff Side of the National Council of JCM/ Departmental Council.
8. All Officers / Divisions / Sections of Deptt. of Personal & Training / Deptt. of Administrative Reforms & Public Grievances / Department of Pensions & Pensioners Welfare/ PESB
9. Joint Secretary (Pers.), D/o Expenditure, Ministry of Finance.
10. Additional Secretary (Home), Ministry of Home Affairs.
11. Director NIC, DoPT- for uploading on the web site of the Department under Establishment "Pay Rules".
12. 25 Spare copies.