

No.11012/05/2015-Estt (A-III)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

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North Block, New Delhi-110 001
Dated : 14th July, 2016

OFFICE MEMORANDUM

Subject: Central Civil Services (Classification, Control and Appeal) Rules, 1965-
Advice of the Union Public Service Commission (UPSC) to be communicated to
the delinquent Government servant – when a penalty is set aside-clarification

Undersigned is directed to refer to the Department of Personnel and Training OM No. F. No. 11012/8/2011-Estt.(A) dated the 19th November, 2014 on the above subject and to say that Hon'ble Supreme Court had in *Union Of India & Ors vs S.K.Kapoor*, 2011 (4) SCC 589 decided that where the advice of the Union Public Service Commission is relied upon by the Disciplinary Authority, then a copy of the same must be supplied in advance to the concerned employee.

3. Representations received from Government servants against penalty in such cases may be dealt with in the following manner. Cases decided before the date of this judgement, i.e., 16th March, 2011 need not be reopened. In cases decided after 16th March, 2011, where a penalty was imposed after relying upon the advice of UPSC, but where a copy of such advice was not given to the Charged Officer before the decision, the penalty may be set aside and inquiry taken up from the stage of supply of copy of the advice of UPSC.

4. In cases where a penalty of dismissal, removal or compulsory retirement has been imposed, the Charged Officer, if he has not reached the age of superannuation, shall be deemed to be under suspension from the date of original penalty as per rule 10(4) of CCS (CCA) Rules, 1965.

5. Cases where the Government servant has retired shall be dealt with as per rule 69 of CCS (Pension) Rules, 1972. In the cases of any other penalties, only the penalty will be set aside, but no consequential benefits like arrears of pay shall be allowed. This will be decided by the Competent Authority after conclusion of the further inquiry. Similarly, in a case where a penalty of recovery has been imposed, if the recovery is being made in

installments, the recovery shall be suspended pending finalisation of the further inquiry. No refund of the recovery already effected will be made. Whether the money already recovered has to be refunded will depend on the decision of the Disciplinary Authority. Where a penalty of withholding of increments has been imposed, if a withheld increment has become due, the same may be released. There is no question of release of any arrears till finalisation of the proceedings.

6. Hindi Version follows.



(Mukesh Chaturvedi)
Director (E)
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To

All Ministries/ Departments of the Government of India.

Copy to:

1. President's Secretariat, New Delhi.
2. Vice-President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
4. Cabinet Secretariat, New Delhi.
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi.
6. The Comptroller and Auditor General of India, New Delhi.
7. The Secretary, Union Public Service Commission, New Delhi.
8. The Secretary, Central Vigilance Commission, New Delhi.
9. The Secretary, Staff Selection Commission, New Delhi.
10. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
11. Secretary, National Council (JCM), 13, Feroze Shah Road, New Delhi.
12. Chief Vigilance Officers of all Ministries/Departments.
13. ADG (M&C), Press Information Bureau, DoP&T
14. NIC, Department of Personnel & Training, North Block, New Delhi (for uploading the same on the website of this Ministry under the Head OMs & Orders → Establishment → CCS(CCA) Rules →
15. Hindi Section