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MAHAVITARAN

ADMINISTRATIVE CIRCULAR No. 197


Date: 26/12/2008

Sub: Regulating period of suspension not expressly treated as punishment and increments ordered to be withheld during the period of suspension in another departmental action.

Whether the period of suspension is to be treated as punishment when the Competent Authority has inflicted the punishment other than suspension; whether the increments can be drawn by counting the period of suspension which is not treated as punishment and other correlated issues were raised for clarification.

All such issues have been examined in detailed and it is clarified in consultation with the Chief Legal Adviser as follows :

1. The period of suspension in respect of an employee who was suspended on account of his arrest and the criminal proceedings taken against him by the ACB or for Criminal Charge shall be decided after the prosecution case is finally decided. As long as the ACB/Criminal case is pending the nature of period of suspension cannot be decided. In case of acquittal only the period of suspension shall be treated as duty in accordance with S.R.88(a)(vi). In case of conviction it is for the Competent Authority to decide as to what will be the nature of period of suspension. As long as the ACB/Criminal case is pending the nature of period of suspension can not be decided.
2. Where the punishment of withholding of increment awarded by the Competent Authority, the increment which would fall due after the date of revocation of suspension shall be released on the basis of the entitlement because of rendering duty thereafter. Therefore the first increment to which employee would be entitled after resuming duty will have to be withheld on account of punishment awarded. All subsequent increments will have to be released. In case he is acquitted the period of suspension shall have to be treated as duty period and the increments during that period will have to be released on the due dates. The increment for the punishment period will have to be adjusted against such first increment. Accordingly, his pay will have to be re-fixed. In case of conviction there would not be any change in the circumstances.
3. An employee placed under suspension for acts of misconduct other than ACB/Criminal Charge and the Competent Authority has inflicted the punishment, then the Competent Authority can not go to inflict another punishment later, on the plea of deciding the period of suspension which he ignored earlier while inflicting the punishment. Further, unless suspension period is treated expressly as punishment it cannot be excluded from the purview of term 'duty' defined under SR 9(10). The decision of inflicting the punishment of suspension needs to be taken while finally disposing of the case and not at a later stage.



Chief General Manager(P)

To,
All as per mailing list upto Divisional Office.