

6. DISCIPLINARY PROCEEDINGS

6.18 Recovery of monetary value of amount of increment ordered to be withheld for the unexpired period of punishment - Amendment

Personnel and Administrative Reforms (N) Department

G.O. (Ms) No. 55

Dated : 6.6.2002

Read :

Government Memo No.7508/70-4 Public (Ser.B) Department. Dated 11.11.71

Read also:

Secretary, Tamil Nadu Public Service Commission's letter No. 8044/DCD-A1/97 dated 30.7.98

ORDER

As per the first proviso to Rule 8 (iii) of Tamil Nadu Civil Services (Discipline and Appeal) Rules in cases where the punishment of withholding of increments cannot be given effect to fully, the monetary value equivalent to the amounts of increments ordered to be withheld for the unexpired period of the punishment shall be recovered from the person, in the government memo read above, it has been clarified that a penalty which cannot be obviously given effect to in full, should not be awarded at all and that the need for resorting to erstwhile rule 8 (V) (b) and now rule 8 (iii) of Tamil Nadu Civil Services (Discipline and Appeal) Rules for Recovering the monetary value equivalent to the amount of increment will arise only after an order is issued, withholding the increment and subsequently, it is found not possible to implement that order, consequent on the promotion of the individual to a higher post.

2. Apart from the above, the Government has also come across, in the past years the following types of cases:

- i) Where there are no increments to be earned before the date of superannuation of the accused/ delinquent officers, in such cases, it is proposed to impose a penalty of withholding increment for the offences/ irregularities committed.
- ii) Cases where, after imposition of penalty of withholding increment, the monetary equivalent is recovered from individuals without any modifications to the original order of punishment.
- iii) Cases where Accountant General (A&E) indicates the effect of order of punishment on the pension and commutation of pension, notwithstanding the recovery of monetary equivalent of the punishment.

3. The Government have examined carefully the need for incorporation of the instructions in Para (1) above and the contingent situations explained in Para 2 above under proviso to Rule 8 (iii) of Tamil Nadu Civil Services (Discipline and Appeal) Rules in consultation with Tamil Nadu Public Service Commission in respect of Para I above.

4. The first proviso to rule 8 (iii) of Tamil Nadu Civil Services (Discipline and Appeal) Rules Provides that in cases where the punishment of withholding of increments cannot be given effect to fully, the monetary value equivalent to the amount of increments ordered to be withheld for the unexpired period of the punishment shall be recovered from the person. The above rule is meant to regulate the mode of punishments and not to provide cover for stray cases where the administration has failed to take a proper decision at the appropriate time, similarly, the contingent situations explained in Para 2 above are also to be addressed and proper amendments brought under Rule 8 (iii) on the need to curb the practice of imposing the penalty of with holding increment where there are no increments to be earned before the date of superannuation.

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5. The Government have therefore, decided to bring the instructions in the Government memo read above and also to incorporate the position explained in the later part of Para 4 above, under the provisos to rule 8 (iii) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

6. The Following Notification shall, therefore, be published in the Tamil Nadu Government Gazette:

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

AMENDMENT

In the said rules, in rule 8 in clause (iii) after the second proviso, the following provisos shall be added, namely;

" Provided also that the penalty of with holding of increments shall not be imposed on a person when no increments are to be earned by such person before the date of superannuation:

"Provided also that the recovery of the monetary value equivalent to withholding of increments shall be resorted to only in cases where the punishment of with holding of increment cannot be implemented fully consequent on the promotion of the person to a higher post prior to the imposition of the punishment".

(By order of the Governor)

R. SRIRAM
SECRETARY TO GOVERNMENT (TRAINING)