

6. DISCIPLINARY PROCEEDINGS

6.24 Recovery of monetary value equivalent to the amount of withholding increments ordered to be withheld for the unexpired period of the punishment – Amendment

Personnel and Administrative Reforms (N) Department

G.O. (Ms) No.113

Dated : 2.8.2006

Read:

G.O. (Ms) No. 55, Personnel and Administrative Reforms (N) Department,
Dated 6-6-2002

ORDER

According to the first proviso to rule 8 (iii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, in cases where the punishment of withholding of increment 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. According to the second proviso to the said rule, in cases of stoppage of increment with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld may be recovered. Further, as per the amendments to the said Rules issued in the Government Order read above, the following two provisos have been added to rule 8 (iii), namely:-

“Provided also that the penalty of withholding 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 withholding of increment cannot be implemented fully consequent on the promotion of the person to a higher post prior to the imposition of the punishment”.

2. Thus at present, the recovery of the monetary value equivalent to withholding of increments could be made only in respect of the cases where the punishment of withholding of increment cannot be implemented fully consequent on the promotion of the person to higher posts.

3. The Government have examined the possibility of extending the above monetary recovery provision to any situation that may arise. As per ruling 6 under rule 24 of the Fundamental Rules, if the penalty of stoppage of increment is imposed on a Government servant as a result of charges against him, his next increment can be withheld. It is therefore clear that when there is no accrual of future increment to a Government servant, the question of imposing the punishment of withholding of increment on him may not arise. Further, when there is no order for the withholding of the future increment to be accrued to a Government servant, the question of recovery of monetary value equivalent to the withholding of increment from him may not also arise. Therefore, the provision of recovery of monetary equivalent to the withholding of increment from a Government servant can be invoked in respect of a case where the withholding of future accrual of increment to him ordered initially but could not be implemented later due to **any contingency** that arose after the said order is issued. The Government have, therefore, decided to extend the above provision of recovery of monetary equivalent to the type of cases mentioned above only.

4. Based on the above decision, the Government have decided to amend the provisos to rule 8 (iii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules suitably.

5. The following Notification will 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. (Volume I of the Tamil Nadu Services Manual, 1987).

2. The amendment hereby made shall into force on the 2nd August, 2006.

AMENDMENT

In the said Rules, in rule 8, to clause (iii), for the provisos, the following provisos shall be substituted, namely: -

“Provided that the penalty of withholding of increment shall not be imposed on a Government servant, if the said penalty cannot be given effect to fully while in service:

Provided further that in cases where the penalty of withholding of increment cannot be given effect to fully for any contingency that arose after the penalty of withholding of increment is imposed, the monetary value equivalent to the amount of such increments that cannot be given effect to shall be recovered fom the person:

Provided also that in cases of withholding of increment with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld shall be recovered”.

(By order of the Governor)

L.K.TRIPATHY
CHIEF SECRETARY TO GOVERNMENT