

**6.1 Involvement of Public Servants in criminal misconduct - Initiation of departmental and criminal action simultaneously - Clarification**

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Personnel and Administrative Reforms (Per.N) Department

G.O. (Ms) No. 124

Dated : 22.02.1983

Read :

1. G.O. (Ms) No.1344, Public (Ser-B) Department, dt- 16.5.1973
2. Govt. Circular Memo No. 38965/79-1 Personnel and Administrative Reforms (Per.N) Department, dt. 26.6.1979
3. Revenue Administration, Lr.No.76362/82-1 dt. 28.7.82

**ORDER**

The orders issued in references first and second read above contemplate simultaneous action of departmental as well as criminal action against the Government servants for their criminal misconduct. Accordingly, Government are initiating both departmental and criminal action in respect of various offences committed by the Government servants. Criminal action is pursued with reference to the criminal aspect of the offence whereas the departmental action is initiated based on the lapses committed by the Government servants in the course of discharging their official duties. For instance, a store keeper is expected to maintain the accounts pertaining to the stock, and account for the stores as well as the sales proceeds of stores to be duly credited to the account of the Government. If he misappropriates the Government money by maintaining false accounts, then, criminal action is pursued in a criminal court of law. In such case, the Government initiate simultaneous action to proceed against him departmentally for the failure of proper maintenance of accounts as prescribed under rules and also not remitting the money collected by him to the State Exchequer. In both the cases namely departmental as well as criminal action, the relevant registers / records/ documents based on which the prosecution has been launched might have been deposited in the court and which may not be readily available for departmental enquiry. Though there is no legal bar for both departmental as well as criminal action as one is inter-connected with the other as narrated above, an issue has been raised whether the departmental action need be pursued while the criminal case is pending in the court of law.

2. The Government have examined the above matter and have decided that the following procedure shall be adopted in such cases.

- i) When a criminal case is filed solely on a criminal offence committed by the Government servant which is in no way connected with the discharge of his official duties there is no need to pursue departmental action except placing the Government servant under suspensions as contemplated under Tamil Nadu Civil Services (Classification, Control and Appeal) Rules. The ultimate departmental action can be initiated against the delinquent officer after the result of the criminal case pending against him is disposed of by the Court of Law.
- ii) When both departmental as well as criminal action is initiated for the offences of the kind referred to in para 1 above in regard to departmental action, charges may be framed against him for the lapses committed by him and final orders may be passed after obtaining the required registers/records/documents from the court irrespective of the fact whether he is acquitted or not. Thus the departmental action will be confined to the irregularities or lapses committed by the accused officer with reference to the administrative aspect.

3. All departments of Secretariat and Heads of Departments are requested to follow the procedure laid down in para 2 above scrupulously in future, while dealing with the cases where both departmental and criminal action is initiated simultaneously.

(By order of the Governor)

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DEPUTY SECRETARY TO GOVERNMENT