

SAC  
PI uploded  
20/11/17

भारतीय डाक विभाग  
DEPARTMENT OF POSTS, INDIA  
मुख्य पोस्टमास्टर जनरल का कार्यालय  
OFFICE OF THE CHIEF POSTMASTER GENERAL,  
पश्चिम बंगाल सर्किल / WEST BENGAL CIRCLE, कोलकाता/ KOLKATA - 700012.

U/E

To,

1. The Postmaster General, Kolkata Region, Kolkata -700012/South Bengal Region, Kolkata -700012/M & BD, Kolkata -700012/North Bengal Region, Siliguri-734001/Sikkim, Gangtok -737101/A&N Island, Port Blair-744001.
2. The General Manager (PAF), Yogayog Bhawan, Kolkata- 700001.
3. The Director of Postal Services(HQ), Kolkata-700012/Kolkata Region, Kolkata-700012/South Bengal Region, Kolkata -700012/North Bengal Region, Siliguri - 734001/Sikkim, Gangtok -737101/A&N Island, Port Blair- 744101.
4. The Director, Kolkata GPO, Kolkata - 700001.
5. The Supdt. Engineer, Postal Civil Circle, Kolkata - 700012.
6. The Executive Engineer, Postal Civil Division, No. I & II, Kolkata - 700012.
7. The Executive Engineer, Postal Electric Division, Kolkata - 700012.
8. The Dy. Architect (P), Kolkata - 700012.
9. The SSPOs, North Kolkata Divn, Kolkata-700037/SSPOs, East Kolkata Divn, Kolkata-700014/SSPOs South Kolkata Divn, Kolkata-700029/SSPOs, Central Kolkata Divn, Kolkata-700007/SSPOs, North Presidency Divn, Kolkata 700120/SSPOs South Presidency Divn, Baruiopore -700144/SSPOs, Asansol Divn, Asansol-713301/SSPOs Bankura Divn, Bankura-722101/SSPOs Burdwan Divn, Burdwan-713101/SSPOs Howrah Divn, Howrah/SSPOs Midnapore Divn, Midnapore-721101/SSPOs South Hoogly Divn, Shreerampore-712201/SSPOs Jalpaiguri Divn, Jalpaiguri-735101.
10. The SPOs South Presidency Divn, Baruiopore -700144/SPOs, Nadia North Divn, Krishnagar/SPOs Nadia South Divn, Kalyani-741235/SPOs Barasat Division, Kolkata -700124/SPOs, Murshidabad Divn, Berhampore (WB)-742101/SPOs Birbhum Divn, Suri/SPOs, North Hoogly Divn, Chinsurah-712101/SPOs Purulia Divn, Purulia -723101/SPOs, Contai Divn, Contai-721401/SPOs Tamluk Divn, Tamluk-721401/SPOs Darjeeling Divn, Darjeeling -734101/SPOs Cooch Behar Divn, Cooch Behar -736101/SPOs Dinajpur Divn, Balurghat -733101/SPOs Malda Divn, Malda-732101.
11. The Supdt. Postal Store Depot, Kolkata -700002/Siliguri -734001/CSD, Kolkata -700007/Foreign Post, Kolkata -700001.
12. The SSRMs Kolkata RMS Divn, Kolkata -700001/SSRMs, AP Stg Divn Kolkata -700004/SSRMs WB Divn, Howrah -711101.
13. The SRMs, RMS SB Divn, Howrah-700001/RMS SG Divn, Siliguri -734001/RMS H Divn, Kolkata -700004.
14. The Sr. Manager, MMS, Kolkata -700015.
15. The Manager, RLO, Kolkata - 700001.
16. The Sr. Postmaster, Alipore HO Kolkata -700027/Barabazar HPO Kolkata -700007.
17. The Sr. PS to CPMG, WB Circle, Kolkata - 700012.
18. The PA to DPS (HQ), Kolkata - 700012.
19. All Group Officers, Circle Office, Kolkata -700012.
20. The Office Supdt. Circle Office, Kolkata -700012.

No. Est/B/Z-02/Misc./08

Dated at Kolkata-12 the 08 11.2017.

**Subject:** Recovery of wrongful/ excess payment made to Government servants.

Kindly find enclosed herewith the Directorate letter No. 2-16/2017-PAP dated 13.10.2017 regarding above mentioned subject, for information, guidance and necessary action.

**Encl:-**As stated above.

**Copy to:-**

✓ The ADPS (TO) Circle Office, Kolkata -12 for uploading the copy in Circle website.

(S. K. Bera)  
Asstt. Director of Postal Services (Staff, Estt & Plg.)  
O/o the Chief Postmaster General, West Bengal Circle, Kolkata-12.

(S. K. Bera)  
Asstt. Director of Postal Services (Staff, Estt & Plg.)  
O/o the Chief Postmaster General, West Bengal Circle, Kolkata-12.



AD(S, PPN)/EAM  
1/2823

RKG (vacant)  
138

23/10/17

208/c

**No.2-16/2017-PAP**  
**Government of India**  
**Ministry of Communications**  
**Department of Posts**  
**[Establishment Division / PAP Section]**



**Dak Bhawan, Sansad Marg**  
**New Delhi – 110 001**

**Dated: 13.10.2017**

**To**

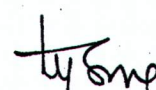
- All Chief Post Masters General,
- All General Managers (Postal Accounts & Finance),
- All Directors of Accounts (Postal),
- The Director, Rafi Ahmed Kidwai National Postal Academy, Ghaziabad, U.P.
- All Directors of PTCs

**Sub.. : Recovery of wrongful / excess payment made to Government servants.**

I am directed to forward herewith the copy of Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Office Memorandum No.18/03/2015-Estt.(Pay-I) dated 02.03.2016 on the subject cited above and as downloaded from the official website of concerned ministries, for kind information and further necessary action at your end.

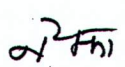
2. Office Memorandum may be circulated to all sub-ordinate offices concerned, with direction to dispose all case on the subjects.

Encl.: As above.

  
**[K.V. VIJAYAKUMAR]**  
**Asstt. Director General [ESTT.]**

**Copy for kind information to :**

1. Sr. PPS to Secretary (Posts) / PPS to DG (Posts).
2. All member of Postal Services Board,
3. JS & FA (Posts), 4. DDG (PAF) / Secretary (PSB) / GM(F) BDD / CGM (PLI)
5. All other DDsG in Postal Directorate
6. Guard File, 7. Spare Copy
8. SO(C&A)
9. Departmental Website through : CEPT Mysore

  
**(Nagesh Nath Jha)**  
**Asstt. Accounts Officer (PAP)**



F.No.18/03/2015-Estt. (Pay-I)  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training

New Delhi, the 2<sup>nd</sup> March, 2016 ✓

**OFFICE MEMORANDUM**

**Sub: Recovery of wrongful / excess payments made to Government servants.**

The undersigned is directed to refer to this Department's OM No.18/26/2011-Estt (Pay-I) dated 6<sup>th</sup> February, 2014 wherein certain instructions have been issued to deal with the issue of recovery of wrongful / excess payments made to Government servants in view of the law declared by Courts, particularly, in the case of *Chandi Prasad Uniyal And Ors. vs. State of Uttarakhand And Ors.*, 2012 AIR SCW 4742, (2012) 8 SCC 417. Para 3(iv) of the OM *inter-alia* provides that recovery should be made in all cases of overpayment barring few exceptions of extreme hardships.

2. The issue has subsequently come up for consideration before the Hon'ble Supreme Court in the case of *State of Punjab & Ors vs Rafiq Masih (White Washer) etc in CA No.11527 of 2014 (Arising out of SLP(C) No.11684 of 2012)* wherein Hon'ble Court on 18.12.2014 decided a bunch of cases in which monetary benefits were given to employees in excess of their entitlement due to unintentional mistakes committed by the concerned competent authorities, in determining the emoluments payable to them, and the employees were not guilty of furnishing any incorrect information / misrepresentation / fraud, which had led the concerned competent authorities to commit the mistake of making the higher payment to the employees. The employees were as innocent as their employers in the wrongful determination of their inflated emoluments. The Hon'ble Supreme Court in its judgment dated 18<sup>th</sup> December, 2014 *ibid* has, *inter-alia*, observed as under:

*"7. Having examined a number of judgments rendered by this Court, we are of the view, that orders passed by the employer seeking recovery of monetary benefits wrongly extended to employees, can only be interfered with, in cases where such recovery would result in a hardship of a nature, which would far outweigh, the equitable balance of the employer's right to recover. In other words, interference would be called for, only in such cases where, it would be iniquitous to recover the payment made. In order to ascertain the parameters of the above consideration, and the test to be applied, reference needs to be made to situations when this Court exempted employees from such recovery, even in exercise of its jurisdiction under Article 142 of the Constitution of India. Repeated exercise of such power, "for doing complete justice in any cause" would establish that the recovery being effected was iniquitous, and therefore, arbitrary. And accordingly, the interference at the hands of this Court."*

*"10. In view of the afore-stated constitutional mandate, equity and good conscience, in the matter of livelihood of the people of this country, has to be the*

Contd. on pg.2



*basis of all governmental actions. An action of the State, ordering a recovery from an employee, would be in order, so long as it is not rendered iniquitous to the extent, that the action of recovery would be more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer, to recover the amount. Or in other words, till such time as the recovery would have a harsh and arbitrary effect on the employee, it would be permissible in law. Orders passed in given situations repeatedly, even in exercise of the power vested in this Court under Article 142 of the Constitution of India, will disclose the parameters of the realm of an action of recovery (of an excess amount paid to an employee) which would breach the obligations of the State, to citizens of this country, and render the action arbitrary, and therefore, violative of the mandate contained in Article 14 of the Constitution of India."*

3. The issue that was required to be adjudicated by the Hon'ble Supreme Court was whether all the private respondents, against whom an order of recovery (of the excess amount) has been made, should be exempted in law, from the reimbursement of the same to the employer. For the applicability of the instant order, and the conclusions recorded by them thereafter, the ingredients depicted in paras 2&3 of the judgment are essentially indispensable.

4. The Hon'ble Supreme Court while observing that it is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement has summarized the following few situations, wherein recoveries by the employers would be impermissible in law:-

- (i) *Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*
- (ii) *Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*
- (iii) *Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) *Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
- (v) *In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.*

5. The matter has, consequently, been examined in consultation with the Department of Expenditure and the Department of Legal Affairs. The Ministries / Departments are advised to deal with the issue of wrongful / excess payments made to Government servants in accordance with above decision of the Hon'ble Supreme Court in *CA No.11527 of 2014 (arising out of SLP (C) No.11684 of 2012) in State of Punjab and others etc vs-Rafiq Masih (White Washer) etc*. However, wherever the waiver of recovery in the above-mentioned situations is considered, the same may be allowed with the

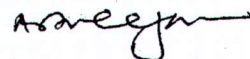


70-609

express approval of Department of Expenditure in terms of this Department's OM No.18/26/2011-Estt (Pay-I) dated 6<sup>th</sup> February, 2014.

6. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued with the concurrence of the Comptroller and Auditor General of India.

7. Hindi version will follow.



(A.K. Jain)

Deputy Secretary to the Government of India

1. All Ministries / Departments of Government of India
- ✓ 2. NIC, DOP&T – with a request to upload this OM on the Department's website under OMs & Orders (Establishment → Pay Rules) and also under "What is New".

Copy also forwarded to:

1. The Comptroller & Auditor General of India.
2. Secretary General, Supreme Court of India.
3. Controller General of Accounts / Controller of Accounts, Ministry of Finance.
4. Union Public Service Commission / Lok Sabha Sectt. / Rajya Sabha Sectt. / Cabinet Sectt. / Central Vigilance Commission / President's Sectt. / Vice-President's Sectt. / Prime Minister's Office / Niti Aayog.
5. Governments of all States and Union Territories.
6. Department of Personnel and Training (AIS Division) / JCA / Admn. Section.
7. Secretary, National Council of JCM (Staff Side), 13-C, Feroz Shah Road, New Delhi.
8. All Members of Staff Side of the National Council of JCM / Departmental Council.
9. All Officers / Sections of Department of Personnel and Training / Department of Administrative Reforms & Public Grievances / Department of Pensions & Pensioners' Welfare / PESB.
10. Joint Secretary (Pers), Department of Expenditure, Ministry of Finance.
11. Additional Secretary (Union Territories), Ministry of Home Affairs.