

कार्यालय रक्षा लेखा महानियंत्रक, उलान बटार रोड, पालम, दिल्ली छावनी-10
**Office of the CGDA, Ulan Batar Road, Palam,
Delhi Cantt-110010**

No. AN/III/3012/Circular/Vol.VII dated 30.10.2018.

To,

✓ All PCsDA/ PCA (Fys.)/ PIFAs,
CsDA/ CsFA (Fys.)/ IFAs/ RTCs.
(through CGDA website).

**Subject: Implementation of recommendation of Expert Committee constituted
by Hon'ble Raksha Mantri.**

A copy of GoI, Ministry of Defence D(CMU) MoD ID No. 4(5)/D(CMU)/2018 dated 07.09.2018 on the subject alongwith copies of circulars referred therein is forwarded herewith for information and necessary action please.



(Mustaq Ahmad)
Dy. CGDA (AN)

Enclosures: as above.

Subject: Implementation of recommendations of Expert Committee constituted by Hon'ble Raksha Mantri

Reducing Litigation has been the prime focus of the Government of India and is being repeatedly emphasized by various circulars from Cabinet Secretariat and Ministry of Law & Justice. In this regard, various circulars have been issued by D(CMU) which cover the following aspects significantly: -

- I. Procedure for handling Court Cases in Ministry of Defence.
- II. Procedure for filing of Appeal/SLP in Supreme Court.
- III. Measures to withdraw repeated Appeals/SLPs where the issue has already been decided by the Apex court.

Copies of relevant circulars are enclosed.

2. In this regard, a Committee of Experts was also constituted by the Hon'ble Raksha Mantri vide MoD O.M. No.61/D(CMU)/2015 dated 15.07.2015 to look into solutions for reducing litigation concerning the Ministry of Defence and to put in place an efficient mechanism of redressal of grievances related to service and pension matter. The said Committee has made several recommendations to strengthen the grievance redressal mechanism and to reduce litigation. These were examined by the Ministry. With the approval of the Hon'ble RM, 16 recommendations were accepted for implementation, 16 recommendations were accepted in-principle and 43 recommendations were to be further examined for taking an appropriate decision. Based on the recommendations of the Committee, the following guidelines are hereby reiterated for the guidance of all concerned: -

Recommendations No. 22, 24 & 61 : Avoiding unnecessary appeals

In these recommendations, the committee has recommended that litigation be viewed in an impersonal, non-adversarial and dispassionate manner and should not be made a prestige-issue or a win/loss situation. The committee has also recommended that the tendency of continuous unethical filing of appeals in issues that have attained finality at the High Court or Supreme Court should be checked and all such pending appeals should be identified and immediately withdrawn. Further, it has also been emphasized by the committee that unnecessary appeals should be avoided and as a matter of principle, the attempt of the Government should be to accept court verdicts as far as possible. Appeals should be an exception and not the rule. And in exceptional cases only challenges should be made to the High Courts against verdicts of CAT rendered in favour of employees, and not as a matter of routine.

JS & Addl PA (RK)

All concerned are requested to take note of the above mentioned guidelines. In this regard, D(CMU) has also issued ID note No. 7(9)/2018/D(CMU) dated 26.06.2018 (copy enclosed) and Office Order No. 1/(1)/2015-D(CMU) dated 02/02/2016 (copy enclosed).

Recommendation No. 50: Applicability of Judgements to similarly placed employees

Expert committee has recommended that whenever a legal principle is settled by a High Court or the Supreme Court, the same must be universally applied to all similarly placed employees or at least on individual representations after examining the same, rather than forcing them into individual litigation.

In this regard, attention is drawn to D(CMU)'s ID No. 7(9)/2018/D(CMU) dated 26.06.2018 (copy enclosed). However, it is proposed that each case may be decided on its merit, subject to consultation with Department of Expenditure and DOP&T having regard to financial implications.

4. All concerned are again requested to take cognizance of the above recommendations and take necessary action as required, in order to reduce litigation.



(S K Sharma)
Director(MIS)

Encl: - As above.

All Joint Secretaries in MoD

All Additional FAs in MoD(Finance)

CCR&D HQ

MoD ID No. 4(5)/D (CMU)/ 2018 dated 07 09.2018

No.6176/2015-D (CMU)

Ministry of Defence
Department of Defence

New Delhi,
Dated the 3rd April, 2017.

OFFICE ORDER

Subject: Procedure for handling court cases - regarding.

It has come to notice that due to lack of co-ordination between various directorates and the divisions of MOD, absence of a uniform approach and timely action in handling the court cases, the litigation including contempt petitions are on the rise.

2. With a view to ensuring timely action for defending the cases effectively and also to reduce the incidence of contempt petitions, the following instructions may be followed:-

- (a) The notice/papers relating to any new OA /Writ Petition/Review Petition filed and received in D(CMU), MoD shall be immediately forwarded to the concerned Wing/Division of MoD.
- (b) In addition to the above, the Divisions may also receive new OA /Writ Petition/ Review Petition directly. The Divisions in both these cases, shall:
 - (i) retain a complete copy of the OA for future reference and taking up follow up action;
 - (ii) make entries in the LIMBS portal; and
 - (iii) pass it on to the concerned Service Headquarters with suitable instructions, if any.
- (c) The concerned Service Headquarters would be responsible for getting the reply/ counter affidavit filed before the appropriate court. They may seek advice of the Administrative Wing concerned, if required. The Service Headquarters may devise their own Standard Operating Procedures (SOPs) and timelines in this endeavour.
- (d) As soon as an order is passed in a case, the concerned field unit/office will obtain a copy of the order from the Counsel concerned at the earliest and send an advance copy of the same, along with the advice of the Government Counsel handling the case, directly to the concerned Service Head Quarters, who in turn will mark a copy of the same to the Administrative Wing. This would be in addition to submission of the same through the normal service channel.

- (e) The Service Head Quarters may examine the order expeditiously and take a decision whether to implement the order or go for appeal and inform the Administrative Wing accordingly. However, where the implementation of the order has wide ramifications like large financial implications, deviation from the existing policy of the Government, potential that the order may not be limited to the person(s) who fought the case but will affect a whole cadre or class of employees etc., the Service Head Quarters shall send their recommendation regarding implementation of the order or otherwise to the concerned Administrative Wing. The advice of DOPT/MoF may be taken by the Administrative Wing for implementation of any order which is not as per their policy.
- (f) Once it is decided to implement the order, its timely implementation would be ensured/monitored by the Service Head Quarter/ Administrative Wing to avoid filing of "contempt petition" for non compliance.
- (g) The decision to file appeal before the High Court (in case of order of CAT) would be taken expeditiously by Administrative Wing after seeking the advice of LA(Defence).
- (h) Important cases may be brought to the notice of the concerned Additional Secretary / Defence Secretary by the Joint Secretary of the Administrative Wing.
- (i) In case appeal is required to be filed before the Supreme Court, necessary action may be taken by following instructions already issued vide MoD I.D. No.(1)/2015-D(CMU) dated 2nd February, 2016 (copy enclosed).

This issue with the approval of Defence Secretary.


3/4/2017
(Manisha Bhatnagar)
Deputy Secretary (MIS)
Tel: 23013416

1. All Joint Secretaries, Directors/Deputy Secretaries, Under Secretaries and Sections in the Ministry of Defence.
2. JAG (Army) / JAG (Navy) / JAG (Air Force) with a request to circulate these instructions to all Directorates in the respective Service Headquarters.

Copy for information to:

1. PS to Defence secretary
2. PPS to DG (Acquisition) / AS(R) / AS (J)

Dated 2nd February, 2016

OFFICE ORDER

Subject: Filing of Appeal/SLP in Supreme Court – Procedure regarding

In the context of the increasing number of court cases where the Government is a litigant before various courts, Ministry of Law had brought out the National Litigation Policy in 2010. The policy states that Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The policy further states:

“In Service Matters, no appeal will be filed in cases where:

- a) the matter pertains to an individual grievance without any major repercussion;
- b) the matter pertains to a case of pension or retirement benefits without involving any principle and without setting any precedent or financial implications.”


2. Further at a meeting held on 08.10.2015, Hon'ble Raksha Mantri expressed concern over the fact that Appeals/SLPs are filed in the Supreme Court in a routine manner and in several cases adverse orders are passed by the Supreme Court much to the embarrassment of the Government. Hon'ble RM observed that there may be court orders which deviate from government policy or have large financial implications. In such cases filing Appeal/SLP may be inevitable. There may however be some court orders which do not have wide repercussions and may have only meager financial implications. In such cases it may be necessary to examine whether it is administratively expedient to file Appeal/SLP in the Supreme Court.

3. In the above background, the procedure for filing Appeal/SLP in the Supreme Court has been reviewed and it has been decided that the following procedure will be followed while filing Appeal/SLP in the Supreme Court:

- a. The Service Hqrs/Directorates will send the proposal for filing or otherwise of Appeal/SLP in the Supreme Court to the concerned Joint Secretary after due examination in light of relevant rules and policy. The advice of the Central Government Standing Counsel (CGSC) handling the case on the suitability of filing appeal or otherwise should also be obtained and forwarded along with the proposal. This should be done expeditiously as it has been seen that many of the SLPs/Appeals have been dismissed by the Hon'ble Supreme Court on account of delay in filing.
- b. The JS concerned shall examine the proposal taking into account the advice of the CGSC handling the case and previous cases of similar nature, if any, which are subjudice or have been already decided by the Supreme Court on merits. Where the decision of the Court involves policy issues or have wider repercussions, the JS shall take the advice of the nodal Ministries/Departments namely DOP&T, MOF, etc. concerned with the subject.
- c. On a comprehensive examination of the case as above, if the JS arrives at a decision that it is a fit case for filing Appeal/SLP in the Supreme Court, he will refer the file to LA(Def) for his advice/views. Otherwise, he will return the file to the Service Hqrs/Directorate for implementing the court order with the concurrence of the Defence Finance, if required.
- d. On receipt of the proposal for filing Appeal/SLP, LA(Def) will, after due examination of the case, return the file with his views/advice to the JS.
- e. If LA(Def) agrees with the proposal for filing Appeal/SLP, the JS will assess the importance of the case and decide whether it needs to be shown to AS/Defence Secretary or RM. Thereafter, the file will be

returned to LA(Def) for onward transmission to Central Agency Section for filing Appeal/SLP in the Supreme Court. But it has to be kept in mind that in the process, the limitation for filing Appeal/SLP does not get expired. In case, such period has already expired, then reason for the delay has to be shown date-wise for filing an application for getting the delay condoned.

- f. If, however, LA(Def) does not agree with the proposal for filing Appeal/SLP and the JS also, in view of the advice of LA(Def), decides that there is no need to file Appeal/SLP, the file will be sent back to Service Hqrs/Directorate for implementing the order.
 - g. If, in spite of the advice of LA(Def) not to file Appeal/SLP, JS decides that there is still justification for filing Appeal/SLP, he will take the approval of Additional Secretary (AS) and send the file to MOL/CAS through LA(def).
4. Approval of Raksha Mantri shall be taken in all sensitive cases or where wider interests of Public Policy are involved. A decision whether a case will be shown to the Minister will be taken at the level of Joint Secretary.
5. This order is issued in supersession of the earlier order No. 1-34(4)/88-O&M dated 2nd June, 1988.


(R. Pandiyan)
Deputy Secretary (E+MIS)
Tel: 23013416

All Officers and Sections in the Ministry of Defence

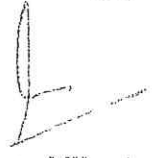
Ministry of Defence
D(CMU)

Subject: Minutes of the Meeting held on 22.06.2018 at 3.00 p.m. Under the Chairmanship of Additional Secretary(JN) to Identify Court Cases to be Withdrawn.

A meeting was held on 22.06.2018 under the chairmanship of Additional Secretary (JN) to identify court cases to be withdrawn.

2. A copy of minutes of the meeting is enclosed herewith for further necessary action.

Encl: As above


(Charu Vijay)
Under Secretary (O&M/PG)
Tele: 23013963

JS(Army), JS(Air), JS(Navy), JS(E), JS(PG/Coord) &CAO, JS(ESW), JS(Works), LA(Defence)

MoD ID No. 7(9)/2018/D(CMU) dated 26th June 2018

Copy to:

1) PPS to AS(JN) : For information

Minutes of the Meeting held on 22.06.2018 at 3.00 p.m. Under the Chairmanship of Additional Secretary(JN) to Identify Court Cases to be Withdrawn

A meeting was convened by AS(JN) on 22.06.2018 with all the Joint Secretaries of Department of Defence, JS(ESW) and LA(Def) to deliberate upon the above said issue. Representatives of the JAG(Army) and JAG(Navy) were also present in the meeting. List of participants is placed at **Annexure**.

2. Initiating the discussion, AS(JN) gave the background of the meeting and informed that recently Supreme Court had imposed a penalty of 1 Lakh on Ministry of Defence for repeatedly filing SLPs over the issue which are already decided by the Apex court. There is an urgent need to take appropriate measures to withdraw such cases so as to avoid further embarrassment and penalty/strictures in similar instances.

3. Each participant was thereafter requested to provide details of the existing no. of cases in Supreme Court, High Court, AFTs, CAT and District & Subordinate Courts and the number of cases identified for withdrawal. In response, the following information was provided by the participants regarding their respective Wings/Divisions: -

Name of Wings/Division	Details in r/o Court Cases pending/withdrawn/proposed to be withdrawn.
JS(ESW)	A total of 163, 46 & 8 pension cases relating to Army, Air & Navy respectively are pending before the Supreme Court. Out of 163 pension cases of Army, 29 are proposed to be withdrawn. Out of 46 pension cases of Air, 14 have been withdrawn and 22 are proposed to be withdrawn. Out of 8 pension cases of Army, 1 is proposed to be withdrawn.
JAG(Army)	Approximately 6000 cases are pending in all the courts inclusive of 1000 cases (approx.) in Supreme Court.
Rep. from Navy	There are 388 cases (mostly pension cases) pending in AFT, out of which 79 are proposed to be withdrawn.
CAO	1 case is pending in Supreme Court which has been filed by UPSC with MoD as a proforma respondent. 36 cases are pending before High Courts and 51 cases before CAT. In addition, 6 cases are pending before AFT/lower courts. A vast majority of the cases relate to service matters of civilian employees.
BRO	Total 1246 cases are pending, out of which 28 are in supreme Court.
PDCP(Principle Directorate of Civilian personnel) of Navy	Total 788 cases are pending, out of which 5 in Supreme Court, 123 in High Court, 26 in District & Subordinate Courts and rest are in CAT.
JS(Works)	DGDE has 387 cases pending in Supreme court and 37 in CAT. E-in-C has a total of 1310 cases pending, out of which 54 in Supreme Court, 224 in High Court, 844 in CAT & 112 in AFT.

4. AS(JN) observed that no clear or satisfactory position is emerging from the data provided in the meeting. After detailed deliberation, following action points were agreed upon: -

- a) An exercise to be carried out urgently to compile data regarding the total number of existing court cases pending in various courts i.e., Supreme Court, High Court, AFTs, CAT and District & Subordinate Courts, along with appropriate categorisation of cases .
- b) Wherever an issue has already been decided against the Department by the Supreme Court, all matters where similar appeals are pending before Supreme Court, High Court, AFTs, CAT and District & Subordinate Courts, shall be identified for withdrawal .
- c) In all cases identified for withdrawal in accordance with b) above, appropriate action should be taken for withdrawal of cases expeditiously .
- d) As regards the suggestion of LA(Def) to amend the existing policies to bring them in line with the decisions of the Supreme Court wherever the two are in conflict, the issue can be considered once the exercise of quantifying, categorizing and identifying cases for withdrawal as mentioned above has been completed. Similarly, his suggestion to automatically give consequent relief to all similarly placed persons once a case has been finally decided against the Department and not confine grant of relief only to persons who were litigants in that particular case will also be considered after the above exercise has been completed..
- e) AS(JN) requested all participants to complete the action on the points as decided in the meeting and come with all details in the next meeting which will be held after two weeks, i.e., on 06th July 2018.

5. The meeting ended with a vote of thanks to the chair.