



दक्षिण रेलवे/Southern Railway

प्रधान कार्यालय/Headquarters Office,  
कार्मिक शाखा/Personnel Branch,  
चेन्नै/Chennai-600 003

सं.पी./ No.P(S) 353/Court/Policy/Vol-II

दि./Date: 17.10.17

**PBC NO: 184 / 2017**

All PHODs / DRMs / CWMs / CEWE / CAO / CPM /  
Dy.CPOs / SrDPOs/ DPOs / SPOs / WPOs /  
APOs of Hqrs / Divisions / Wokshops / other Units, etc.  
[As per Mailing List 'A']

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

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In terms of the Supreme Court Judgement in the Chandi Prasad Uniyal case, DoPT vide OM F.No.18/26/2011 – Estt (Pay-I) dt.6.2.2014, had issued instructions to deal with the issue of recovery of wrongful /excess payments made to Government servants, providing that recovery should be made in all cases of overpayment barring few exceptions of extreme hardships.

Thereafter, in terms of the Judgement of the Supreme Court in the case of State of Punjab & Ors vs Rafiq Masih (White Washer case) summarising few situations where recoveries of wrongful overpayment would be impermissible in law as being iniquitous, DoPT vide OM F.No.18/03/2015-Estt (Pay-I) dt.2.3.2016 have advised to deal accordingly with the issues of such overpayments duly obtaining the concurrence of Department of Expenditure where waiver of recovery is felt necessary and accordingly vide RBE No.72/2016 DoPT's orders had been made applicable to Railway employees from the date of issue of DoPT's letters.

In court cases regarding proposed recovery of overpayment on account of wrong grant of MACP, this Railway has currently filed an SLP which is pending, wherein among other facts, as opined by the Hon'ble

High Court of Delhi in W.P. No.3583/07, it has been indicated that a recovery of excess overpayment initiated within 5 years is within the criteria stipulated in the Judgment of the Supreme Court in the White Washer case.

However, there have been repeated representations from individuals and court cases where the issue of waiver of recovery of overpayment has been sought in terms of the White Washer judgment of the Apex Court.

In this regard, on previous occasions it has been advised that each such case of erroneous overpayment by the Administration due to no fault / knowledge of the employee and resulting in iniquity, would have to be dealt with on merits duly assessing the iniquitous nature of proposed recovery and obtaining concurrence of Associate Accounts and approval of the Head of the Division/Unit for any waiver proposal forwarded to Hqrs for further consideration of PFA and Board.

Further it is advised that in terms of the White Washer Judgement issued vide RBE No.72/2016 and applicable from the date of issue of DoPTs order dated 2.3.2016, the following cases for waiver of recovery of overpayment may be suitably considered as per the above procedure.

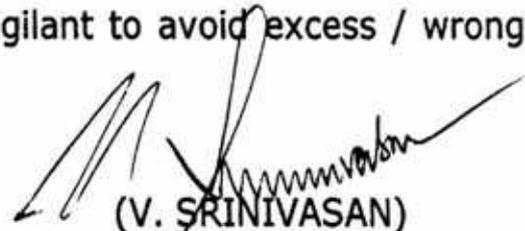
1. Iniquitous recovery of overpayment detected after retirement or within 1 year prior to retirement.
2. Iniquitous recovery from serving employees when the overpayment has been detected in excess of period of 5 years.
3. Iniquitous recovery where wrongful promotion has been detected but the employee had discharged duties of higher post and paid accordingly.

In this regard, it is to be emphasised that the existing rules & instructions for regular updation of Service Records and for showing them to employees for their scrutiny, need to be scrupulously followed. Further, action should invariably be taken well in advance of the employees' date of retirement to update and forward the service records to Associate Accounts for vetting and in terms of the Apex Court order this should be done ahead of one year of the DOR and then again within 90 days of the DOR as per extant instructions.

Further, the Office Orders/ Memorandums for promotions and pay fixations should henceforth incorporate a rider that any wrongful promotion/excess payment detected subsequently will be subject to rectification and recovery.

In all cases where wrongful payments in excess of entitlement / without due approvals and procedures etc. come to notice, immediate corrective action must be taken and further overpayment should be stopped. Further, responsibility is to be fixed for excess/wrong payments and necessary action taken thereon. The above must invariably be done before processing for waiver.

All concerned are advised to be vigilant to avoid excess / wrongful payments.

A handwritten signature in black ink, appearing to read 'V. Srinivasan', is written over the typed name below.

(V. SRINIVASAN)

Senior Personnel Officer/Rules  
For Principal Chief Personnel Officer