

Government of Assam
Finance Department
Dispur, Guwahati-6

Orders By The Governor Of Assam
Notification

Dated. Dispur, the 27th January, 2022

No.Fin(EC-III).1808/2018/3 Pursuant to the decision of the Cabinet Meeting held on 28/10/2021, para "9" of the O.M. No.Fin(EC-III)1808/2018/2 dtd.14/06/2019 is amended as follows:

"However, when the waiver of recovery in the above mentioned situation is considered, Pension and Public Grievance Department is empowered with financial ceiling of Rs.1.00 lakh (Rupees one lakh) in each individual case where recovery is to be waived, and beyond Rs. 1.00 lakh (Rupees one lakh) the express approval of Finance Department is to be obtained. But, pursuant to the cabinet decision dated 28/10/2021, it has been authorized to the Director of Pension for waiving of excess drawal upto Rs.3.00 lakh (Rupees three lakh) in respect of provincialised school teachers and PRIs exclusively," with following conditionalities as summarized by the Hon'ble Apex Court in the case of State of Punjab & Ors-vs-Rafiq Masih(White Washer) etc. in CA No. 11527 of 2014 (Arising out of SIP© No. 11684 of 2012) and was decided by the Hon'ble Court on 18.12.2014, wherein recoveries by the employers would be impermissible in law:-

- i). Recovery from employees belonging to Clas.III and Class-IV service (for 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 and arbitrary to such an extent, as would for outweigh the equitable balance of the employer's right to recover.

All Departments are to act in accordance with the above stipulations while deciding cases of wrongful/excess payments.

However, in all cases where the excess payments on account of wrong pay fixation, grant of scale without due approvals, promotions without following the procedure, or in excess of entitlements etc. come to notice, immediate corrective action must be taken.

In a case like this where the authorities decide to rectify an incorrect order, a show-cause notice may be issued to the concerned employee informing him of the decision to rectify the order which has resulted in the overpayment. Reasons for the decision should be clearly conveyed so as to enable the employee to represent against the same. Speaking orders may thereafter be passed after consideration of the representations, if any, made by the employee.

Whenever any excess payment is made on account of fraud, misrepresentation, collusion, favouritism, negligence or, carelessness, etc. roles of those responsible for overpayments in such cases, and the employees who benefitted from such actions should be identified, and departmental/criminal action should be considered in appropriate cases.

This O.M. will be applicable to all pending cases of wrongful/excess drawal as on 18.12.2014 (i.e. date of judgment in CA No. 11527/2014).

Sd/-
(Samir K. Sinha)
Principal Secretary to the Govt. of Assam
Finance Department

Contd/-

Memo. No.Fin(EC-III).1808/2018/3-A

Dated, Dispur, the 27th January, 2022

Copy forwarded to:-

- 1). The Principal Secretary to Hon'ble Chief Minister, Assam, Dispur
- 2). The Private Secretary to all Hon'ble Ministers/ Minister of State, Assam, Dispur.
- 3). The S.O. to the Chief Secretary to the Government of Assam, Dispur.
- 4). The Chairman, Assam Board of Revenue, Panbazar, Guwahati.
- 5). The Chairman, Assam Administrative Tribunal, Dispur.
- 6). The Additional Chief Secretaries to the Govt. of Assam, Dispur.
- 7). The Accountant General (A & E), Assam, Beltola, Guwahati
- 8). All Principal Secretaries / All Divisional Commissioners/ Commissioners & Secretaries/
Head of Departments/ Deputy Commissioners/ Sub Divisional Officers (Civil) Treasury
Officers.
- 9). Principal Secretaries, Karbi Anglong Autonomous Council/ Dima Hasao Autonomous
Council/ Bodoland Territorial Autonomous Council.
- 10). Finance (eGU) Department for uploading the O.M.
- 11). The Director of Pension, Housefed Complex, Dispur, Guwahati-06.
- 12). Office Copy.

By order etc.



Secretary to the Government of Assam,
Finance (EC-III) Department