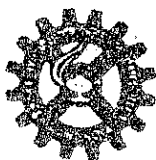


Compendium of CSIR/GoI Circulars/Instructions on Legal Matters

**UP-DATED VERSION
(upto 31st December, 2017)**



**COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH,
NEW DELHI**

INDEX

Sr.No.	File. No.	Date	Subject	Pages
1.	3(89)E.A/Law	10.7.1995	Preparation of replies of filing in Court/CAT and limitation in filing Review Applications/Special Leave Petitions – instructions reg.	1
2.	3/89/Law	1.7.1996	Decentralization in Legal matters.	1-2
3.	18/74/Law-Vol.II	30.3.1999	Reply to Legal Notice in service matter.	2
4.	3(89)EA-LAW	10.11.1999	Engagement of Advocates and payment of fee for CAT/High Court cases.	2-7
5.	3(89)/EA-Law/6285	3.1.2001	Imposition of cost towards delay in filing reply in CAT.	7-8
6.	3(89)EA-Law/63/3	3/15.1.2001	Cases filed in the High Courts, Labour Courts and Administrative Tribunals for redressal of grievances.	8
7.	6/1/86-Cte	29.3.2001	Delegation of Powers to sign and countersign legal documents/agreements/contracts on behalf of CSIR.	9
8.	6/1/2001	14.6.2001	Delegation of Powers to sign and countersign legal documents/agreements/contracts on behalf of CSIR.	9-10
9.	3(89)EA-LAW	18/20.6.2001	Fee rates payable to the advocates for cases of Labour Courts/Industrial Tribunals.	10
10.	36-3(89)-EA-Law-IV	17.5.2004	Vetting of Parawise Comments in r/o Petitions – reg.	11
11.	36-3/89-EA-Law	20.12.2004	Plea/Objection to be taken before Hon'ble CATs and/or H.Cs – reg.	11-12
12.	18/74-Law(Advice/1074	31.3.2005	EPF & MP Act, 1952 – Applicability of the Act to NEERI Nagur.	12-14
13.	3/89-E-A(Law)	11.5.2005	Compliance of contract Labour (R&A) Act 1970 & Central Rule 1971.	14-17
14.	36-2/80/Law Vol.II	17.10.2007	Right to Information Act, 2005.	17-18
15.	3(89)EA-Law-Vol-IV	19.9.2008	Compliance of Labour Laws.	18
16.	36-3/89-Law (Vol-V)	8.9.2009	Revision of fee for advocate in Arbitration matter.	19
17.	3(89)EA-Law-Vol-V	3.11.2009	Revision of fee of advocates conducting the cases before the Hon'ble Supreme Court High Court, CAT & Labour Courts/Subordinate Courts.	19-20

18.	36-2/80-Law	19.4.2010	Imposition of Costs by Hon'ble High Court of Delhi towards delay in filing counter affidavits etc.	21-22
19.	5-1(17)/08-PD	4.7.2011	Reservation in promotion – Treatment of SC/ST candidates promoted of their own merit –CAT decision.	22-23
20.	5-1(17)/08-PD	10.1.2012	Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in Civil Appeal No. 6454 of 2011, arising out of SLP(C) No. 7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.	23-24
21.	36-3/89-EA-Law	16.4.2012	Revision of fee of Arbitrators – reg.	24-25
22.	3(89)-EA-Law-Vol.IV	3.1.2013	Handling of matters relating to notices/representations sent to Cabinet Secretary or Principal Secretary to the Prime Minister by Advocates.	25-26
23.	5-1(184)/08-PD	6.5.2013	Regarding land and its related issues to be dealt by ESD.	26
24.	15-6(83)/98-O&M (Vol.IV)	8.5.2013	Decision dated 6.11.2012 of the Delhi High Court on disclosure of information under the provisions of Right to Information Act, 2005, relating to disciplinary matters.	26-28
25.	5-1(189)/2013-PD	4.6.2013	Implementation of Court Order dated 13.4.12, passed by the Hon'ble Delhi High Court in WP(C) No. 2092/2012 – Adoption of Govt. of India, Dept. of Expenditure instructions in CSIR reg.	28-29
26.	13-2(21)/2013-14/Pur	2.7.2013	Implementation of Court Order dated 13.4.12, passed by the Hon'ble Delhi High Court in WP(C) No. 2092/2012	29-30
27.	36-13(206)/12-Law	4.9.2013	CAT's directions to scrupulously follow the CSIR (Residence Allotment) Rules, 1997.	30
28.	5-1(17)/08-PD	18.10.2013	Disclosure of personal information under the RTI Act, 2005.	30-31
29.	15-1(146)/2013-Vlg.	26.6.2014	Filing of FIR with the approval of Director – reg.	31-32
30.	4-16(63)/2014-HR-II	11.9.2014	Reimbursement of stamp duty and registration fee in regard to the documents including reconveyance	32

			deed pertaining to House Building Advance - reg.	
31.	5-1(232)2014-PD	5.11.2014	Contempt Petition No. 18/2012 in OA No. 655/2010- Implementation of the Order dated 1.11.2011 & 15.5.2014 of Hon'ble CAT, Principal Bench, New Delhi in respect of Petitioners in OA No. 655/2010- Compliance Report reg.	32-33
32.	36-3(89)/EA-Law-Vol.IV	17.11.2014	Delegation of power for signing of vakalatnama & filing Affidavit on behalf of CSIR before different Courts/Tribunals.	33
33.	36-3/98-Law	20.11.2014	DoPT Guidelines for reducing avoidable litigation –reg.	34-35
34.	5-1(17)/2008-PD	22.12.2014	Order dated 30.9.2014 passed by the Hon'ble High Court on WP No. 6771/1/2014 and Order dated 27.11.2013 passed by the Hon'ble CAT.	35-38
35.	17/74-Law (Vol.II)	22.12.2014	Issues relating to contractual employees.	39
36.	36-3(89)EA-Law	4.2.2015	Framing Specific policy for engagement/empanelment of Advocates, revision of the fee etc. of the Advocate.	39
37.	36-2(230)2005-Law	10.3.2015	Mitigation in Litigation.	40
38.	5-1(11)/2008-PD	11.3.2015	Compliance of Order dated 30.9.2014 passed by the Hon'ble High Court on WP No. 6771/2014 filed by CSIR against the CAT order dated 27.11.2013 in OA No. 2201/2011 filed by Dr. Anang Pal & Ors Vs. JS(A) & Ors. – Filing of Contempt Petition – reg.	40
39.	36-3(89)/EA-Law-Vol. IV	24.3.2015	Avoidance of delay in filing Appeal etc. against Court/Tribunal Order.	41
40.	19-1(7)/2014-SC/ST Cell	6.5.2015	Implementation of the judgment of Hon'ble Supreme Court of India in the matter of Union of India Vs. National Federation of Blind and Ors. – Filling of vacancies earmarked for Persons with Disabilities – reg.	41
41.	19-1(7)/2013-2015-SC/ST Cell	23.6.2015	CWP No. 11444 of 2013 in the matter of Adrash Kumar vs. UOI – Issue of	42-45

			promotion in CBDT – Information relating to Persons with Disabilities – reg.	
42.	5-1(17)/2008-PD	3.7.2015	Request for Voluntary retirement from suffering disability – Supreme Court Order in Bhagwan Dass & Anr Vs Punjab State Electricity Board, (2008) 1 SSC 579 – reg.	43-44
43.	5-1(90)/10-PD	14.7.2015	Hon'ble CAT, Lucknow Bench order dated 26.5.2015 in OA No. 37/2011 (Harsh Bahadur & 101 others vs. UOI/CSIR/CDRI/NBRI/CIMAP) – Compliance thereof- Assistant Grade.	45
44.	36-2(230)/2015-Law (Mitigation)	13.8.2015	Mitigation in Litigation.	45
45.	3(89)EA-LAW-Vol.V	11.12.2015	Instructions to desist from initiating inter-Ministerial/Departmental Litigation in court of Law – reg.	46
46.	3(89)EA-LAW-Vol.V	11.12.2015	Instructions from Ministry of Law & Justice Deptt. of Legal Affair, regarding avoidance of delay in filing Counter Affidavits in various courts – reg.	47-49
47.	3(89) EA-LAW	22.2.2016	Regarding signing on Vakalatnama.	49
48.	5-1(17)/2008-PD	2.3.2016	W.P. (C) No. 37/2015 tagged with W.P. (C) No. 494/2012-Adherence of the interim orders of Hon'ble Supreme Court – reg.	49-51
49.	3(89)EA-LAW/625	28.4.2016	Recovery of wrongful/excess payments made to Government servants – reg. – Court Judgment.	51-53
50.	5-1(17)/2008-PD/1	28.4.2016	Framing of a policy for the engagement/empanelment of advocates and revision of the fee rates.	53
51.	36-3(89)/EA-Law-Vol.IV	29.4.2016	Regarding sending relevant, adequate and timely background material/inputs/comments on Courts Cases being filed or contested by CSIR Labs./Instts.	54
52.	36-3(89)/EA-Law – Vol. IV	6.5.2016	Steps to ensure proper representation of CSIR in all legal cases/court cases.	54-55
53.	36-2(230)2005-Law	6.6.2016	Mitigation in Litigation.	55

54.	35-1(39)/2014/HR-III	9.9.2016	Clarification regarding drawal of two civil pensions – case of Smt. Jayashri Raghvan.	56
55.	3(89)EA Law Vol.	7.11.2016	Revision of fee of Advocates conducting the cases before the Hon'ble Supreme Court of India, High Courts, CAT & other such Tribunals, Labour Courts/Subordinate Courts.	57-58
56.	15-6(82)/98-O&M - II	22.11.2016	Standard operating procedure regarding legal cases where Central Vigilance Commission has been made respondent alongwith the organizations concerned – reg.	58-60
57.	36-2/80-Law	19.12.2016	The timelines for filing SLP/Appeals.	60-61
58.	36-2/80-Law	27.3.2017	Furnishing the details of Arbitration matters.	61-62
59.	36-3(89)/EA-Law-Vol.IV	7.4.2017	Pairavi of Arbitration/legal cases.	62-63
60.	36-2(230)/2005-Law	3.5.2017	Reduction in pending court cases.	63-65
61.	5-1(17)/2008-PD	8.5.2017	Ease of Compliance to maintain Registers under various Labour Laws Rules, 2017 – reg.	65-66
62.	5-1(424)/2017-PD	24.5.2017	Simultaneous action of prosecution and initiation of departmental proceedings – reg.	66-69
63.	5-1(336)/2016-PD	9/10.10.2017	Restoration of all pension of absorbee pensioners in view of the order dated 1.9.2016 of Hon'ble Supreme Court in Civil Appeal No. 6048/2010 and Civil Appeal No. 6371/2010.	70-72
64.	5-1(39)/2008-PD	23.11.2017	Reservation in promotion – treatment of SC/ST candidates promoted on their own merit – reg.	73

(1)

Sub:-Preparation of replies of filing in Court/CAT and limitation in filing Review Applications/Special Leave Petitions - instructions regarding.

I am directed to draw your attention to this Office Circular of even number dated 9.9.93 which was circulated along with other circulars on the subject with our circular of even number dated 23.5.1994.

Despite the instructions contained in these circulars, the cases on account of contempt proceedings are on increase and in some cases we are put in an embarrassing situations because the contempt proceedings are filed against the Director/Director-General by name.

To obviate such a situation and also to reduce the cases on this account, instructions contained in the aforesaid circulars are reiterated for strict compliance and it may be ensured that the judgements received in the laboratory are sent to this office immediately on receipt from the Court/Tribunal/Advocate so that timely decision can be taken for filing of review/SLPs as the case may be. If any delay is noticed in getting instructions from Hqrs., you may kindly file extension applications in Tribunal/Court within the stipulated time to avoid contempt proceedings. It is also to emphasize that proper monitoring should be done for compliance of the judgement and for filing of the appeals/review etc. in time as the case may be. Any laxity on the part of the officer entrusted with the legal cases will be viewed seriously. Kindly acknowledge receipt.

Copy of CSIR letter No. 3(89)E.A/Law dated 10.7.1995

(2)

Sub: Decentralisation in Legal matters.

I am to draw your attention to para 4 of this office letter of even No. dated 1.12.1989 on the above subject and to state that the Govt. of India has issued number of office memoranda for presentation of cases before CAT through authorised departmental representatives. A copy of the latest office memorandum dated 28th May 1996 received in this connection is enclosed for ready reference.

The matter has again been considered in the light of the above instructions and it has been decided that, to begin with, it would be advisable to depute respective COAs/AOs to attend the hearings in various courts including CAT, along with the advocates to acquaint themselves with the procedure being followed in these Courts/Tribunals to enable them to gain experience. After some time when they gain sufficient experience in the line and are also able to attain confidence to handle such matters, they may be advised to take up the cases independently on behalf of CSIR labs. They may, however, consult this office from time to time

for drafting of replies etc. connected with these cases, whenever they appear in these courts independently as departmental representatives.

It is, therefore, requested that you may advise the COA/AO to comply with the above directions so that the cases on behalf of CSIR/Laboratories are effectively contested/presented and also favourable results obtained from the Tribunals.

Kindly acknowledge the receipt.

Copy of CSIR letter No. 3/89/Law dated 1.7.1996

(3)

Sub:-Reply to Legal Notice in service matters.

It is observed that many a times Legal Notices (Lawyer/Advocate Notice as commonly known) are served in service matters by the Advocates on behalf of the employees. As per the rules, there is no need for serving Legal Notices in service matters and it is also not mandatory to reply to such notices. It has however been noticed that many a times replies are sent by the Laboratories/Institutes even though it is not mandatory to reply to such notices.

The JS (Admn) has been pleased to approve that hereinafter no reply to legal notice in service matters shall be sent by the National Labs./Instts.

Copy of CSIR letter No. 18/74/Law-Vol.II dated 30.3.1999

(4)

Sub:- Engagement of Advocate and payment of fee for CAT/High Court cases.

I am to state that at present CSIR has been following the fee schedules of Govt. of India in regard to cases handled by Central Govt. Standing Counsel. With regard to Standing Counsels who did not agree to take up cases of CSIR and its Labs at Govt. rates and private Advocates, fee was mutually settled in each case and also from time to time.

2. Ministry of Law, Justice and Company Affairs, Govt. of India have issued the following circulars notifying revision of fee for Standing Counsel (2 copies each enclosed for ready reference) -

S.No.	OM No. & date	Court to which applicable
1.	F.24(2)/99-Judl. - 24.09.99	Delhi High Court
2.	F.25(3)/99-Judl - 24.09.99	Madras High Court
3.	F.26(1)/99-Judl. -24.09.99	All High Courts except Delhi, Mumbai, Calcutta, Chennai

		and Karnataka
4.	F.26(2)/99-Judl.- 24.09.99	Karnataka High Court

Note - Instructions regarding Mumbai and Calcutta are under issue.

3. Upon examination of the circulars and the need for bringing uniformity and simplicity the following decisions are communicated -

Fee rates for CAT/High Court cases assigned on or after 01.11.1999 applicable to both Sr. Central Govt. Standing Counsel (Sr. CGSC)/Central Govt. Standing Counsel (CGSC) and private Advocates EXCEPT Sr. Central Govt. Standing Counsel (Sr. CGSC) in Delhi and Madras High Courts/CAT –

Place and description	Delhi	Others
Lumpsum professional fee per case incl. clerkage	Rs. 7,500	Rs.7,000
Expenses	At actuals	At actuals

4. The fee rates as above are subject to the following clarifications –

A. General –

- a. Column 'Others' does not include CAT/High Court, Mumbai; CAT/High Court, Calcutta; and CAT, Bangalore.
- b. The fee rates mentioned in this letter are applicable to both Sr. CGSC, CGSC and private Advocates except the following –
 - i. Fee for cases within jurisdiction of CAT (including Circular Benches)/High Court, Mumbai; CAT/High Court, Calcutta-; and CAT, Bangalore will be intimated in due course upon receipt of Govt. of India instructions.
 - ii. Fee for Sr. CGSC in Delhi and Madras High Courts/CAT will be as per rates mentioned in the GOI circulars.

B. Fee payable if a case is disposed of at admission stage itself –

- a. In only one or more hearings either after arguments of CSIR counsel or in his/her presence and no written reply has been filed: only one-third fee plus actual expense is payable.
- b. If written reply has been filed : full fee plus actual expenses is payable.

C. Tagged matters - These are cases in which the substantial questions/facts are same or identical. In other words the cases are identical with minor variations and the reply

would also be more or less identical. In these cases Lab/Instt, should request the Advocate to get the matters tagged by the Court for common hearing.

- D. Fee payable** - Full fee in the leading case and one-third of the full fee for all other cases. However, actual expenses are payable in full in all the cases.

Fee Rate :-

- a. The fee rate is for the entire case which includes fee for drafting of all the replies and statements and petitions/applications, hearings, miscellaneous applications, legal opinion on the Order/Judgment etc., clerkage and conference, In other words, "no fee over and above the rate mentioned in this letter is payable to any Advocate without prior approval of the Joint Secretary (Admin.).
- b. In respect of expenses which are reimbursable in full, an account is to be obtained from the Advocate before making payment. Labs/institutes are at liberty to reimburse actual expenses without prior approval of CSIR.
- E. Release of payments - Half upon filing of counter/written statement and the balance half on receipt of Judgment/Order. If no advance payment has been made, full fee is to be released on receipt of Judgment/Order.

F. Engagement of Sr. Advocate/Counsel/Advocate -

- a. Labs/Institutes are at liberty to engage Sr. CGSC {except Delhi and Madras High Courts)/CGSC and pay/release the fee without seeking prior approval of CSIR.
- b. Engagement of Sr. CGSC in Delhi and Madras High Courts/CAT, If found necessary, should be done only with the prior approval of the Legal Adviser and joint Secretary (Admn).
- c. Engagement of private Sr. Advocate in any High Court/CAT, if found necessary, should be done only with the prior approval of the Legal Adviser and Joint Secretary (Admn). While forwarding proposal for engagement of a private Sr. Advocate who had not been engaged earlier, bio-data and details of fee payable should also be forwarded along with recommendations of the Lab/Instt. to enable timely 'processing. If engagement is approved, Labs/Institutes are at liberty to release/pay the fee at the rates specifically communicated.
- d. Engagement of private Advocate in any High Court/CAT should be done only with the prior approval of the Legal Adviser and Joint Secretary (Admn). While forwarding proposal for engagement of a private Advocate who had not been engaged earlier, bio-data and details of fee payable along with the recommendations of the Lab/Instt. should also be forwarded

to enable timely processing, if engagement stated in c and d above is approved, Labs/Institutes are at liberty to release the fee at the rates mentioned in this letter and no separate approval of CSIR for this purpose is required.

G. Effective date of the revised fee rates –

- a. The fee rates mentioned in this letter are applicable only in respect of cases assigned to the Counsel/Advocate on or after 01.11.1999.
- b. In respect of cases assigned prior to this date the rate of fee applicable on the date of engagement continues to apply with the following exception.
- c. In respect of Central Govt. Standing Counsel who have been assigned the case before 01.11.1999, Govt. of India instructions regarding revised rates will apply to the extent provided for in the circular.

For clarifications on matters other than fee (to the extent provided for in this circular) reference may be made to the relevant Govt. of India circular.

5. Monitoring payments - In order to keep track of payment of fees to the Counsel/Advocate it is suggested that a register may be maintained preferably in the following proforma. This register will also provide information regarding expenditure towards litigation in a year. While releasing payment, provisions of Income Tax Act, 1961 as amended from time to time regarding deduction of tax at source on professional fee may also be complied with.

REGISTER OF PAYMENT OF FEE TO COUNSEL/ADVOCATE
(Separate sheet may be kept for each case)

Serial No :

Petition No. & Court			
Name of Applicant (s)			
Name of Respondent (s)			
Name of the Advocate	Bill No. And date	Fee paid in Rs. Professional Expenses	Cheque/DD No. and date

This issues with the approval of the Joint Secretary (Admn) and supercedes the following instructions of CSIR to the extent stated and provided for in this letter -

S.No.	CSIR circular No.	Date of circular	Extent of supersession
1.	3/89/EA-LAW	1.12.1989	Para 2 regarding fee
2.	3/89/EA-LAW	4.2.1992	Full

It is requested that these instructions may be brought to the notice of all concerned. It is also suggested that while issuing letter of engagement to the Counsel/Advocate the fee rates may be made clear to avoid any future controversy.

Please acknowledge receipt of the communication.

Copy of CSIR letter No. 3-(89)-EA-LAW dated 10.11.1999

F.No. 24(2)/99-Judl.Dated 24.9.1999 of Government of India, Ministry of Law, Justice & Company Affairs, Department of Legal Affairs.

Subject:- Revision of fee payable to Senior Counsel/Central Government Standing Counsel and Central Government Pleaders in the Delhi High Court w.e.f. 1st October, 1999.

Enclosed herewith please find a copy of the Revised Schemes containing terms and conditions for the engagement of (i) Senior Counsel and (ii) Central Government Pleaders in respect of civil litigation and such criminal cases as may be entrusted to them in Delhi High Court effective from 1st October, 1999.

2. For the guidance of various Ministries/Departments, the following clarifications are given for settling the fee bills, TA/DA etc. payable to them for their engagement in the Delhi High Court, in courts other than the High Court, Commission of Inquiry, Tribunals, etc.

- a. The Counsel will be engaged only in accordance with the revised terms and conditions applicable to them w.e.f. 1.10.1999 and no case for payment of fee at the higher rates than the rates prescribed in the Revised Scheme will be entertained by this Department.
- b. In respect of the cases listed for hearing in the Delhi High Court, Commission of Inquiry, Tribunals, other courts, etc. located in Delhi, the Counsel will be engaged by the Officer Incharge of Litigation (HC) Section or any other authorized officer of the Litigation (HC) sector of the Department of Delhi High Court depending on the importance of the case, legal issues and financial stakes involved. However, in respect of their engagement in Courts, Commission of Inquiry, Tribunals etc., outside Delhi/New Delhi, prior approval of the Department of Legal Affairs, Ministry of Law, Justice & Company Affairs, New Delhi will be required.
- c. As in the past, Ministry of Law, Justice & Company Affairs, Department of Legal Affairs, will only be making the payment of monthly retainer to the CGSC and installation and annual rental charge of telephones provided to them.
- d. For appearance in the Delhi High Court, in connection with the fee payable to them is to be paid by the Department of Legal Affairs, Ministry of Law, Justice & Company Affairs, Litigation (HC) Section, Delhi High Court, New Delhi. The fee bills are to be processed by the Litigation (HC) Section and the payment is to be made directly by it to the Counsel concerned. Other miscellaneous and out of pocket expenses will be borne by the Ministry/Department on whose behalf the Counsel conducts the case in the concerned court. Such expenses will be paid in advance to the Litigation (HC) Section in accordance with the instructions issued by the Litigation (HC) Section. However the expenditure

relating to TA/DA payable to the Counsel for their appearance in courts, Tribunals, Commission of Inquiry outside Delhi/New Delhi and in foreign countries, is to be borne by the Ministry/Department on whose request the counsel is engaged to conduct the case.

- e. The Counsel will be paid fee at the old rates in respect of their appearance in the High Court etc. and other work done by them prior to 1.10.1999, and at the revised rates in respect of the work done by them on/after 1st October, 1999. However, in cases where the Standing Counsel/Central Government Pleader has put in some appearance before 1.10.1999 and some on/after 1.10.1999, the Counsel will be paid fee in respect of appearance at the revised rates for the entire case. The fee in respect of drafting work etc. will be paid in accordance with the rates which were applicable to him at the time he completed the drafting work etc.
- f. The present procedure, which may be amended from time to time, regarding the high fee cases or engagement of Special Panel Counsel will continue to be followed.
- g. The schemes contained in this OM will also apply to counsel of CAT, Delhi. However, the fee payable to them will be borne by the Ministries/Departments themselves.

3. All the Ministries/Departments which propose to engage the Counsel to appear in the Delhi High Court are requested to contact the officer incharge of Litigation (HC) Section of this Department located in Delhi High Court Annexe Building, New Delhi. However, for the engagement of the counsel outside Delhi/New Delhi (including other courts located in Delhi) they may obtain the approval of the Department of Legal Affairs, Ministry of Law, Justice & Co. Affairs, New Delhi after settling the terms and conditions of their engagement. They are further requested to make arrangements for their travel in consultation with the counsel concerned. The Departments are also requested to ensure that the bills in this respect are made in their names and settled by them directly so that the necessity of reimbursement of expenses incurred by the Counsel later is minimized and they are not put to inconvenience.

4. All the Ministries/Departments are further requested to ensure that the bills in respect of other expenditure if incurred by the counsel in connection with TA/DA etc. for their appearance in various High Courts etc. outside Delhi/New Delhi, are sanctioned and money paid to them immediately and in any case not later than a month from the date of receipt of the bills.

5. If any difference or doubt arises in respect of fee or other bills claimed by the counsel the matter may be referred to the Law Secretary whose decision shall be final.

(5)

Sub:-Imposition of cost towards delay in filing reply in CAT.

This is to bring to your notice that in one of the recent cases, the Hon'ble Supreme Court has come down heavily on one of the Government departments for delay in filing the reply. The relevant portion of the order is reproduced below:-

"Counter Affidavit by the Govt. agencies-non-filing of-Govt. Counsel seeking time to file the counter- Request- declined for the reason that it has become the regular practice with all the Govt. agencies taking it for granted that the time would be granted to suit their convenience."

For the reasons stated above, various benches of CAT have directed that Departments should file their statement of objections within sixty days from the date of receipt of notice from the Registry of CAT failing which a minimum cost of Rs.1000/- (Rupees one thousand only) will be imposed on the Head of Department or on the case worker and should be recovered from the salary of Head of the Department or the case worker as the case may be.

As per Rule 12 of the CAT (procedure) Rules, the reply should be filed within four weeks from the date of receipt of the notice.

In view of the above, as and when any case is filed, you are requested to send your comments alongwith a copy of petition immediately on receipt of Notice from the Court. Further, if reply needs to be vetted, the same may be got drafted from the Advocate and send to CSIR well in time to avoid any imposition of cost by the Tribunal.

Copy of CSIR letter No.3(89)/EA-Law/6285 dated 3.1.2001

(6)

Sub:-Cases filed in the High Courts, Labour Courts and Administrative Tribunals for redressal of grievances.

As you are aware, employees of CSIR and its Labs./Instts. file cases before different forums like High Courts, Labour Courts and Administrative Tribunals for redressal of their grievances. On receipt of notice from the Court, steps are taken for contesting the cases.

In this context, I would like to inform that whenever any case is filed in the High Court under Article 226 by way of writ then before filing any reply on merits, a short counter affidavit raising a preliminary objection on the maintainability of writ petition be filed through an advocate. It may be mentioned in the counter affidavit that writ is not maintainable against CSIR as it is neither a State nor an Authority under Article 12 of the Constitution as held by the Hon'ble Supreme Court in the case of Sabhajit Tewary Vs Union of India reported as AIR 1975 SC 1329. This judgement is a judgement of five judges and still holds good and has not been overruled so far though referred in the later cases by the Hon'ble Supreme Court.

Further, it is informed that in case of Shri P.K. Biswas & others the Hon'ble Supreme Court has referred the matter to the Constitution Bench but so far it has not come up for hearing.

I am enclosing the compilation of the judgement on this subject for reference in pending or future cases.

Copy of CSIR letter No. 3(89)EA-Law/63/3 dated 3/15.1.2001

(7)

Sub:- Delegation of Powers to sign and countersign legal documents /agreements /contracts on behalf of CSIR.

I am directed to refer to the CSIR instructions circulated vide CSIR letter No. 6/1/86-Cte dated 24.5.89 according to which all legal documents/agreements/contracts in CSIR Labs./Instts. are to be 'signed and countersigned by COA / AO and Sr.F&AO / F&AO respectively.

In case of one of the Instts. where the Sr. F&AO (SG) and Sr. F&AO both being in position it was mentioned that such documents can be countersigned by Sr. F&AO even though Sr. F&AO (SG) was in position.

The matter has, therefore, been examined in consultation with the Legal Adviser & Financial Adviser, CSIR and after careful consideration, the Director-General, CSIR has been pleased to approve the following procedure to be adopted in signing of the Agreements and legal documents on behalf of CSIR and countersigning the documents:

- i. All legal documents/agreements/contracts on behalf of CSIR be signed by Sr. COA / COA of the Lab./Instt. and in his absence only such documents will be signed by AO.
- ii. All legal documents/agreements/contracts will be countersigned by the seniormost officer from Finance side and in absence of the seniormost officer only these documents be countersigned by the next seniormost officer but not below the rank of F&AO irrespective of it being signed by Sr.COA/COA/AO.

Copy of CSIR letter No. 6/1/86-Cte dated 29.3.2001

(8)

Sub:- Delegation of Powers to sign and countersign legal documents/ agreements/contracts on behalf of CSIR.

I am directed to refer to the CSIR instructions on the subject cited above circulated vide CSIR letter No. 6/1/86-Cte dated 29/3/2001 according to which all legal

documents/agreements/contracts on behalf of CSIR are to be countersigned by seniormost officer from finance side and in his absence these are to be countersigned by the next seniormost officer who should not be below the rank of F&AO.

However, references have been received from some CSIR Labs./Instts. bringing out their difficulty in getting these documents countersigned in case of emergency by Sr. F&AO (SG) or Sr. F&AO or F&AO when only one officer from the aforesaid authorized Finance Officers is in position in Lab./Instt. and he is not available due to leave or otherwise.

The matter had been considered and with a view to ensure that the functioning of the Labs./Instts. concerned is not hampered, the DG, CSIR has been pleased to approve that in case of Labs./Instts. all legal documents, agreements, contracts on behalf of CSIR can be countersigned by SO(F&A) who is looking after the work of Sr.F&AO (SG)/Sr. F&AO/F&AO during his regular leave only subject to the condition that such countersigning should be vetted by Sr.F&AO (SG)/Sr. F&AO/F&AO if so desired by the Director of the concerned Lab./Instt.

It is requested that the above decision may kindly be brought to the notice of all concerned in your Lab./Instt. for their information, guidance & necessary action.

Copy of CSIR letter No. 6/1/2001 dated 14.6.2001

(9)

Sub:- Fee rates payable to the advocates for cases of Labour Courts/Industrial Tribunals.

I am to state that a detailed circular letter No. 3(89)/EA-Law dated November 10, 1999 notifying the fee rates, for CAT/High Court cases for Sr. Central Govt. Standing Counsel/Central Govt. Standing Counsel and private. Advocates except Sr. Central Standing Counsel in Delhi and Madras High Courts/CAT has already been issued.

As regards fee rates payable to the advocates for cases of Labour Courts/Industrial Tribunals this is to inform you that CSIR has decided the fee as Rs. 5000/- (Rupees five thousand only) plus -actual expenses uniformly. Further, it has been approved, that in all such cases, the fee payable to the advocates will be released as per the following schedule:-

- i. half of the fee will be released on filing of reply and balance on receipt of award/judgement/orders.
- ii. in case of tagged matters, full fee in the leading case and one-third of the fee in connected cases will be paid.

The above instructions may be-strictly adhered to while engaging advocates and releasing payments to them.

Copy of CSIR letter No. 3(89)/EA-Law dated 18/20.6.2001

(10)

Sub:- Vetting of Para wise Comments in r/o Petitions – reg.

It has been observed that some of the laboratories send even their Parawise Comments in r/o the petitions filed before the various Courts for vetting to be done at CSIR Hqrs. which should not have been done. It is not appropriate for the Legal Section to vet the comments offered by the laboratories at this stage since all original records, facts & figures are available with the concerned laboratory/Institute. This "causes unnecessary delay and inconvenience to the concerned Laboratory as well as to the Legal Section.

It is therefore, reiterated that Parawise Comments need not be sent to Legal Section for vetting. However, when clarification on some particular points or policy decision or when there is doubt on interpretation of rules, vetting may be sought on such specific points from Legal Section.

All the AO/COAs may kindly note for future compliance.

Copy of CSIR letter No. 36-3(89)-EA-Law-IV dated 17.5.2004

(11)

Sub:- Plea/Objection to be taken before Hon'ble CATs and/or H.Cs – reg.

1. It has been noticed that a large number of cases are being filed before the Hon'ble CAT and/or High Courts by Council servants after long delays, in some cases after retirement. As per legal provisions the aggrieved party has to approach the judicial forum within the prescribed period of limitation under the general law of limitation i.e. Limitation Act, the limitation period is three years in personal matters. However, under Section 21 of the Administrative Tribunal Act, 1985 the limitation period prescribed is one year. Though statutory provisions prescribed a period of one year for making an application before a Competent Court/Tribunal, yet the applicant can take plea before the Court/Tribunal about the reasons for such delay and on being satisfied that there is a reasonable explanation, the Tribunal has power to condone the delay.
2. As you are aware that limitation is from the date of cause of action, if a representation is rejected, once, and if the employee makes another representation say after one year or two years, and again the office says that it is rejected after "re-examining" or "re-considering" the case. It could give a fresh cause of action and consequently extend the period of limitation. It does not mean that the representation should not be re-examined but the decision is the same, simply reiterate the earlier advice, without mentioning that representation has been "re-examined" or "re-considered as repeated representation does not extend the limitation period.

3. All the Controllers of Administration/Administrative Officers are therefore, requested to ensure that issue of grave laches and delay is articulated/taken before the respective Court/CAT and all efforts are made to prevent the OA/W.P/M.A. etc. at the admission stage itself in order to save the Council from avoidable litigation and costs. Objection with regard to the petition being barred by limitation be taken by the advocates at the admission stage itself.
4. It is also emphasized that in all such cases the plea of grave laches and delay be urged before the Hon'ble Central Administrative Tribunal/High Court on behalf of CSIR/Lab/Instt. at the admission stage under Section 21 of the Administrative Tribunal Act, 1985.
5. Please note that no delayed plaint should be allowed to be admitted by default.

Copy of CSIR letter No. 36-3(83)-EA-Law dated 20.12.2004

(12)

Sub:- EPF & MP Act 1952 – Applicability of the Act to NEERI Nagpur.

Please refer to your letter No.34(154)2004 P&V/05 dated 21st March, 2005 on the above cited subject.

In this context, reference of the Assistant EPF commissioner be invited to Section 16 of the EPF & MP Act, 1952 which provides as under:-

Sec. 16. Act not to apply to certain establishments

(1) This Act shall not apply -

(a)

(b) to any other establishment belonging to or under the control of Central Government or a State government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits;

As per Section 16 (1)(b) of the Act, this Act is not applicable to CSIR as it is under the control of the Central Govt, and its employees are entitled to the benefit of contributory fund or old age pension in accordance with CCS(Pension)Rules

It may be reiterated that CSIR being a Society registered under the Societies Registration Act is wholly owned and controlled by the Central Govt, as is evident from the notification dated 31.10.1986 (copy enclosed) of the Ministry of Personnel, Public Grievances and Pension.

Further, it may be brought to their notice that combined reading of Article 323(A) of the Constitution and Section 14 of the Administrative Tribunal Act,, it is clear that no notification under Section 14 (2) of the Act could have been issued by the Govt, unless the employees of the organization/establishment were either appointed to public service and posts in connection with the affairs of the union or any other state or any local or other authority within ,the territory of India or under the control of the Govt, of India or of any corporation owned or controlled by the Govt. It is a fact that employees of CSIR are not appointed to public services & posts in connection with the affairs of the Union or any State and are not holder of civil post and do not get protection under Article 311 of the Constitution but it is owned and controlled by the Govt. It is for this reason that Govt, has issued the aforesaid notification.

The Hon'ble Supreme Court in its judgment dated 16.4.2002 (copy enclosed) in the Civil Appeal No.992/2002 filed by Pradeep Kumar Biswas & another while determining the issue whether CSIR is State within the meaning of Article 12 observed that the tests formulated in Ajay Hasia (Pg. 29 of the said judgment) are not a rigid set of principles so that if a body falls within any one of them it must ex hypothesi be considered to be State within the meaning of Article 12. The question in each case would be whether in the light of the cumulative facts as established, the body is financially, functionally and administratively dominated by or under the control of Govt. Such control must be particular to the body in question and must be pervasive. If this is found then the body is a State within Article 12. On the other hand, when the control is merely regulatory whether under statute or otherwise, it would not serve to make the body by a "State"

Finally after examining all the aspects, formation, objects and functions, Management and control and financial aid, the Hon'ble Supreme Court held that CSIR is a "State" under Article 12 of the Constitution.

In view of the aforesaid findings of the Apex Court, there is no iota of doubt that CSIR is not owned or controlled by the Govt.

Further, the following provisions of Memorandum of Association Rules and Regulations indicate that a deep and pervasive control of the Govt, exists in the functioning of CSIR.

The Govt, of India vide its Resolution dated 26.9.1942 decided to set up a Council of Scientific & Industrial Research on a permanent footing as a registered society under the Registration of Societies Act. The objects incorporated in the Memorandum of Association of CSIR manifestly demonstrate that CSIR was set up in the National interest to further the economic welfare of the society by fostering planned industrial development in the country. The Rules & Regulations of CSIR as set forth in 1942 and the existing Rules & Regulations of CSIR show that the control of the Govt, in CSIR is ubiquitous. The affairs of the CSIR are directly administered and controlled by the Governing Body though Governing Body has the power to frame amend or repeal the bye laws of CSIR but only with the approval of the Govt, of India. Any alteration in the bye laws require prior approval of the Govt, which shows that the subjugation of the Governing Body to the will of the Central Govt, is complete.

As regards service conditions of the employees of CSIR, they are Governed by CCS(CCA)Rules, CCS(Conduct Rules), F.R. S.R., as framed by the Govt. of India and such other rules & orders issued by Govt, of India from time to time. CSIR cannot lay down or change the terms & conditions of its employees and any alteration in the same can be carried out only with the approval of the Govt, of India.

As regards financial control of Govt, over CSIR, it is submitted that it is wholly funded by the Govt. The non-governmental contribution is very less. Budget estimates are to be prepared as per the instructions issued by Govt, of India. Moreover, the expenditure is incurred as per the Govt, regulations. Accounts are audited by the Comptroller and Auditor General of India and are placed on the table of both the House of Parliament.

Further it is pertinent to mention that the Govt, has notified Council of Scientific & Industrial Research in the official gazette under Sub Section 2 of Section 8 of the Provident Fund Act,1925.(list of institutions enclosed)
Section 8(2) of the Provident Fund Act provides that the Govt, by notification direct that the provisions of this Act shall apply to any provident fund established for the benefit of employees of any of the institutions specified in the schedule as if such provident fund were a Govt, provident fund and the authority having custody of the fund were the Govt. This notification of the Govt, clarifies that the fund operated by CSIR is the fund operated by the Govt. It is also mentioned that the employees of CSIR are governed by the Central Civil Services(Pension)Rules 1972 and the employees are entitled to the benefit of contributory provident fund or pension in accordance with the scheme or rules framed by the Central Govt.

In view of the aforesaid facts and the provisions of law, it is amply clear that CSIR is under the control of Central Govt. Thus EPF & MP Act is not applicable to the employees of CSIR.

Copy of CSIR letter No. 18/74-Law (Advice)/1074 dated 31.3.2005

(13)

Sub:-Compliance of contract Labour (R&A) Act, 1970 & Central Rule 1971.

This is to bring to your notice that a prosecution complaint was filed by Labour Enforcement Officer before Judicial Magistrate against one of the lab of CSIR for violation/non compliance of Contract Labour (R&A) Act 1970 and Contract Labour (R&A) central Rules 1971, which resulted in payment of fine.

All the AOs /COAs are, therefore, requested to complete all the formalities as per contract labour (R&A) Act 1970 and contract labour (R&A) Central Rule 1971. In this regard, format pertaining to requirements under Contract Labour (R&A) Act 1970 and Rule 1971

received from the office of Labour Enforcement Officer in the aforesaid matter is also enclosed for your reference. All the points mentioned/referred therein may be scrupulously followed. In addition to above local advocate may also be consulted with reference to other local formalities to be completed by the Lab/Instt.

Copy of CSIR letter No. 3/89-E-A(Law) dated 11.5.2005

IRREGULARITIES

(Delete whichever is not applicable)

A. PERTAINING TO REGISTRATION:

1. Contract Labour numbering _____ are employed with effect from _____ without obtaining Certificate of Registration Breach of Section 7 read with Section 9.
2. The following changes in respect of particulars specified in the Certificate of Registration have not been intimated at within the prescribed time limit to the Registering Officer. Breach of Rule 18(4).

- (a)
- (b)
- (c)

B. PERTAINING TO NOTICES:

1. The following notices were not displayed as required under Rule-81(1) (I)
 - a. The Rates of wages in English/Hindi/Marathi.
 - b. The hours of work in English/Hindi/Marathi.
 - c. The date of Payment in English/Hindi/Marathi
 - d. The wage period in English/Hindi/Marathi.
 - e. Names and addresses of the Inspectors having jurisdiction in English/Hindi/Marathi.
 - f. Date of Payment of un-paid wages in English/Hindi/Marathi.
2. A copy of the notices required to be displayed has not been sent to the Inspector as required/the changes in the notices displayed has not been sent to the Inspector as required. Breach of Rule-81 (2).

C. PERTAINING TO WAGES:

1. During Inspection of Contractor Shri/M/s _____ at _____ it is observed that contractor failed to make payment of wages/paid less wages as per annexure. The difference should be paid to workmen by Principal Employer as per section 21 (4).
2. The Principal Employer failed to ensure the presence of his authorized representative at the place and time of disbursement of wages to workmen paid by the Contractor. Breach of Rule 72.

D. PERTAINING TO WELFARE/HEALTH:

1. The Principal Employer failed to provide at all/failed to provide within the time limit following prescribed welfare/health amenities which the Contractor Shri/M/s _____ engaged in the work of _____ failed to provide originally as per Sec.20 (1) of the Act.
 - (a)
 - (b)
 - (c)

E. PERTAINING TO REGISTERS & RECORDS:

1. MAINTENANCE OF REGISTERS:
 - i. Register of Contractor not kept at work spot not maintained completely and up to date/not maintained Form-XII i.e. Columns _____ missing or not filed in. Breach of Rule-74.
 - ii. The following registers and records required to be maintained under the Act of the Rules were not produced on demand. Breach of Rule 80(4).
 - (1)
 - (2)
 - (3)
 - (4)

F. PERTAINING TO RETURN:

1. Annual Return (in duplicate) for the year _____ was not submitted at all/was not submitted in Form XXV/was not submitted within prescribed time limit. Breach of Rule 82(4)
2. Failed to intimate the date of commencement/completion in respect of the following contractors aged within 15 days of the commencement/completion of the contractor work in Form VI-B to the inspector Breach of Rule – 81(3).
 - (a)
 - (b)
 - (c)

G. PERTAINING TO FURNISHING INFORMATION/STATISTICS:

- The Principal Employer failed to furnish the following Statistics in relation to contract labour though same was called for in writing as per Rule 83 (a).
- (a)
 - (b)

**ASSISTANT LABOUR COMMISSIONER (CENTRAL)
LABOUR ENFORCEMENT OFFICER (CENTRAL)
INSPECTOR UNDER CL (R&A) ACT, 19**

Inspection report resolved and
Irregularities mentioned therein noted.

Signature of Principal Employer or his
representative with date and address.

Signature of witnesses with date & address

(14)

Sub:- Right to Information Act, 2005.

You may be aware that we are receiving a number of queries from the Labs/Institutes of CSIR as well as from the different Sections of CSIR Hqrs. asking for clarification whether the information asked for under RTI Act in question and answer form, could be provided to the appellant or not. Clarifications are also being sought whether the information asked under the Act can/should be compiled by the authority if it is not existed in the form as desired by the information seeker in order to supply it to the appellant.

In this regard it is stated that under Section 2(f) of the RTI Act, 2005, the word information has been defined as under:

"information" means any material in any form including records, documents, Memos, E. Mails, opinions, advises, Press releases, circulars, orders, logbooks, contracts reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

In this regard, it may be mentioned that in order dated 21.04.2006 in Appeal No. CIC/AT/A/2006/00045- in the case of Dr. D.V. Rao Vs. APIO ,Deptt of Legal Affairs, New Delhi, the CIC has clearly held that the RTI Act does not cast on the Public Authority any obligation to answer the query in which the applicant under RTI attempts to elicit answers to his questions with prefixes such as why, what, when and whether. The Authority is not oblige to give any reply to such query.

With regard to creation of information it may be stated that in the appeal No. 20/IC(A)/2006- Order dated 29.3.2006 in the case of A.X. S Jiwan Vs. Commissioner, Central Excise & Customs, Surat, the CIC has held that the information sought is to be provided in the form in which it exist and it does not have to be created as afresh by the Public Authority to supply the requester. Therefore, if the information sought does not exist in the form in which it is requested then there is no need to provide such information by creating it. Further also in

appeal No. 14/IC(A)/2006 – Order dated 27.3.2006 in the case of B-H, Veerasha, CIC has held that information is to be provided in the form in which it exists with the Public Authority and that without disproportionately diverting the resources of the information provider.

You are therefore requested to bring this to the notice of PIO and all APIO of your Lab/Instt. to enable them to take a correct decision about what kind of information is to be supplied and what kind of information can be refused/denied.

Copy of CSIR letter No. 36-2/80/Law Vol.II dated 17.10.2007

(15)

Sub:-Compliance of Labour Laws.

Ref: CSIR Circular letter No. 3/89-EA(Law) dated 11.5.2005.

This is to bring to your kind notice that recently an inspection was conducted by Labour Enforcement Officer in one of the laboratories and due to non-compliance of certain provisions of the Labour Laws such as non-maintenance of up to date register at the place of work site, a criminal complaint was filed by Labour Enforcement Officer against the Director of the Laboratory in the court of Chief Judicial Magistrate (CJM) for non-compliance. Director had to appear before the CJM and fine was imposed.

In this connection, your kind attention is invited to circular of even number dated 11.5.2005 whereby you were requested to comply with the formalities as per Contract Labour (R&A) Act 1971. You were also advised to consult the local advocate with reference to such other local formalities to be completed by Laboratory/Institute. It appears that in some labs certain formalities of Labour Laws are not being complied with. In this connection, it may be pointed out that non compliance of certain provisions of various Labour Laws is a penal offence and shall be punishable with imprisonment for a term of as prescribed therein and / or fine of the amount mentioned therein. Extracts of few penal provisions of various Labour Laws are enclosed herewith.

In order to avoid any such violation and embarrassment to the Director, being the Head of the Institution in future, AO/CoA or any other concerned officer of your laboratory may be instructed to ensure compliance of the provision of all Labour Laws. The statutory requirements/provisions may be scrupulously followed and complied with

In case of any difficulty in following/understanding the provision of Labour Laws, the undersigned or local advocate may be consulted for advise and act accordingly.

Copy of CSIR letter No. 3(89)EA-Law-Vol-VI dated 19.9.2008

(16)

Sub:- Revision of fee for advocate in Arbitration matter.

Joint Secretary (Admn.), Council of Scientific & Industrial Research (CSIR) has been pleased to accord approval to the following revised rates of fee for the advocates in arbitration matters:-

1.	For reading/study of records (one time only): <ul style="list-style-type: none">• For claims upto Rs. 5 Lakhs• Claim of more than Rs. 5 Lakhs	Rs. 5,500/- Rs. 11000/-
2.	Fee for appearance before the Arbitrator; <ul style="list-style-type: none">• For one hour.• For more than one hour.	Rs. 5,500/- Rs. 9,500/-
3.	For drafting claim/counter claim/applications; <ul style="list-style-type: none">• For claims upto Rs. 5 lakhs• For claim of more than Rs. 5 lakhs	Rs. 5,500/- Rs. 11000/-
4.	For drafting of MAs	Rs. 3300/-
5.	Fee for conference (subject to a maximum of four conferences); <ul style="list-style-type: none">• Upto 2 hours.• For more than 2 hours.	Rs. 2200/- Rs 5500/-
6.	Expenses	Actuals
7.	Clerkage	@ 10% on appearance before Arbitrator only.
8.	Outstation Fee for Advocate	@ Rs 5,500/- per day.

In addition TA/DA will also be paid to the Advocates as per Govt, of India instructions relating to Officers of PB-4 (Grade Pay of Rs. 8,700/-).

The above Revised rated will be effective w.e.f. 17.8.2009.

Copy of CSIR letter No. 3/89-Law (Vol-V) dated 8.9.2009

(17)

Sub:-Revision of fee of advocates conducting the cases before the Hon'ble Supreme Court, High Court, CAT & Labour Courts/Subordinate Courts.

In partial modification of the terms and conditions contained in OM No. 3(89)EA-Law, dated 10th November, 1999 (copy enclosed), Joint Secretary (Admn.), Council, of Scientific & Industrial Research (CSIR) has been pleased to revise the fee of the advocates conducting the

cases pertaining to CSIR and its labs/institts. before the Hon'ble High Court & CAT. The revised rates are as follows:-

S.No.	Courts	Place	Rates
1.	CAT & High Courts	Metro cities (i.e. Delhi, Mumbai, Kolkata & Chennai)	Rs. 15,000/- + expenses as per actuals
2.	CAT & High Courts	Other than metro cities	Rs. 14,000/- + expenses as per actuals.

Further the CSIR circular No. 3(89)/EA-Law dt. 20/6/2001 (copy enclosed), has also been modified and the fee of the advocates conducting the cases before labour courts/subordinate courts has been, revised as follows:-

S.No.	Courts	Place	Rates
1.	Labour Courts/Subordinate Courts	All over India	Rs. 10000/- + expenses as per actuals.

The revised fee for Advocates on records conducting the cases before Hon'ble Supreme Court of India shall be as under:-

S.No.	Item	Rates
1.	Fee for Advocate on Record	Rs. 3000/-
2.	Fee for drafting of SLP	Rs. 4000/-
3.	Fee for drafting of Misc. Appl./replies	Rs. 2000/-
4.	Clerkage	@10% of drafting
5.	Expenses	At actual
6.	Fee for appearance with Sr. Advocate	Rs. 1500/- (Per hearing)
7.	Fee for appearance without Sr. Advocate	Rs. 5000/- (Per hearing)
8.	Conference with Sr. Advocate	Rs. 500/- per conference (subject to a maximum of 4 conference in a case)

The aforesaid revised fee rates shall be effective from 01/09/2009.

It may be noted that the advocates engaged on or after 1/9/2009. as per CSIR approved fee rates, shall be paid as per the revised rates.

You are requested to bring it to the notice of the advocates conducting the cases pertaining to your lab/institts.

Please acknowledge receipt of the communication.

Copy of CSIR letter No. 3(89)EA-Law-Vol-V dated 3.11.2009

(18)

Sub:- Imposition of Costs by Hon'ble High Court of Delhi towards delay in filing counter affidavits etc.

I am directed to forward herewith a copy of Government of India, Ministry of Law A Justice letter no. 8/Misc./HC/Lit/2010 dated 10.3.2010 on the subject for information, compliance and necessary action.

Copy of CSIR letter No 36-2/80-Law dated 19.4.2010

F.No. 8/Misc./HC/Lit/2010 dated 10.3.2010 of Government of India, Ministry of Law & Justice, Department of Legal Affairs, Litigation (HC) Section

In W.P(C) 5422/2008 titled: Event and Entertainment Management Association vs Union of India, Hon'ble Justice Shri S.Murlidhar in order dated 19.2.2010 passed observations as follows:

"This court notices that in a large number of matters the Union of India does not file its affidavits within in the time granted by the Court resulting in unnecessary adjournments and consequent delays. This not only prevents the Court from proceeding further in the matter, but causes hardship to the Litigation as well"

The Court further observed "subject to the Union of India paying costs of Rs. 10,000/- to the Delhi High Court Legal Services Committee (DHCLSC) for today's adjournment, and placing on record proof of payment of costs, it is permitted as a last opportunity to file the additional affidavit in terms of order dated 16th July, 2009 within four weeks and in any event not later than 26th March, 2010. It is made clear that Registry will not accept the additional affidavit unless the proof of payment of costs is furnished to it."

The court also directed that "a certified copy of this order be delivered for information to the Assistant Legal Adviser (Legal Cell), Union of India, Delhi High Court, New Delhi to bring this to the notice of the Central Government."

It has been frequently noted that concerned Ministries and Departments of Union of India are not assisting in the litigation matters pending before the Hon'ble High Court. The complaints to this effect are increasing day by day. Despite of several reminders and telephonic messages, concerned officials do not respond and are not providing assistance resulting in inordinate delay in filing counter affidavit, rejoinders etc. This has been viewed very seriously by the Court. In absence of any nodal officer designated to handle litigation work pertaining to concerned Ministry/Department, the problems further aggravate.

The Secretary is requested to issue necessary directions to concerned officials to be very prompt in litigation matters, so that recurrence of costs etc. imposed on the Ministries and Departments of Union of India may be avoided.

(19)

Sub:-Reservation in promotion – Treatment of SC/ST candidates promoted on their own merit –CAT decision.

I am directed to forward herewith the following Office Memorandum issued by Government of India for information guidance and compliance.

S.No.	Govt. of India, OM No. & date	Subject
1.	DoPT OM No. 36012/45/2005-Estt(Res) dated 10 th August, 2010	Reservation in promotion – treatment of SC/ST candidate promoted on their own merit.
2.	DoPT OM No. 12016/5/2009-Estt(L) dated 31 st January, 2011	Encashment of Earned Leave to be granted to officers appointed on contract in various posts under the Central Government – reg.
3.	DoPT OM No. 13026/1/2010-Estt.(Leave) dated 7 th February, 2011	Rate of calculating entitlement to Earned Leave (E/L.) and Half Pay Leave (HPL).
4.	MoF, Deptt. of Exp. OM No. 2(13)/2008—E.II(B) dated 4 th March, 2011	Decision of the Government on the recommendation of the Sixth Central Pay Commission relating to re-clarification of cities/towns for grant of House Rent Allowance (HRA).
5.	DoPT OM No. 12011/01/2011-Estt (Allowance) dated 4 th May, 2011.	Clarification on increase in certain allowances by 25% as a result of enhancement of Dearness Allowances w.e.f. 1.1.2011

Copy of CSIR letter No. 5-1(127)08-PD dated 4.7.2011

F.No. 36012/45/2005-Estt(Res) dated 10th August, 2010 of Government of India, Ministry of Personnel, Public Grievances and Pensions, DoPT.

The undersigned is directed to refer to this Department's OM No. 36028/17/2001-Estt (Res.) dated 11th July, 2002 which clarified that SC/ST candidates appointed by promotion on their own merit and not owing to reservation or relaxation of qualifications will be adjusted against un-reserved points of the reservation roster and not against reserved points it was subsequently clarified by this Department's OM No. 36028/17/2001-Estt.(Res) dated 31.1.2005 that the above referred OM took effect from 11.7.2002 and that concept of own merit did not apply to the promotions made by non-selection method.

2. Central Administration Tribunal, Madras Bench in OA. No. 900/2005 [S. Kalugasalamoorthy v/s Union of India & Other] has set aside the OM No. 36028/17/2001-Estt (Res.) dated 31.1.2005 and held that when a person is selected on the basis of his own seniority, the scope of considering and counting him against quota reserved for SCs does not arise. The High Court of Judicature at Madras in the matter of UOI v/s. S. Kalugasalamoorthy [WP No.15926/2007] has upheld the decision of the Central Administrative Tribunal.
3. The matter has been examined in the light of the above referred judgement and it has been decided to withdraw OM No. 36028/17/2001-Estt (Res.) dated 31.1.2005 referred to above. It is clarified that SC/ST candidates appointed by promotion on their own merit and seniority and not owing to reservation or relaxation of qualifications will be adjusted against roster irrespective of the fact whether the promotion made by the selection unreserved points of reservation method or non-selection method. These orders will take effect from 2.7.1997, the date on which post based reservation was introduced.
4. These instructions may be brought to the notice of all concerned.

(20)

Sub:-Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in Civil Appeal No. 6454 of 2011, arising out of SLP(C) No. 7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.

I am directed to forward herewith the following Office Memorandum issued by Government of India for information, guidance and compliance:-

S.NO.	Govt. of India, OM No. & date	subject
1.	DoPT OM No 21011/16/2009-Estt.(AL) dated 17 th June, 2011.	Clarification of Children Education Allowance.
2.	DoPT OM No. 1/18/2011-IR dated 16 th September, 2011.	Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in Civil Appeal No. 6454 of 2011, arising out of SLP(C) No. 7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.
3.	DoPT OM No. 36011/1/2011-Estt.(Res) dated 17.11.2011.	Brochure on Reservation for the Scheduled Castes, Scheduled Tribes and Other Backward Classes in Services.

Copy of CSIR letter No. 5-1(17)/08-PD dated 10.1.2012

F.No. 1/18/2011-IR dated 16th September, 2011 of Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personal & Training.

The undersigned is directed to invite attention to this Department's O.M. No.1/4/2009-IR dated 05-10.2009 whereby a Guide on the Right to Information Act, 2005 was circulated. Para 10 of Part I of the Guide, inter-alia, stated that 'only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.' The same issue has been elaborated by the Supreme Court in the matter of Central Board of Secondary Education &Anr. Vs. Aditya Bandopadhyay & Ors. (Civil Appeal No.6454 of 2011) as follows:

"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act, If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But-where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide /advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act,"

3. This may be brought to the notice of all concerned.

(21)

Sub:- Revision of fee of Arbitrators – reg.

The Joint Secretary (Admn.), CSIR has been pleased to constitute a committee, for revising the fee of arbitrators, appointed to adjudicate the disputes pertaining to CSIR. The Committee shall comprise of the following members:-

Sh. R.S. Antil	Sr. Deputy Secretary
Sh. Deepak Kumar	S.E. (ESD)
Sh. Padam Singh	Dy. Financial Adviser

Sh. Bijendera Kumar Arora	Under Secretary (Legal)
Sh. ManjuBagai	Consultant (Legal) (Special Invitee)

JS (A) has further approved that the recommendations of the Committee be placed before DG, CSIR for approval.

Copy of CSIR letter No.36-3(89)-EA-Law dated 16.4.2012

(22)

Sub:- Handling of matters relating to notices/representations sent to Cabinet Secretary or Principal Secretary to the Prime Minister by Advocates.

I am directed to enclose herewith a copy of OM No.A-60030/4/2012-CC dated 11th July, 2012 of Cabinet Secretariat, Government of India for information, guidance and necessary compliance. Besides prompt suitable reply to the applicants/ petitioners, it has inter-alia been desired that in respect of court cases/writ petition/contempt of court cases, the Ministry/Department concerned shall immediately get itself impleaded as a respondent and get the names of Cabinet Secretary and the Principal Secretary to Prime Minister, if they have been made parties, deleted and take steps necessary to appropriately defend the interest of GOI.

In CSIR also at times it has been observed that President, CSIR, Vice-President, CSIR and DG, CSIR are impleaded as party in court matters although they are not directly connected with the matter. It is, therefore, suggested in line with the contents of the above referred GOI OM dated 11.7.2012 that the Labs//Instts. of CSIR in consultation with CSIR Hqrs. may take necessary steps to get the names of President, CSIR, Vice-President, CSIR, DG, CSIR or any such officers who are not directly connected with the court matter but impleaded as party, deleted and defend the case appropriately on behalf of CSIR and its National Labs./Instts.

Copy of CSIR letter No. 3(89)-EA-Law.Vol.IV dated 3.1.2013

F.No.A-60030/4/2012-CC dated 11th July, 2012 of GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)

The undersigned is directed to say that advocates/litigants invariably address representations/petitions to the Principal Secretary to the Prime Minister and the Cabinet Secretary on different issues concerning various Ministries/Departments and in cases, where no reply is received by them, writ petitions seeking interim directions of the court are also filed. In some such cases, interim relief prayed for is also granted by the courts. In the event of non implementation of such interim relief(s)/directions, Contempt Petitions are filed by the concerned individuals/advocates in which amongst others, the Principal Secretary to the Prime Minister, and the Cabinet Secretary, are also impleaded.

2. The matter has been examined and keeping in view the fact that the primary responsibility for the disposal of the business of the Government of India rests with the

Ministries/Departments concerned in terms of the Government of India (Allocation of Business) Rules, 1977; except to the extent, the business is specifically allocated to the Cabinet Secretariat, or the Prime Minister's Office, such petitions/representations need to be considered/addressed by the Ministry/Department concerned. Therefore, in order to ensure timely action in such cases, it has been decided that whenever any representation or a petition is addressed to the Prime Minister's Office or the Cabinet Secretariat, it would be handled by the Ministry/Department concerned with the subject matter. Such Ministries/Departments will promptly send a suitable reply to the applicant/petitioner and also request them to address further correspondence, if any, to the Ministry/Department concerned. In respect of court cases, writ petitions or Contempt of court cases, the Ministry/Department concerned should immediately get itself impleaded as a respondent and get the names of the Cabinet Secretary and the Principal Secretary to PM, if they have been made parties, deleted and take all steps necessary to appropriately defend the interest of the Government of India.

3. It is requested that the above directions may be disseminated to all concerned for suitable action.

(23)

Sub:- Regarding land and its related issues to be dealt by ESD.

References are being received from CSIR Labs/Instt/Hqrs. regarding land and its related issues by Policy Division, CSIR Hqrs. In this regard, it is brought to the notice of all concerned that matters relating to land including rendering opinions on legal matters / policy decision associated with land and its dispute come under the purview of Director, Engineering Services Division, CSIR. .Therefore, all such cases will be dealt by Engineering Services Division, in consultation with Legal Division, CSIR. and the concerned Lab/Instt.

This issues with the approval of DG, CSIR.

Copy of CSIR letter No. 5-1(184)/08-PD dated 6.5.2013

(24)

Sub:-Decision dated 6.11.2012 of the Delhi High Court on disclosure of information under the provisions of Right to Information Act, 2005, relating to disciplinary matters.

I am forwarding herewith a copy of circular No. CVC/RTI/Misc/10/2002, dated 4.4.2013, received from Central Vigilance Commission, with the purpose to bring the decision of the Delhi High Court on disclosure of information regarding disciplinary matters, to the notice of Public Information Officer and Appellate Authority appointed at your Lab/Instt.

Copy of CSIR letter No. 15-6(83)/98-O&M(Vol.IV) dated 8.5.2013

The attention of the CVOs concerned is drawn to the Judgement/Order passed by the Hon'ble High Court of Delhi dated 06.11.2012 in LPA No. 618/2012 in case of Union Public Service Commission Vs R. K. Jain, in which the issue of disclosure of information/documents under the provisions of RTI Act, pertaining to vigilance/disciplinary proceedings has been considered by the Hon'ble Court.

2. The Hon'ble Court in its Judgement, had observed that:
"The counsel for the respondent has argued that in the case before the Supreme Court the CIC itself had denied the information while in the present case CIC itself has allowed the information. To our mind the same is irrelevant. The counsel for the respondent has next sought to take us through the reasoning given by the learned Single Judge. However, in the light of the dicta aforesaid of the Supreme Court and which if applicable to the facts of the present case is binding on this Bench, we are not required to go into the correctness or otherwise of the reasoning given by the learned Single Judge. Faced therewith the counsel for the respondent has lastly contended that the appellant UPSC in the present case is not the employer of the officer Shri G.S. Narang, information pertaining to whom was sought and the principle laid down by the Supreme Court is applicable to the employer only. We however fail to see the difference. The ratio of the dicta aforesaid of the Supreme Court is that the disciplinary orders and the documents in the course of disciplinary proceedings are personal information within the meaning of Section 8(1)(j) and the disclosure of which normally has no relationship to any public activities or public interest and disclosure of which would cause unwarranted invasion of the privacy of an individual. Though the appellant UPSC is not the employer of Shri G.S. Narang, information pertaining to whom is sought by the respondent, but his employer had sought the advice/opinion/recommendation of the appellant UPSC in the matter of disciplinary proceedings against the said Shri G.S. Narang and we fail to see as to how it makes a difference whether the information relating to disciplinary proceedings is sought from the employer or from the consultant of the employer. What is exempt in the hands of the employer would certainly be exempt in the hands of consultant of the employer also. The advice given by the appellant UPSC would necessarily pertain to the disciplinary action against Shri G.S. Narang. Section 8(1)(j) exempts from disclosure personal information, irrespective of with whom it is possessed and from whom disclosure thereof is sought".

"The respondent at no stage set-up a case of the said personal information being required in public interest. In fact when we, asked the counsel for the respondent as to what was the public interest in which the said personal information was sought, he replied by stating that an information seeker under the Act is not required to state the reasons for seeking the information. That being the position, the need for any discussion further on the said aspect does not arise".

"We therefore, following the dicta in Girish Ramchandra Deshpande, set aside the judgment dated 13th July, 2012 of the learned Single Judge and allow the writ petition

preferred by the appellant UPSC, consequently setting aside the order dated 12th January, 2011 of the CIC".

3. The CVOs may bring the above quoted Judgement/Order of the Hon'ble High Court of Delhi to the notice of the all CPIOs/Appellate Authorities of their respective organization, who may take due cognizance of the same, while deciding the RTI Applications and Appeals relating to disclosure of documents/information pertaining to vigilance/disciplinary proceedings(including Orders of the Disciplinary Authority).
4. The complete decision of Hon'ble High Court of Delhi in the aforementioned case is available on its website, www.delhihighcourt.nic.in in downloadable form under the head "JUDGEMENTS".

(25)

Sub:- Implementation of Court Order dated 13.4.12, passed by the Hon'ble Delhi High Court in WP(C) No. 2092/2012 – Adoption of Govt. of India, Dept. of Expenditure instructions in CSIR reg.

I am directed to forward herewith the Govt. of India, Ministry of Finance, Dept. of Expenditure O.M. No. 26/5/2013-PPD dated 25.04.2013 along with Hon'ble High Court of Delhi. Order dated 13.04.2012 in W.P.(C) No. 2092/2012 for information, guidance and compliance.

Copy of CSIR letter No. 5-1(189)/2013-PD dated 4.6.2013

F.No. 26/5/2013-PPD dated 25.04.2013 of Government of India, Ministry of Finance, Department of Expenditure.

It has been observed that there are many instances of a tender being rejected or tender documents not being issued and when the party enquires reasons, the same are not communicated, leading to unnecessary litigation. In such cases the first round of litigation is to find out the reasons and the second round is to challenge the reasons.

2. In this context, the Hon'ble Delhi High Court, in its Final Order in WP(C) No. 2092/2012, has directed that a 'communication be circulated to all Government Departments to disclose reasons in such cases where enquiries are made by a contracting party, so as to avoid unnecessary litigation.
3. In this context it is mentioned that procurements made by-the Central Government are regulated by the General Financial Rules (GFRs), 2005 and manuals and procedures issued, there-under. While Chapter 6 of the GFRs contains the general rules applicable to all Ministries/Departments regarding procurement of goods required for use in public service, detailed instructions relating to procurement of goods are required to be issued by the procuring departments. These instructions need to be broadly in conformity with the general rules contained in this Chapter.

4. Further, in terms of Rule 137 of GFRs, 2005, every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement.
5. Attention is also invited to Rule 160 of the GFRs which lists out certain measures required to be taken to ensure, that all Government purchases are made in a transparent manner. Rule 160(ii) stipulates that suitable provision in the bidding document should be made to enable a bidder to question the bidding conditions, bidding process and/or rejection of its bid.
6. It may therefore be ensured that necessary instructions be issued (if not already in place) to all the procuring authorities to the effect that a provision, in line with Rule 160 (ii) of the GFRs should invariably be made in the bidding documents. The reasons for rejecting a tender or non-issuing a tender document to a prospective bidder must be disclosed where enquiries are made by the bidder.
7. The undersigned is also directed to forward herewith a copy of the Order dated 13th April, 2012, passed by Hon'ble High Court of Delhi in. W.P(C) No, 2092/2012: M/s. Amit Brothers vs Chief Engineer R&D and Another, The importance of complying with, the Court Order in letter and spirit, cannot be over-emphasized.

(26)

Sub:-Implementation of Court Order dated 13.4.12, passed by the Hon'ble Delhi High Court in WP(C) No. 2092/2012.

I am directed to forward herewith an Office Memorandum issued by the Ministry of Finance, Government, of India for information, guidance and compliance :-

S.No.	Govt. of India, Ministry of Finance OM Instructions No. & date	Subject
(i)	(ii)	(iii)
1.	Ministry of Finance OM No. 26/5/2013-PPD dated 20 th May, 2013	Implementation of Court Order dated 13.4.12, passed by the Hon'ble Delhi High Court in WP(C) No. 2092/2012.

Copy of CSIR letter No. 13-2(21)/2013-14/Pur dated 2.7.2013

F.No. 26/5/2013-PPD dated 20th May, 2013 of Govt. of India, Ministry of Finance, Department of Expenditure.

Reference is invited to this Department's O.M. of even No. dated 25th April, 2013, (copy enclosed for ready reference) vide which all Ministries/Departments were requested to comply with the Hon'ble High Court of Delhi's Order dated 13th April, 2012, regarding disclosing the reasons for rejecting/non issuing of tenders where enquiries are made by a contracting party.

2. In its Order dated 13th May, 2013 in another WP(C) No.3079/2013, the Hon'ble Delhi High Court has again observed that the petitioner's bid was disqualified without disclosing the reasons, though the petitioner had asked for the same.
3. In the light of above, it is requested that all the procuring authorities in your Ministry/Department may be directed to mandatorily comply with the provisions of Rule 160(h) of the General Financial Rules, 2005 which stipulates that suitable provision in the bidding document should be made to enable a bidder to question the bidding conditions, bidding process and/or rejection of its bid. The reasons for rejecting a tender or non issuing a tender document to a prospective bidder must be disclosed where enquiries are made.

(27)

Sub:- CAT's directions to scrupulously follow the CSIR (Residence Allotment) Rules, 1997.

I am directed to state that in a case regarding out of turn allotment of Council Accommodation (OA No. 2879/2012 filed by Sh. Kaushal Kishore, SO,(S&P), CRR), the Hon'ble CAT, Principal Bench, New Delhi has directed that Rule 5.1 of CSIR (Residence Allotment) Rules, 1997 must be followed scrupulously.

In consideration of the above, the competent \ authority has approved that all applicable rules and instruction including Rule 5.1 of CSIR (Residence Allotment) Rules 1997 may be followed scrupulously.

Heads of all the CSIR Labs/Instts. are accordingly requested.

Copy of CSIR letter No. 36-13(206)/12-Law dated 4.9.2013

(28)

Sub:- Disclosure of personal information under the RTI Act, 2005 – Decision of Supreme Court.

I am directed to forward herewith the following Office Memoranda issued by Government of India for information, guidance and compliance.

S.No.	Govt. of India, DP&PW, DoE, DoPT OM No. & date	Subject
(1)	(2)	(3)
1.	DoPT OM No. 11/2/2013-1R (Pt.) dated 14.8.2013	Disclosure of personal information under the RTI Act, 2005 – Decision of Supreme Court.

Copy of CSIR letter No. 5-1(17)/08-PD dated 18.10.2013

F.No. 11/2/2013-1R (Pt.) dated 14.8.2013 of Govt. of India, Ministry of Personnel, Public Grievances & Pensions, DoPT.

The Central Information Commission in one of its decisions (copy enclosed) has held that information about the complaints made against an officer of the Government and any possible action the authorities might have taken on those complaints, qualifies as personal information within the meaning of provision of section 8 (1) (j) of the RTI Act, 2005.

2. The Central Information Commission while deciding the said case has cited the decision of Supreme Court of India in the matter of Girish R. Deshpande vs. CIC and others SLP (C) no. 27734/2012) in which it was held as under:-

"The performance of an employee/Officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression 'personal information', the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which could cause unwarranted invasion of the privacy of that individual."The Supreme Court further held that such information could be disclosed only if it would serve a larger public interest.

3. This may be brought to the notice of all concerned.

(29)

Sub:- Filing of FIR with the approval of Director – reg.

It has come to notice that in an Institute of CSIR, First Information Report was filed with the Law enforcement agencies (Police), without the approval of the Director.

It is emphasized here that filing of FIR is not akin to filing any sundry report or information but is a serious business.

Since an FIR against any individual/official entails concomitant legal and other actions and brings in matters which are to be dealt with through Police Authorities and the Courts, the Director-General. CSIR has taken a view that henceforth whenever the authorities in CSIR

Labs./Instts.find themselves in such a position that they feel that an FIR needs to be filed, the matter must be brought to the notice of Director for approval, before FIR is filed.

This may brought to the notice of all concerned in your Lab/Instt. for their information, guidance and strict compliance.

Copy of CSIR letter No. 15-1(146)/2013-Vig.dated 26.6.2014

(30)

Sub: Reimbursement of stamp duty and registration fee in regard to the documents including reconveyance deed pertaining to House Building Advance - reg.

In partial modification of CSIR letter No. 16(63)/85-E.II dated 13.3.1990 on the subject cited above, Director General, CSIR in consultation with Legal Adviser, CSIR has approved amendment of Para (a) of the ibid letter as under:

Existing Para (a)	Amended Para (a)
Reimbursement of stamp duty shall be made to the Council employees only if the Central Government employees are exempt from payment of such stamp duty by the concerned State Govt., as per extent CSIR instructions subject to production of a certificate from concerned Registrar of Stamp that the Central Government employees are exempt from payment of stamp duty. This certificate is to be produced by the Council employee to the Head of Office along with the reimbursement claim.	Reimbursement of stamp duty shall be made to the Council employees only if the Central Government employees are exempt from payment of such stamp duty by the concerned State Govt., as per extent CSIR instructions and if the applicable act has the inherent provision of exemption in favour of the Government employee, the reimbursement is to be processed by the office and the necessity of obtaining certificate from the concerned Registrar of stamp need not be insisted upon.

Copy of CSIR letter No. 4-16(63)/2014-HR-II dated 11.9.2014

(31)

Sub:-Contempt Petition No. 18/2012 in OA No. 655/2010- Implementation of the Order dated 1.11.2011 & 15.5.2014 of Hon'ble CAT, Principal Bench, New Delhi in respect of Petitioners in OA No. 655/2010- Compliance Report reg.

I am directed to refer to this office letter No. 5-1(70)/2009-PD dated 24.9.2014 regarding implementation of Government's decision in pursuance to Hon'ble CAT, Principal Bench, New Delhi Order dated 15.5.2014, and to state that the case under Contempt Petition No. 158/2012 was heard by the Hon'ble CAT, PB on 17.10.2014 and the Hon'ble CAT has

directed that the actual payment of arrears in respect of all 650 pensioners (48 pensioner of CSIR) may be made by the Pension Disbursing Authority within a period of two months.

It is requested to kindly ensure that not only the Special Seal Authorities in respect of the pensioners are issued but the actual disbursement of the arrears of pension to these pensioners is also made well before the stipulated period of two months.

It is further requested that Compliance Report to this effect may please be sent in the enclosed proforma for onward transmission to Department of Pension & Pensioners' Welfare.

This may be treated as most urgent.

Copy of CSIR letter No. 5-1(232)/2014-PD dated 5.11.2014

Ministry/Department _____
Status Report as on _____

Number of Pensioners	No. of Pensioners – Pension Revision Authority Issued	No. of Pensioners – SSA Issued	No. of Pensioners – payment made by the Bank

(32)

Sub:-Delegation of power for signing, of Vakalatnama for filing Affidavit on behalf of CSIR before different Courts/Tribunals.

It is notified for information of all concerned that once it is decided by the Competent Authority, CSIR to file or defend suits on behalf of CSIR:

- (i) The Vakalatnama on behalf of CSIR will be signed by the Legal Advisor, CSIR.
- (ii) The Affidavit will be signed by the concerned Head of the Departments/Sr. Deputy Secretary/Deputy Secretary/Under Secretary etc. in case of CSIR Hqrs. and for CSIR Labs./Institutes it may be signed by the Director/ concerned Head of the Departments/Sr. Controller of Administration/ Controller of Administration/Administrative Officer etc.

All concerned are requested to comply with the above procedure.

Copy of CSIR letter No. 36-3(89)/EA-Law-Vol.IV dated 17.11.2014

Sub:-DoPT Guidelines for reducing avoidable litigations – reg.

1. Please find enclosed, a copy of the DO letter from the Secretary, DoPT vide DO letter No. 43019/11/2014-Estt (D) dated 17th June, 2014 wherein, he has shared an analysis of cases disposed of by various Benches of the Central Administrative Tribunal (CAT). The findings brought out certain issues that need to be addressed with a view to sorting out the grievances of Government employees in the administrative Ministries / Departments.
2. The report indicates that proliferation of litigation matters is mainly due to lack of avenues available to the employees for grievance redressal, faulty implementation of Government Policies and lack of awareness among employees.
3. It has further been stated that if the concerned administrative departments address service matter grievances raised by the employees as indicated in the representation, the number of avoidable litigations would not only get reduced but could also result in considerable saving of Government's resources, both manpower as well as financial, as indicated in the Report.
4. The Secretary, DoPT is of the view that litigations can be avoided if the laid down rules are followed in true spirit. There is a grievance redressal system in the Laboratories / Institutes. This forum needs to be utilized to the fullest in order to give relief wherever due. Care must be taken to avoid unnecessary/superfluous references to Hqrs. for advice.
5. It has also been observed that Lab. Administration is in the habit of making repeated references despite the Hqr. having issued clarifications. It must be ensured that repeated reference be made only where any new fact emerges, which may substantially change the out-come of the case.
6. As per DoPT instructions, the officers in the concerned Ministry /Department may be trained and sensitized to address grievances related to service matters raised by the employees in a time-bound manner.
7. In view of the above, Directors of all the National Labs./Insttts. are requested to issue appropriate instructions to ensure that the guidelines issued by the DoPT are followed in letter and spirit. The Secretary, DoPT has requested to keep them apprised of the steps initiated in this regard.

The issues with the approval of the Competent Authority.

Copy of CSIR letter No. 36-3/98-Law dated 20.11.2014

F.No. 43019/11/2014-Estt. (D) dated 17th June, 2014, Government of India, Department of Personnel & Training, Ministry of Personnel Public Grievances and Pensions.

I wish to share an analysis of cases disposed of by various Benches of the Central Administrative Tribunal (CAT) that was undertaken under DoPT. The findings in the analysis have pointed out certain issues that need to be addressed with a view to sorting out the grievances of Government employees in the administrative Ministries/ Departments.

2. The report indicates that 40 per cent of the total Original Applications (OAs) analysed have been filed by Group- C employees, and such cases were attributed to the lack of avenues available to the lower group employees for the proper redressal of their grievances. It has also been pointed out that this is mainly because of the faulty implementation of the policies of the government, and also in part, due to the lack of awareness and understanding on part of the employees at lower levels. In 22 per cent of the cases filed in the CAT, the issue agitated by the petitioners was that of promotion. About 20 per cent of the cases filed prayed for quashing of the suspension orders issued by various departments against the petitioners. The report has also pointed out that 49 per cent of the cases were decided in favour of the petitioners, while 49 per cent of the rest were decided in favour of the respondents. Under pre-litigation process, only in 47 per cent of the cases a reply was given by the Department concerned i.e. before the litigation process started in the CAT. You may like to go through the detailed report available on DoPT website at persmin.nic.in - OMs & Orders-Establishment-DoPT internship Scheme 2013.

3. You will appreciate that if the concerned administrative departments address service matter grievances raised by the employees as indicated in the representation, the number of avoidable litigations would not only get reduced but could also result in considerable savings of Government's resources, both manpower as well as financial, as indicated in the Report.

I request you to have the litigation cases on service matter grievances analysed in your Ministry/Department. You will agree that litigations can be avoided if the laid down rules are followed in true spirit. The officers in your Ministry/Department may be trained and sensitized to address grievances related to service matters raised by the employees in a time-bound manner. ISTM, the Training institute under my Department can run customized training modules for your staff. You may keep us apprised of the steps initiated by you.

(34)

Sub: Order dated 30.09.2014 passed by the Hon'ble High Court on WP No. 6771/2014 and Order dated 27.11.2013 passed by the Hon'ble CAT, Principal Bench, New Delhi In the case of Dr. Anang Pal &Ors - Compliance thereof.

I am directed to forward herewith a copy each of the Orders dated 27.11.2013 of the Hon'ble CAT, Principal Bench New Delhi and dated 30.09.2014 passed by the Hon'ble High Court of Delhi relating on the above subject for compliance and necessary action. However,

these orders shall be applicable in the case of only those Sr. Hindi Officers who were promoted after 30.01.2003 but before 31.12.2005 and were given the pre-revised pay scale of Rs. 8000-13500.

Copy of CSIR letter No. 5-1(11)/2008-PD dated 22.12.2014

WP No. 6771/2014 dated 30.9.2014

1. The Council of Scientific & Industrial Research & Ors. have preferred the present writ petition under Article 226 of the Constitution of India to assail the order dated 27.11.2013 passed by the Central Administrative Tribunal (for short, the Tribunal) in OA No. 2201/2011 whereby the Tribunal has allowed the said original application and quashed the order dated 30.1.2003 by which the pay scale of Senior Hindi Officers had been reduced from Rs. 10000-15200 to Rs. 8000-13500. The Tribunal directed that Senior Hindi Officer would continue to draw higher pay scale of Rs. 10000-15200 and held that there was no question of making recovery of any excess amount from the respondents/applicants it was directed that in case recovery had been made, the same shall be paid back to the respondents.
2. Senior Hindi Officer were earlier getting the pay scale of Rs. 8000-13500. On 2.8.2000, in 148th meeting of the Governing Body of the CSIR, a proposal for increasing the pay scale to Rs. 10000-15200 was approved so as to bring, the same at par with Central Secretariat Official Language Service (CSOLS). However, on 30.1.2013, the Governing Body reviewed the position again, and decided to reduce the pay scale of Senior Hindi Officers to Rs. 8000-13500 and ordered recovery of excess amounts paid to the respondents. Thereafter, on the recommendations of the Sixth Central Pay commission, the pay scale was again increased to Rs. 10000-15200 with effect from 1.1.2006. Consequently, only those Senior Hindi Officers who had been promoted, as such, between the period 30.1.2003 to 31.12.2005 were given the scale of Rs, 8000-13500 while those promoted to the said post before and after this period got the benefit of the higher pay scale of Rs. 10000-15200. All the respondents-applicants were promoted on dates falling in the aforesaid period i.e. 30.1.2003 to 31.12.2005. The respondents represented against denial of higher pay scale of Rs. 10000-15200. They also placed reliance on the Sixth Central Pay Commission report which has granted parity to them with the staff of Raj BhashaVibhag, as also the decision of the CSIR in its 148th meeting wherein the CSIR accepted the pay parity. Since the representations of the respondents-applicants did not bear fruit, they preferred the aforesaid original application.
3. The petitioner contested the aforesaid original application, primarily on two grounds. Firstly, it was contended that the original application was barred, by limitation inasmuch, as the respondents-applicants were seeking to challenge a policy decision taken on 30.01.2003, which had been acted upon in the same year. Secondly, the petitioner contended that while in the 148th meeting of the governing body of CSIR it had been decided to give the pay scale of Rs. 10000-15200 to Senior Hindi Officers, there were other similar cadres which had not been given, this benefit-leading

to an anomalous situation. Consequently, the petitioner constituted a Committee of Dr. Kishanlal to review the existing scheme and examine the anomaly in the pay scales. The Committee considered the pay scale given to Raj Bhasha Staff in the CSIR as compared to the Department of Official Language in Government of India, and found that in the Government of India, the official language cadre is an organized one and the promotions in that cadre are vacancy based, whereas the Raj Bhasha cadre in CSIR is an isolated one and there is no similarity amongst the two cadres. The Committee also considered the financial difficulties created by this upgradation of pay scale as other cadres, such as security officers were aggrieved by the same. Consequently, the earlier decision was recalled by the governing body in its 155th meeting held on 19.12.2002 and a memorandum dated 30.1.2003 was issued retaining the pay scale of Rs. 8000-13500 for Senior Hindi Officers with the rider that those promoted between the period 2.8.2000 to 30.1.2003 as Senior Hindi Officers, will continue to draw pay in the scale of Rs. 10000-15200.

4. The Tribunal rejected the petitioner's objection with regard, to limitation by placing reliance on the decision of the Supreme Court in Mr. Gupta Vs. Union of India (1995) 5 SCC 628. The Tribunal took note of the fact that the respondents had been promoted as Senior Hindi officers only in the year 2006 - with retrospective effect and, therefore, they could not have come to the Tribunal before their promotion. Secondly, the grant of pay is a recurring cause of action and, therefore, the original application could not be said to be barred by limitation. Thirdly, the grievance of the respondents arose when the impugned order of recovery was made on 25.01.2011. The original application has been filed on 03.06.2011. Consequently; there was no delay. On merit, the Tribunal observed that Senior Hindi Officers promoted between 30.1.2003 and 31.12.2005 had been granted lower pay scales, when compared to those promoted before or after the intervening period as aforesaid. Thus, the petitioner had sought to make distinction on the basis of dates of promotion, and different class of Senior Hindi Officers were created without any rationale. The clarification had no nexus with the objects sought to be achieved. The Tribunal held that the cut-off date of 30.1.2003 itself was arbitrary, based on the fortuitous circumstances of the Governing Body meeting being held just prior to the date. The Tribunal held:

“While the CSIR were well within their rights to decide whether to grant a particular pay scale to the applicants or not, their action in dividing the Senior Hindi Officer into two classes by allowing those promoted before 30.1.2003 to continue to enjoy the higher pay scale of Rs. 10000-15200 is unsustainable.”

5. The Tribunal also held that the petitioner could not have effected recovery, by placing reliance on the judgement of the Supreme Court in Chandi Prasad Uniyal and Ors. Vs. State of Uttarakhand and others (Civil Appeal No. 5899/2012 decided on 17.8.2012) wherein the Supreme Court has held that recovery could not be effected in cases where such recovery would cause extreme hardship. Since the Tribunal held the action of the petitioner- in lowering the pay scale of the- respondents to Rs.8000-13500 as unsustainable, obviously recovery could not be made.

6. The submission of learned counsel for the petitioner before us is once again on the same lines as advanced before the 'tribunal. Mr. Sikri submits that the original application was barred by limitation since the decision of the governing body to restore the pay scale of Rs.8000-13500 was taken on 30.1.2003 whereas the original application had been preferred only in June, 2011. On merits, he submits that grant of the higher pay scale of Rs. 10000-15200 to the respondents, who were appointed between 30.1.2003 and 31.12.2005 would cause financial burden on the petitioner.
7. Having heard learned counsel for the petitioner and perused the impugned order, we are of the view that there is no merit in this petition since there is no error in the impugned order calling for interference by this court in exercise of its jurisdiction of judicial review the tribunal has adequately dealt with the defense of limitation raised by the petitioner. The respondents had been promoted, retrospectively only in the year 2006. Obviously, there was no question of their assailing the decision of the governing body taken in its meeting held on 30.1.2003 soon after the said decision was made and implemented vide memorandum dated 30.1.2003. Secondly, the recovery was sought to be made only by the order dated 25.1.2011. The cause of action arose in favour of the respondents on the said date and the original application was preferred within five months thereof. Thirdly, as held in M.R. Gupta's case (supra), a 'fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits, he would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. We, therefore, find no merit in the submission of Mr. Sikri that the original application was barred by limitation.
8. On merits, petitioner could not defined the classification sought to be made among the Sr. Hindi Officers on the basis of the dates of promotion, when the respondent maintain the higher pay scale of Rs. 10000-15200 in respect of those Sr. Hindi Officers who were appointed prior to 2.8.2000 and after 30.1.2003 there was no justification to grant the lower pay scale of Rs. 8000-13500 to those promoted in the same period. There is no rationale basis for this classification, as all officers in the cadre of Sr. Hindi Officers are performing the same functions and discharging the same responsibility under the same employer as held by the Tribunal, there is no basis for fixing the cut off date.
9. Consequently, we find no merit in the present petition and dismissed the same.

(35)

Sub:- Issues relating to contractual employees.

Certain issues relating to contractual employees have been referred to CSIR for consideration and advice. It has been seen that terms of contract are varying from Labs. to Lab. which has led to litigation.

With a view to frame a comprehensive policy with regard to engagement/retention of contract workers/contractual employees and to ensure uniformity in the terms of engagement of the contractual workers, DG, CSIR has been pleased to constitute the following Committee:

- | | |
|--------------------------------|-----------------|
| 1. Dr. Anupama J.S. (Admn.) | Chairperson |
| 2. COA, CSIR NIIST, Trivandrum | Member |
| 3. COA, CSIR IICT, Hyderabad | Member |
| 4. COA, CSIR CGCRI, Kolkata | Member |
| 5. COA, CISR IIIM, Jammu | Member |
| 6. COA, CSIR NBRI, Lucknow | Member |
| 7. LA, CSIR | Member |
| 8. DS(PD) | Member Convenor |

The Committee shall consider various aspects of contract workers/contractual employees vis a vis need for engagement of such contact workers/contractual employees and give suggestion for making a comprehensive and uniform policy which shall be made applicable in all the Labs/Instts. of CSIR.

Copy of CSIR letter No. 17/74-Law (Vol.II) dated 22.12.2014

(36)

Sub:- Framing Specific policy for engagement/empanelment of Advocates, revision of the fee etc. of the Advocate.

In order to frame specific policy for engagement/empanelment of Advocates for CSIR and revision of the fee etc. of the Advocates, the Joint Secretary (Admn.) has constituted a committee of the following officers of CSIR-Hqrs:-

- | | |
|--------------------------------|-------------|
| 1. Sh. R.L. Sharma | Sr. DFA |
| 2. Sh. R.S. Antil | Sr. DS (HR) |
| 3. Sh. O.P. Dhawan | D.S. (PD) |
| 4. Sh. Jayesh. K. Unnikrishnan | L.A. |

The meeting of the Committee will be convened by LA, CSIR.

Copy of CSIR letter No. 36-3(89)EA-Law dated 4.2.2015

(37)

Sub:- Mitigation in Litigation.

It has been observed that number of legal cases in CSIR/Labs/Instts. have been pending for quite long time and the number of litigation has also been increased.

The Competent Authority has desired to make efforts and handle the legal cases in such an efficient manner which can help to reduce litigation. It is, therefore, requested that information regarding number of pending legal cases of your Labs/Instts. mentioning therein brief background of each case, reasons for starting of each case, its continuous pendency and your comments/remarks as to how each case can be brought to a conclusion/settlement, along with the opinion, if available, of the advocate, who is contesting the said case, may please be furnished at the earliest.

You are also welcome to contribute by providing your valuable advice in this endeavour so that mitigation in litigation can be reduced within the framework of established norms, rules & regulations, by following the laid down procedure.

Kindly furnish the information, by Email (lacsir@csir.res.in) as per the enclosed proforma, so as to reach this office latest by 23rd March, 2015. The required information is in addition to the quarterly statement of pending legal cases.

Copy of CSIR letter No.36-2(230)2005-Law dated 10.3.2015

(38)

Sub:- Compliance of Order dated 30.9.2014 passed by the Hon'ble High Court on WP No. 6771/2014 filled by CSIR against the CAT order dated 27.11.2013 in OA No. 2201/2011 filled by Dr. Anang Pal &Ors Vs. JS(A) &Ors.- Filing of Contempt Petition – reg.

In continuation of this office circular letter of even No. dated 22.12.2014. I am directed to state that Hon'ble Tribunal while disposing of the Contempt Petition has directed that if any arrears remains to be paid to the applicants, the same should be done within a period of three weeks.

Accordingly, the instructions of Hon'ble CAT order dated 27.11.2013 and Hon'ble High Court order dated 30.09.2014 may be complied with without any further delay and action taken may be reported to CSIR.

Copy of CSIR letter No. 5-1(11)/2008-PD dated 11.3.2015

(39)

Sub:- Avoidance of delay in filing Appeal etc. against Court/Tribunal Order.

Delay in timely processing of Court cases by the CSIR Laboratories/Institutes or delay in sending proposal for contesting/filing Appeal etc. to the Legal Section, CSIR Hqrs. For approval of the Competent Authority, CSIR may unnecessarily weaken the case and may even lead to passing of adverse orders by Courts/Tribunals.

2. In one such case relating to a CSIR Laboratory/Institute, the Competent Authority etc. to the CSIR has expressed concern on considerable delay in sending their proposal for filing Appeal before the next Higher Court. Such delay is unwarranted and detrimental to the interest of CSIR/Laboratories/Institutes.
3. In view of the above, the Competent Authority, CSIR has directed that this kind of delay must be avoided and Appeals, where necessary, must be filed within a month from the date of receipt of copy of the Court/CAT Order, but in any case well within the period of limitation.

Copy of CSIR letter No. 36-3(89)/EA-Law-Vol. IV dated 24.3.2015

(40)

Sub:- Implementation of the judgement of Hon'ble Supreme Court of India in the matter of Union of India vs. National Federation of Blind and Ors. – Filling of vacancies earmarked for Persons with Disabilities – reg.

Instructions¹ have been, issued repeatedly to fill up the vacancies reserved for Persons with Disabilities in the Laboratories/Institutes of CSIR. The Hon'ble Supreme Court of India in CivilAppeal No 9096/2013 titled Union of India vs. National Federation of Blind has issued direction to fill up the vacant positions for Persons with Disabilities.

Accordingly, all Heads of Laboratories/Institutes are requested to initiate the recruitment process for filling up of the vacant positions immediately, if not already initiated and complete the process within a period of four months from the date of issue of this notification. All Sr. CoAs/CoAs/AOs are directed to take immediate steps in pursuance of the same, including forwarded copies of advertisements issued by the respective Laboratory/Institute to CSIR Hqrs. by the 1st week of every month so as to enable CSIR Hqrs to monitor the same.

Copy of CSIR letter No. 19-1(7)/2014-SC/ST Cell dated 6.5.2015

(41)

Sub:-CWP No. 11444 of 2013 in the matter of Adrash Kumar vs. UOI – Issue of promotion in CBDT – Information relating to Persons with Disabilities – reg.

In pursuance of Department of Personnel & Training O.M. No. 36035/2/2015-Estt. (Res) dated 15.6.2015 on the subject cited above, I am directed to request you to furnish the information sought for in the enclosed format positively by 25.6.2015 through e-mail/Fax so as to forward the duly compiled information to DoPT positively by the stipulated date.

The aforesaid OM of DoPT is also available on CISR website.

This may please be treated as IMMEDIATE.

Copy of CSIR letter No. 19-1(7)/2013/2015-SC/ST Cell dated 23.6.2015

Name of the Laboratory/Institute _____

CWP No. 11444 of 2013 in the matter of Adrash Kumar vs. UOI – Issue of promotion in CBDT – Information relating to Persons with Disabilities information reg.

Number of advertisement issued in last 10 years (Category-wise and Year-wise details)	Number of posts advertised for PwD category – wise and year-wise	Number of posts filled up by the PwD (Category-wise and Year-wise details)	Number of remaining unfilled vacancies (Category-wise and Year-wise details)	Reasons for not filling up of vacancies reserved for PwD	Remarks
1	2	3	4	5	6

No. 36035/2/2015-Estt.(Res.) dated 15th June, 2015 of Government of India, Ministry of Personnel, Public grievances & Pensions, DoPT.

Department of Personnel and Training, inter-alia, deals with policy of reservation for Persons with Disabilities in the posts and services of the Government of India. As per the extant instructions, three percent of vacancies are reserved for Persons with Disabilities, wherever it is applicable, of which one per cent shall be reserved for persons suffering from (i) blindness or low vision, (ii) hearing impairment and (iii) Locomotor disability of cerebral palsy in the posts identified for each disability, it has been decided to collect and collate the following information to consolidate the information pertaining to the filling up of vacancies of Persons with Disability:-

- i. Number of advertisement issued in the last 10 years and the number of posts advertised for Persons with disability category wise and year wise.

- ii. Number of post filled up by the persons with disabilities and remaining unfilled vacancies with the reasons for not filling up of vacancies reserved for persons with disabilities.
4. It is requested that the above information pertaining to the Ministry/Department as well as the attached/subordinate offices and the Central Public Sector Undertakings may be kindly be provided by 30th June, 2015.

(42)

Sub:- Request for Voluntary retirement from persons suffering from disability – Supreme Court Order in Bhagwan Dass & Anr Vs Punjab State Electricity Board, (2008) 1 SCC 579-reg.

I am directed to forward herewith Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training OM No. 25012/1/2015-Estt.(A-IV) dated 19th May, 2015 on the above subject for information, guidance and compliance.

Copy of CSIR letter No. 5-1(17)/2008-PD dated 3.7.2015

F.No.25012/1/2015-Estt (A-IV) dated 19.5.2015 of Government of India Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training Establishment (A-IV) Desk

The undersigned is directed say that vide Department of Personnel and Training's OM No/18017/1/2Q14~Estt(L) dated the 25th February, 2015, certain clarifications regarding treatment of leave and absence of disabled Government servants have been issued.

2. Instances have come to notice where Government servants apply for voluntary retirement under various provisions like Rules 38, Rule 48 and 48A of CCS (Pension) Rules, 1972 or Rule 56 of the Fundamental Rule on account of hardships faced by them due to a disability., as they are unaware of the protection provided by the Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 (PWD Act). Section 47 of the PwD Act 1995 is reproduced below for reference;

"Non-discrimination in Government Employment - (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service.

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding., could be shifted to some other post with the same pay scale and service benefits;

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

No promotion shall be denied to a person merely on the ground of his disability; Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section".

3. The issue had come up in Bhagwan Dass & Anr Vs Punjab State Electricity Board (2008) 1 SCC 579; decided by the Hon'ble Supreme Court where the employee who had during his service suffered from blindness, had applied for voluntary retirement. The Hon'ble Supreme court has observed that the Petitioner was not aware of any protection that the law afforded him and apparently believed that the blindness would cause him to lose his job,, which was the source of livelihood of his family. In those. circumstances, it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights.
4. Keeping in view the provisions of the Section 47 of the PwD Act 1995 and the above mentioned judgement, it has been decided that whenever a Government servant seeks voluntary retirement citing medical grounds, or when the said notice has been submitted due to a disability, the administrative authorities shall examine as to whether the case is covered under Section 47 of PWD Act, 1995, In case the provisions are applicable, the Government servant shall be advised that he/she has the option of continuing in service with the same pay scale and service benefits.
5. In case a disabled Government servant reconsiders his decision and withdraws the notice for voluntary retirement, his case shall be dealt with under the provisions of the Section 47 read with the Department of Personnel and Training OM dated 25th February, 2015,. mentioned above. If however, in spite of being so advised, such Government servant still wishes to take voluntary retirement, the request may be processed as per the applicable rule.
6. All the Ministries and Departments are requested to keep the above in view while processing cases of requests for Voluntary retirement from disabled Government servants.
7. Hindi version follow.

(43)

Sub:-Hon'ble CAT, Lucknow Bench order dated 26.5.2015 in OA No. 37/2011 (Harsh Bahadur& 101 others vs. UOI/CSIR/CDRI/NBRI/CIMAP) – Compliance thereof- Assistant Grade.

I am directed to state that the Competent Authority of CSIR has accepted the Hon'ble CAT, Lucknow Bench order dated 26.5.2015 in OA No. 37/2011 (Harsh Bahadur& 101 others vs UOI/CSIR/CDRI/NBRI/CIMAP) for implementation.

Accordingly, a copy of the said CAT order is sent herewith for information and compliance.

Copy of CSIR letter No. 5-1(90)/10-PD dated 14.7.2015

(44)

Sub:- Mitigation in Litigation.

The matter regarding mitigation in litigation has been under consideration for quite some time. A study of the lists of pending litigation has revealed that some of the cases have been pending for more than a decade. The Joint Secretary (Admn.), CSIR has taken it seriously and observed that efforts should be made to reduce the litigation within the frame work of rules and applicable laws.

It is accordingly suggested that the cases should be examined in consultation with the advocates and efforts be made to bring it to a conclusion at an early date. Courts may be approached for early hearing wherever it is felt desirable. COA/AO must ensure that adjournments are not sought as a matter of routine. There must be a review of all cases at the Laboratory level and such review be conducted by the COA/AO in consultation with other concerned officers, if required. The COA/AO should be in regular touch with advocates dealing with the court cases of the Laboratory.

With a view to avoid the avoidable litigation, it would be desirable to handle the grievances in an efficient manner. The representations/applications containing grievances of applicant must be meticulously examined in light of the applicable rules/instructions and if the grievance is likely to be settled, necessary action should be taken to resolve the issue and allow the relief If permissible under the rules and instructions. On the contrary if it is not possible/practical to allow the relief being sought, the representations must be replied to by way of issuing a reasoned and speaking communication without delay.

Copy of CSIR letter No. 36-2(230)/2015-Law (Mitigation) dated 13.8.2015

(45)

Sub:- Instructions to desist from initiating inter- Ministerial/Departmental Litigation in court of Law – reg.

I am directed to forward herewith a copy of OM No. F. 29(9)/2014-Judl. Dated 19th August, 2015 of Ministry of Law and Justice. Deptt. of Legal Affairs, requesting the Ministries/Departments of Govt. of India to provide information in respect of court cases in which two wings of Union of India/States including their PSUs are involved.

The copy of D.O. letter No. F. 29(9)/2014-Judl dated 7th August, 2014, referred in the said OM dated 19th August, 2015, had already been circulated/communicated to all the Labs/Instts. of CSIR vide CSIR letter dated 24.10.2014 for necessary action at their end.

To enable us to apprise the Competent Authority, you are requested to send the requisite information at the earliest.

Hindi version follows.

Copy of CSIR letter No. 3(89)EA-Law-Vol. V dated 11.12.2015

F.No. F.29(9)/2014-Judl, dated 19th August, 2015 of Government of India, Ministry of Law and Justice, Department of Legal Affairs.

The undersigned is directed to draw attention on the subject cited above and to state that it has been the effort of this Department to reduce Government litigation in courts so that valuable court time is spent in resolving other pending cases. It has also been the endeavour of the Government to see that disputes various Ministries/Departments/PSUs/Boards/Authorities under the control of the Government do not go to the court.

2. Accordingly, Law Secretary vide D.O. No. 29(9)/2014-Judl. Dated 7th August, 2014 requested all the Ministries/Department to desist from inter ministerial/departmental litigations in any Court of Law and issue necessary instructions in this regards to all Public Section Undertakings/Boards/Authorities under their administrative control. In case it is not possible to resolve the dispute amicably by mutual consultation or through the good offices of Empowered Agencies of the Government or through Arbitration, the same should be referred first to the Cabinet Secretariat, and then if necessary to PMO.
3. In view of the above, the Ministries/Departments are requested to provide information in respect of court cases in which two wings of Union of India/States including their PSUs are involved.

(46)

Sub:- Instructions from Ministry of Law & Justice Deptt. of Legal Affairs, regarding avoidance of delay in filing Counter Affidavits in various courts – reg.

I am directed to forward herewith a copy of DO letter No. 35(1)/2015-Judl. Dated August 27th, 2015 from Sh. P.K. Malhotra, Secretary, Ministry of Law & Justice Deptt of Legal Affairs, containing the instructions regarding avoidance of delay in filing Counter Affidavits in various courts. The DO letter is self explanatory.

In this regard, I am directed to state that Legal Section, CSIR Hqrs. is looking after approximately 600 Court Cases pertaining to all CSIR Labs/Instts. Apart from the legal cases, legal Section vets the agreements/MOUs referred by Labs/Instts of CSIR and also renders Advice as sought by different Labs/Instts. and different Section/Division of CSIR Hqrs.

Keeping in view the above facts with a view to avoid delay in legal matters, the Competent Authority has approved that as and when a new case filed against CSIR and/or any judgment in the case pertaining to CSIR is received by the concerned Labs/Instts., Section/Division of CSIR Hqrs., their comments/recommendations on such petition/judgment alongwith case history, may be sent immediately to CSIR, to enable Legal Section, CSIR Hqrs. to take further necessary action in the matter. Further, keeping in view the volume of work, every time it may not be possible for Legal Section, CSIR Hqrs. to monitor each and every case and to send reminders to the concerned Labs/Instts., Sections/Divisions of CSIR Hqrs. for the needful.

Therefore, with a view to avoid any adverse situation/remarks from the Hon'ble Courts on account of delay, it would be appropriate that the concerned Labs/Instts. and Divisions/Sections of CSIR Hqrs. do take requisite action as per rules, and instructions after following due procedure. In case, if they have any difficulty in responding and need help/advice of Legal Division, the matter may be referred to CSIR Hqrs. well in time giving adequate time to Legal Division, for needful in the matter.

Further, while referring any court case to CSIR Hqrs. for seeking approval of the competent authority or seeking any advice etc of Legal Section, the concerned officer/official may kindly ensure that the case history, para wise comments and relevant documents have been annexed/provided alongwith their letter/communication, in this regards.

Hindi Version follows.

Copy of CSIR letter No. 8(89)EA-Law, Vol.V dated 11.12.2015

D.O. No. 35(1)/2015-Judl.Dated 27th August, 2015 of Government of India, Ministry of Law & Justice, Department of Legal Affairs.

It has been brought to my notice by the field Officers of Ministry of Law and Justice and by Government Counsels appearing on behalf of Union of India in various Courts/Tribunals that many a time the reply/counter-affidavits are not filed in the court within the time granted by the Court causing inconvenience to the Court, delay in proceedings and unnecessary embarrassment to the Government. Of late, Courts have been taking serious view of delay in filing/counter-affidavits and imposing heavy cost to be recovered from the officer concerned.

One such case pertaining to Ministry of Environment and Forests came before the Bench of Hon'ble Chief Justice of Madras High Court in which the Hon'ble Court has taken a serious view in the matter and passed Order as under:-

"Learned Assistant Solicitor General seeks additional time to file the counter-affidavit. This is not the only matter where we are faced with this position i.e. counter-affidavits not being filed in time, despite time period being granted as requested by the Ld. Government Pleaders for the time Central Government. Whether it is six weeks or eight weeks or eight weeks, whatever time we grant, in every case, there is second request made for filing the counter- affidavit, causing inconvenience to Court, delay in proceedings and unnecessary embarrassment even to the Law Officers. This issue needs to be set right.

2. We are given to understand that once a matter pertains to a particular Ministry, Nodal Officer of that Ministry is expected to coordinate that matter. Thus, it is stated that the Law Ministry really does not hold the matter once it is entrusted to the Ministry concerned.
3. We call upon the Law Secretary to look into the matter for the purpose of ensuring a better coordination and put the officers concerned to notice that this Court would have no other option, but to impose exemplary costs for the delay in filing the counter-affidavits and that costs would be recovered from the officer concerned for not ensuring the affidavits being filed in time. We want to emphasize that the date of filing of the affidavit must be compiled with and not that it is produced on the date of hearing.
4. As a last chance, we grant four weeks time to file the counter affidavit. Thereafter it will be taken on record only subject to the deposit of costs of Rs. 10000/- to be recovered from the officer concerned and the Recovery Certificate be also filed.
5. Re-joinder, if any, be within two weeks thereafter
6. List on 18.8.2015

This Department has been issuing instructions from time to time that the Nodal Officers of the Ministry/Department should stay in touch with the Government Counsel for proper handling of the matter. Such coordination with the Government Counsel will surely help in reducing delay in filing of reply/counter-affidavits.

I shall be grateful if you can sensitize your officers that court cases are properly monitored and replies are filed on time to avoid passing of such orders in future. If any officer is found negligent in handling court matters, the administrative Ministry may consider taking appropriate action against him in accordance with the rules.

I shall be grateful if these instructions can be brought to the notice of all Departments/PSUs under your administrative control.

(47)

Sub:-Regarding signing on Vakalatnama.

In the legal matters/court cases by and/or against CSIR, the Vakalatnama is signed by Legal Adviser, CSIR after the approval of the Competent Authority to contest the case in the Court/CAT. At times it may happen that the Legal Adviser is not available due to his leave, attending court matters etc. The Competent Authority has approved that under such circumstances the Vakalatnama will be signed by the Deputy Secretary (Legal).

Copy of CSIR letter No. 3(89)/EA-Law dated 22.2.2016

(48)

Sub:-W.P. (C) No. 37/2015 tagged with W.P. (C) No. 494/2012-Adherence of the interim orders of Hon'ble Supreme Court – reg.

I am directed to forward herewith following Office Memoranda for information guidance and compliance.

S.No.	Office Memorandum No.	Subject
1.	Deptt. of Expenditure, MoF OM No. 1-11011/112/2013-DBT dated 19.8.2015	W.P. (C) No. 37/2015 tagged with W.P. (C) No. 494/2012-Adherence of the interim orders of Hon'ble Supreme Court – reg.
2.	Deptt. of Expenditure, MoF OM No. 1-11011/112/2013-DBT dated 19.8.2015	W.P. (C) No. 37/2015 tagged with W.P. (C) No. 494/2012-Adherence of the interim orders of Hon'ble Supreme Court – reg.
3.	Deptt. of Expenditure, MoF OM No.1-11011/112/2013-DBT dated 19.11.2015	W.P. (C) No. 37/2015 tagged with W.P. (C) No. 494/2012-Adherence of the interim orders of Hon'ble Supreme Court – reg.

Copy of CSIR letter No. 5-1(17)/2008-PD dated 2.3.2016

F.No. 1-11011/112/2013-DBT dated 19.8.2015 of Government of India, Ministry of Finance Department of Expenditure.

The undersigned is directed to refer to DBT Mission's O.M. of even number dated 24.3.2015 on the subject mentioned above and to say that the Hon'ble Supreme Court has passed the interim orders on 11th August, 2015. A copy of the interim orders passed by the Hon'ble Supreme Court is enclosed for compliance.

2. It is stated that under Direct Benefit Transfer(DBT) scheme cash/benefits are transferred in the bank account of the beneficiary with or without Aadhaar, but electronically Hon'ble Supreme Court has restricted the use of Aadhaar for certain purposes only. Hence, all Departments and Agencies of the Government of India will continue to implement Direct Benefit Transfer by using Aadhaar where permitted by Hon'ble Supreme Court and by non-Aadhaar electronic means in other cases. State Governments entitles may consider implementing DBT accordingly.

F.No. 1-11011/112/2013-DBT dated 19.8.2015 of Government of India, Ministry of Finance Department of Expenditure.

The undersigned is directed to refer to DBT Mission's OM of even number dated 24.3.2015 on the subject mentioned above and to say that the Hon'ble Supreme Court has passed the interim orders on 11th August, 2015, wherein certain restrictions have been imposed on the use of information – biometric or demographic – about an individual obtained by the UIDAI while issuing of Aadhaar card for the purposes other than distribution of food grains etc., cooking fuel, such as kerosene and LPG Distribution scheme.

2. However, in a large number of databases Aadhaar number has already been populated, as process was going on for some time. In order to keep the databases ready for use in case Hon'ble Court permits its use eventually, following actions may be undertaken.
 - a. Wherever beneficiary voluntarily gives his/her Aadhaar number, it may be taken and populated in the database.
 - b. However, the use of Aadhaar number for delivery of services/benefits will be strictly as per the directions of Hon'ble Supreme Court.

F. No. A-60011/03/2015-Estt. Dated 1st October, 2015 of Government of India, Ministry of Science and Technology, Department of Scientific and Industrial Research.

Subject:-W.P. (C) No. 37/2015 tagged with W.P. (C) No. 494/2012-Adherence of the interim orders of Hon'ble Supreme Court – reg.

I am directed to forward herewith a copy of OM No. 1-11011/112/2013-DBT, dated 19th August, 2015 alongwith its enclosures, received from Department of Expenditure on the above mentioned subject for compliance and further necessary action.

(49)

Sub:- Recovery of wrongful/excess payments made to Government servants – reg. – Court Judgment.

I am directed to forward herewith following Office Memorandum for information, guidance and compliance.

Sl.No.	Office Memorandum	Subject
1.	DoPT OM No. 18/03/2015-Estt. (Pay-1) dated 2.3.2016	Recovery of wrongful/excess payments made to Government servants – reg. – Court Judgment.

Copy of CSIR letter No. 5-1(17)/2008-PD/1 dated 28.4.2016

F.No. 18/03/2015-Estt. (Pay-1) dated 2.3.2016 of Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training.

The undersigned is directed to refer to this Department's OM No. 18/26/2011-Estt. (Pay-I) dated 6th 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 SCC417. 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 Stat 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 that 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 18th 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 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 made 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 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 if 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 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, whom 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 express approval of Department of Expenditure in terms of this Department's OM No. 18/26/2011-Estt (Pay-I) dated 6th 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.

(50)

Sub:- Framing of a policy for the engagement/empanelment of advocates and revision of their fee rates.

With reference to this office OM of even number dated 4.2.2015 it is hereby notified that in order to frame a specific policy for engagement/empanelment of advocates for CSIR and revision of fee etc. of the advocates, the Joint Secretary (Admn.) CSIR has re-constituted the committee consisting of the following officers:

1. Shir Manual Thomas, Sr. DS
2. Shri Jayesh K. Unnikrishanan, LA
3. Shri S.K. Vohra, Deputy FA
4. Shri Ram Sarup, DS
5. ShriAnjum Sharma, DS – as Member Convenor

Copy of CSIR letter No. 36-3(89)EA-Law/625 dated 28.4.2016

(51)

Sub:- Regarding sending relevant, adequate and timely background material/inputs/comments on Court Cases being filed or contested by CSIR Labs/Instts.

It has been observed that some of the Labs/Instts. while sending their proposals for contesting a case before a Court/Forum or for filing Appeal against an Order/Judgment or for acceptance of an adverse Court Order do not send adequate justification/inputs/comments etc. leading to unnecessary correspondence on this issue which results in avoidable delay.

2. In view of the above, the Competent Authority, CSIR has desired that henceforth all the proposals from the Labs/Instts./Sections of CSIR Hqrs./Divisions for contesting a case or otherwise should invariably and without exception enclose therewith adequate justification in the form of facts of the case /background material/their comments and other relevant documents in all the new cases/request for appointment of Arbitrator by DG, CSIR/request for contesting a case/acceptance of Orders/Judgments/Awards etc. Passed by a Court/Tribunal/Arbitrator, so that the matter may be appreciated in the right perspective at this end and timely decision may be taken accordingly.
3. Further, the Competent Authority, CSIR has desired that henceforth no proposal of a Labs/Institute for contesting a case/filing of appeal/acceptance of an adverse Court Order would be considered at this end without its proper examination/inputs and recommendation by the concerned Labs/Instts. Any delay on account of lack of proper and relevant inputs from the Lab would be attributed to the concerned Lab/Instt. Hindi version of the above Circular follows.

Copy of CSIR letter No. 36-3(89)/EA-Law-Vol.IV dated 29.4.2016

(52)

Sub:- Steps to ensure proper representation of CSIR in all Legal cases/Court cases.

In one of the cases filed against CSIR in one of the CSIR Labs/Instts. the CSIR Counsel conducting the case was not in a position to rebut the allegations of the opposite party. Hence in the absence of any rebuttal from the Counsel of CSIR Lab/Instt., CSIR was placed with a “fait – accompli” of having to accept the Order of the Court. Consequently, the impugned Office Memorandum of the said CSIR – Labs/Instt. was quashed and the matter was remitted back to the Labs/Instts. by the Court with a direction to consider the case of the Applicant/Petitioner within the stipulated period of time.

2. In this matter the Controller of Administration/Administrative Officer were found wanting in performance of their duty, in not properly briefing/giving imputes to the CSIR Counsel, which led to the absence of rebuttal by the Counsel of CSIR Lab/Instt. before the Hon’ble Court.

3. In view of the above, the Competent Authority, CSIR has issued directions that henceforth, the Sr. Controller of Administration/Controller of Administration/Administrative Officer shall take personal interest in pursuing the interest of CSIR in all legal/Court cases. They must regularly be in touch with the Counsels; take stock of the Court cases pending before different forums/Courts from time-to-time; brief them about the facts/background of the cases, Rule position etc./ continuously monitor status of the cases, filing of pleadings on behalf of CSIR/Labs/Instts. including the contents of the pleadings etc. so as to avoid any unpleasant Orders by the Courts/Forums. As far as practicable, they should also visit the Courts and know the outcome of a Court Case after every hearing.
The above instructions may be strictly complied with by all concerned.

Copy of CSIR letter No. 36-3(89)/EA-Law-Vol. IV dated 6.5.2016

(53)

Sub:- Mitigation in Litigation.

Recently, in the meeting of Heads of Admn. In CSIR held at Bangalore on 19-20, May, 2016, the matter relating to mitigation in litigation was discussed and it has been desired by the competent authority that the Sr./Controllers of Admn./Administrative Officers of all CSIR Labs/Instts. being the nodal officer should analyses the legal cases pending before various Tribunals/Courts/Forums and suggest remedial action of such cases which can be decided by mediation/out of court.

Further, the grievances of the employees should be handled in such an efficient manner so that it does not lead to litigation and be resolved under the relevant rules, regulations, instructions on the subject. If it is not possible to resolve the representationist must be given interim reply by way of issuing a reasoned and speaking communication without delay.

For this purpose, the cases which can be decided by mediation, should be examined firstly at the lab/Instt. level then Brief of such cases with proposed remedial action may please be sent to CSIR for further necessary action/consideration and approval of the competent authority.

As desired by JS(A), the above information may please be furnished at the earliest so as to reach the undersigned by email/by post latest by 24th June, 2016 positively.

Copy of CSIR letter No. 36-2(2(230)2005-Law dated 6.6.2016

Sub:- Clarification regarding drawal of two civil pensions – Case of Smt. Jayashri Raghvan.

Ref: CSIR-SERC letter No. A-VI/2812/132/SE dated 10.8.2010 addressed to Financial Advisor, CSIR.

This is in continuation of CSIR letter of even number dated 19.5.2015 vide which CSIR-SERC was advised to regulate the gratuity payment of payment of Smt. Jayashri Raghvan as per clarification dated 14.11.2014 from DoP&PW, as follows:-

“DP&PW has clarified that since the payment of Gratuity in CSIR has to be restricted vis a vis total amount of gratuity admissible to Smt. Jayashri Raghvan, therefore, the action of SERC to restrict it to 28 six monthly period (instead of amount) is not in order. Therefore, as per clarification of DP&PW vide OM dated 14.11.2014 gratuity would be calculated bases on her qualifying service of 19 ½ years in CSIR. This would be Rs. 794125/-. The maximum admissible gratuity bases on the combined service in the two organization and the emoluments drawn from CSIR is Rs. 1000000/- (Ten lakhs) Since the amount of gratuity admissible from CSIR i.e. Rs. 79+4125/- plus gratuity received from CSSC i.e. Rs. 44175 does not exceed the gratuity admissible as per combined service, the gratuity admissible from CSIR i.e. Rs. 794125/- could be given in full without any restriction.

2. The issue of regulating drawal of two civil pensions was also examined in consultation with DP&PW, which vide its OM No. 28/3/2014-P&PW (C) dated 14.11.2014 has clarified as under:-
 - i. CSIR has processed the case in terms of Rule 7 & 18(3) of the CCS (Pension) Rules. It was observed in Shri K.L. Singla’s case that Rule 18 has a clause which restricts the total pension paid where more than one pension is payable. This rule, however, applies only to persons on invalid or compensation pension on re-employment. Similarly, it was, observed that under Rule 7 of CCS(Pension) Rules a person gets only one pension from the Govt. and this rule is not applicable to the pension admissible from Autonomous Body after absorption.
 - ii. Thus, these rules are not applicable to the pension admissible from Autonomous Body after absorption. The terms of absorption issued in 1991 in the case of Ms. Jayashri Raghavan are on the basis of the standard terms mentioned in Para (4) of DP&PW Note. Therefore, as per the terms of absorption, the pension of Ms. Jayashir Raghvan in CSIR is required to be regulated as per the rules of CSIR.

Accordingly, the Competent Authority in consultation with FA, CISR has approved that Pension settled in r/o Smt. Jayasri Raghavan, Ex Scientist, CSIR-SERC be refixed ignoring the earlier pension drawn from the previous organization.

Copy of CSIR letter No. 35-1(39)/2014/HR-III dated 9.9.2016

Sub:-Revision of fee of Advocates conducting the cases before the Hon'ble Supreme Court of India, High Courts, CAT & other such Tribunals, Labour Courts/Subordinate Courts.

In partial modification of the terms and conditions contained in CSIR Circular letter No. 3(89)EA-Law dated 10th November, 1999 (copy enclosed) and CSIR Circular letter No. 3(89)EA-Law-Vo;-V dated 3.11.2009, the Joint Secretary (Admn.), Council of Scientific & Industrial Research (CSIR), on the basis of the recommendations of the Committee, has been pleased to approved revision of fee of the advocates conducting the cases pertaining to CSIR and its Labs/Instts. before the Hon'ble High Court, CAT & other such Tribunals, Labour Courts/Subordinate Courts and the Hon'ble Supreme Court. The revised rates are as follows:-

S.No.	Courts	Place	Proposed revised fee
1.	High Courts	All over India	Rs. 30,000/- + expenses as per actuals
2.	CAT & and such other Tribunals as NGT, Service Tax, Income Tax etc.	All over India	Rs. 28000/- + expenses as per actuals
3.	Labour Courts, CGIT/Subordinate Courts.	All over India	Rs. 20,000/- + expenses as per actuals

The revised Fee rate for Advocates – on Record for conducting the case before the Hon'ble Supreme Court shall be as under:-

S.No.	Item	Fee rates
1.	Acting as Advocates on Record	Rs. 6000/-
2.	Drafting of SLP	Rs. 8000/-
3.	Drafting of Misc. Appl./replies	Rs. 3000/-
4.	Clerkage	@ 10% of drafting
5.	Expenses	At actual
6.	Appearance with Sr. Advocate	Rs. 3000/-
7.	Appearance without Sr. Advocate	Rs. 10000/-
8.	Conference with Sr. Advocate	Rs. 1000/- per conference (subject to a maximum of 4 conference in a case)

Rest of the terms & conditions as mentioned in CSIR Circular letter No.3(89)-EA-Law dated 10.11.1999 shall remain unchanged.

It may be noted that the advocated engaged on or after notification of the revised fee rates shall be paid fee as per the revised rates.

Further, the Competent Authority has also approved that the fee for the advocated in Arbitration matter, as notified vide CSIR Circular letter No. 3/89-Law(Vol.V) dated 8.9.2009 (Copy enclosed) shall remain unchanged.

You are requested to bring it to the notice of the Advocates conducting the cases pertaining to your Labs/Instts.

Please acknowledge receipt of the communication

Hindi version follows.

Copy of CSIR letter No. 3(89)EA-Law-Vol. dated 7.11.2016

(56)

विषय:- केंद्रों में कानून की प्रक्रियाओं को सुचारु रूप से चलाने के लिए केंद्रों में कानून-विशेषज्ञों की नियुक्ति के संबंध में।

Sub:- Standard operating procedure regarding legal cases where Central Vigilance Commission has been made respondent along with the organisations concerned- regarding.

केंद्रों में कानून की प्रक्रियाओं को सुचारु रूप से चलाने के लिए, केंद्रों में कानून-विशेषज्ञों की नियुक्ति के संबंध में 5.10.2016 को केंद्रों में कानून की प्रक्रियाओं को सुचारु रूप से चलाने के लिए 11/ 09/ 2016 (016/Misc./legal/005) को केंद्रों में कानून-विशेषज्ञों की नियुक्ति के संबंध में केंद्रों में कानून की प्रक्रियाओं को सुचारु रूप से चलाने के लिए केंद्रों में कानून-विशेषज्ञों की नियुक्ति के संबंध में।

I am to forward herewith a copy of the circular No. 11/ 09/ 2016 (016/Misc./ legal/ 005) dated 5. 10. 2016 of Central Vigilance Commission, Government of India on the subject cited above for information, guidance and necessary action. Please bring it to the notice of all concerned.

Copy of CSIR letter number 15-6(82)/ 98- O & M dated 22. 11. 2016

The Central Vigilance Commission, under the provisions contained in Section 8(1)(g) and section 17(2) of the CVC Act, 2003 has the mandate to tender advice to the central government, corporations established by or under any Central act, Government companies, societies and local authorities owned or controlled by the central government regarding the officers covered under its advisory deduction as defined under Section 8(2) of the CVC Act, 2003.

2. The Central Vigilance Commission takes a considered view regarding the further course of action to be taken in respect of officers/ cases as mentioned above, based on the records/ evidence/ material available with it and should advise either prosecution of the suspected public servant or initiation of appropriate disciplinary proceedings or for imposition of appropriate penalty as the case should be, based on the irregularities noticed on their part.

3. The officers concerned, against whom action has been advised by the Central Vigilance Commission, sometimes feel aggrieved by the advice of the Central Vigilance Commission and approach either Central Administrative Tribunal or other courts of law with the prayer to get the advice tendered by Central Vigilance Commission and subsequent disciplinary action against them quashed. The Central Vigilance Commission and/ or its officers, along with the organisation concerned to whom the officer belongs and the disciplinary authority of the petitioner officer are made respondents by them.
4. In such cases, where the Central Vigilance Commission has been named as a respondent along with the organisation concerned/ other respondents, the authorities concerned in the organisation, immediately on receipt of a notice from the respective Court or on receipt of advance copy of the petition/ application/ plaint etc. should bring the same to the notice of the Chief Vigilance Officer of organisation. The Chief Vigilance Officer of the organisation should inform the Central Vigilance Commission immediately about the court case. The Chief Vigilance Officer should also forward a self contained note containing a summary about the issues raised in the petition/ application/ plaint etc., indicating the Paras where Central Vigilance Commission's actions have been described /questioned and also quoting the Central vigilance Commission's references/ Correspondences exchanged by organisation concerned relating to the case mentioned before the court/ Central Administrative Tribunal etc. if any.
5. During the intervening period, when correspondence is being made by the Chief Vigilance Officer of the organisation with the Central Vigilance Commission and prior to receipt of its specific advice/ directions, the Chief Vigilance Officer of the organisation concerned should ensure that the Central Vigilance Commission's and its officers interest are duly protected before the court ,if the case comes up for hearing. The Chief Vigilance Officer and/ or any other authority concerned of the organisation, should suitably briefly counsel/ advocate of the organisation about Central Vigilance Commission's functions and powers and its advisory jurisdiction, as mandated under Section 8 and 17 of the CVC Act, 2003 to suitably appraise the court accordingly. Provisions contained under Section 15 of the CVC Act, 2003 stating that "No suit, prosecution or other legal proceeding shall lie against the commission, the Central Vigilance Commissioner , any Vigilance Commissioner, this secretary or against any staff of the commission in respect of anything which is in good faith done or intended to be done under this Act" should also be brought to the notice of respective courts, through the organisation's counsel/ advocate in order to get the name of the Central Vigilance Commission or its Officers deleted from the list of respondents.
6. Many a times, Petitioners/ applicants/ plaintiffs approach the court alleging Corrupt/ Inappropriate activities against various Government Organizations and/ or by public servants and seek investigation about such inappropriate activities through Central Vigilance Commission. In case they had made complaint to the Central Vigilance

Commission earlier regarding the issues mentioned before the court, they point out this fact in their petition/ prayer and sometimes express dissatisfaction about the action taken by the Central Vigilance Commission on their complaints , as should have been intimated to them. In such cases also, immediately on receipt of notice from the respective court or on receipt of advance copy of the petition/ application/ plaint etc. the authorities concerned in the organisation should bring the same to the notice of the chief Vigilance Officer of the organisation immediately. The procedure as prescribed in Paras (4) and(5) above should be followed in respect of such cases also.

7. Wherever a need arises to debate or argue, before the respective Courts, the merits of specific advice tendered by the Central Vigilance Commission in a particular case of action taken by it on an individual complaint or any other action of Central Vigilance Commission, the organization should seek specific comments and advice of Central Vigilance Commission before informing/apprising the Court through their counsel/advocate.
8. The Chief Vigilance Officer should suitably sensitize/ inform the officers of their organisations about the guidelines as given above.
9. This issues with the approval of the Commission.

(57)

Sub:- The Timelines for filing SLP/Appeals.

I am directed to enclose herewith copy of DO letter No. 403/1/2016-CAV dated 25th November, 2016 received from Cabinet Secretariat Mentioning therein the timelines for filing SLP/Appeals.

The competent authority has approved the adoption of timelines given in the enclosed DO letter of Cabinet Secretariat and the process mentioned therein.

This may kindly be brought to the notice of all concerned for information guidance and strict compliance.

Copy of CSIR letter No. 36-2/80-Law dated 19.12.2016

D.O. No. 403/1/2016-CA-V dated 25th November, 2016 of Cabinet Secretariat.

It has come to notice that a number of Special Leave Petitions (SLPs), appeals, etc. are filed in the Supreme Court after expiry of the limitation period and in some cases after considerable delay. A meeting of the Committee of Secretaries (CoS) was held in this regard on 15.9.2016.

2. Amongst various issues discussed to streamline the process of filing SLP's appeals etc. it was pointed out that the proposals to file SLP/appeal before the Supreme Court are being received by the D/o Legal Affairs for advice from the concerned Ministry/Department when limitation period of 90 days is about to expire or sometimes even after expiry of limitation period. To address this issue, it has been decided to fix the following timelines for filing SLPs/appeal.

(i)	Examination and taking administrative decision by the Ministry/Department	15 days
(ii)	Examination and advice/opinion by the DoLA and Law Officer	15 days
(iii)	Drafting of SLPs and forwarding the same to the concerned Ministry/Department	15 days
(iv)	Approval of the draft SLP by the concerned Ministry/Departments and providing necessary documents.	5 days
(v)	preparing paper book and filing	10 days

3. For filing statutory appeals, reviews, etc. where limitation period is 60 days or 30 days, the above timelines may be reduced correspondingly. Proper coordination with D/o Legal Affairs (DoLA) and Central Agency Section (CAS) of the D/o. Legal Affairs may be ensured to avoid such delays. The Nodal Officers in your Ministry/Department may be assigned the task of monitoring of these timelines and ensuring coordination in this regard.
4. You may instruct the concerned officers and PSUs/Boards/Authorities under the administrative control of your Ministry/Department to strictly follow the above timelines.

(58)

Sub: Furnishing the details of Arbitration matters.

Kindly find enclosed herewith a copy of the DO letter bearing No. A-60011(6)/25/2016-Adm. – III (LA) dt. 23.2.2017 received from the Law Secretary which is self – explanatory.

In this regard I am to request you to furnish the requisite information within five working days in the prescribed proforma as per attachment through E-mail/dak.

Copy of CSIR letter No. 36-2/80-Law dated 27.3.2017

D.O No. A-60011(6)/25/2016-Admn.-III(LA) dated 23.2.2017

As you may be aware, the Central Government has constituted a High Level Committee under the Chairmanship of Hon'ble Mr. Justice B.N. Srikrishna, Retired Judge, Supreme Court, to review Institutionalization of Arbitration Mechanism in India.

2. The Committee has desired to have first hand information and details of arbitration matters instituted/pending in which the Central Government and its Public Sector Undertakings (PSUs) are a party, as on date. A Proforma for providing requisite details such as cause of arbitration, its nature i.e. domestic or international, name of arbitrators, seat of arbitration, applicable laws in the matter of arbitration, applicable rules of arbitration, fees of arbitrators and value of subject matter of arbitration is annexed herewith.
3. I request you to issue requisite instructions to the concerned officers in your Ministry/Department as well as PSUs under your Ministry/Department to furnish complete information in the proforma, preferably through Fax No. 23384403 within 15 days.
4. This may be accorded TOP PRIORITY.

PROFORMA FOR FURNISHING INFORMATION

Name of Ministry/Department.....

S.No.	Party Name	Cause of Arbitration	Total value involved	Whether Domestic or International	Name of Arbitrator(s)	Fees of Arbitrator	Seat of Arbitrator	Applicable Law	Applicable Arbitration Rules

(59)

Sub: Pairavi of Arbitration/Legal cases.

It has been observed that at times in Arbitration/Legal cases proper follow up action is not taken by the concerned division/scientist. The competent authority has taken it seriously and approved that for properly protecting the interest of the organization, there must be an effective pairavi of the matter and the concerned officer/scientist needs to be present before the Ld. Arbitrator during the hearings.

The officer/scientist dealing with the cases must be watchful and keep himself/herself updated about the cases, by establishing proper co-ordination between the office, Legal Division and the Advocate and maintain proper records of the cases.

The fee bills of the Arbitrator and/or Advocate must be invariably verified by the concerned officer/scientist to facilitate the Admn./Legal Division to process the same for timely payment.

As far as possible the concerned officer/scientist must attend the hearings. In case they could not attend the hearings due to some unavoidable reasons, they need to be in touch with

the Advocate and gather the copy of proceedings for information/record and for verifying the fee bills of the Advocate/Ld. Arbitrator.

Copy of CSIR letter No. 36-3(89)/EA-Law-Vol.IV dated 7.4.2017

(60)

Sub: Reduction in pending court cases.

Ref: D.O. letter No. N-17/13/2017-NM received from Hon'ble Minister of Law, Justice, Electronics and IT to the Hon'ble Minister for Science & Technology and Earth Sciences.

Kind attention is invited to the above referred communication from the Hon'ble Minister of Law, Justice, Electronics and IT to the Hon'ble Minister of Science & Technology and Earth Science on reduction in pending court cases. A copy of said communication and reply dated 26.4.2017 given by Hon'ble Minister for S&T to the Hon'ble Minister of Law & Justice, which is self explanatory, is enclosed herewith.

In pursuance of the said communication, the DGCSIR has desired to review all pending legal cases and to submit a report within a week, on status and action planned for special Arrears Clearance Drives".

It is not out of place to mention here that from time to time, Labs/Instts. have been requested to take all necessary steps for effective conduct of litigation in CSIR and to reduce/mitigation in litigation.

In view of the above, you are requested to send, the report/statement of present status of all pending court cases in your Lab/Instt., **as per the Format attached herewith.**

This may kindly be treated on top priority.

Copy of CSIR letter No. 36-2(230)/2005-Law dated 3.5.2017

D.No. 17477-M(S&T&ES)2017 dated 26.4.2017

I am in receipt of your letter DO No. N-17/13/2017-NM regarding details of reduction in pending court cases.

I am forwarding this to our Departments for necessary action.

Hon'ble Prime Minister while addressing the function to mark the 50th Anniversary of the establishment of the High Court of Delhi highlighted the emerging challenges before the Judiciary especially exponential increase in the pendency of court cases and called for preparation of a roadmap for the future. Though disposal of cases is within the domain of the judiciary, the Government has been taking various steps to help reducing arrears and backlog of cases in courts. However, there is no significant impact on pendency and arrears.

2. As you are aware that government is a major litigant and it is a party to about 46% of the 3.14 crore cases pending in various courts in the country, ranging from service matters to indirect taxes. The Judiciary has to spend its maximum time in tackling cases where the Government is a party, and the burden on Judiciary can only be reduced if the cases are filed after taking a careful and considered view. There is a crucial need to take transformative measures to reduce pendency of court cases. It is imperative to give top priority by all concerned Ministries/Departments to review all pending court cases and take up Special Arrears Clearance Drives. They should identify frivolous and vexatious matters and separate them with the matters with merit and take quick steps to either withdraw or dispose of them speedily. Therefore, while reviewing the pendency of court cases, all Ministries/Departments have to examine the cost of fighting the case by incurring expenditure under the Consolidated Fund of India and time taken to dispose of the case vis-à-vis relief given to parties who are petitioners.
3. I understand that every Government Department has in place its own mechanism to handle various kinds of disputes and monitoring of cases pending before various courts/authorities/tribunals, etc. as per the requirement. Now, we need to made these mechanisms more effective and efficient, so that pendency of cases in all courts is reduced. Every matter needs to be looked into in depth in consultation with experts and concerned before going to litigation. The government must cease to be a compulsive litigant, and executive power should be made use t reduce the grievance of the future litigant. Before initiating any litigation, the matter must be placed before the competent authority. It will be his responsibility to endeavor to see whether the litigation can be avoided. If litigation cannot be avoided, then alternative dispute resolution methods like mediation must be considered. Filing of new cases against state government or its bodies or government staff may be discouraged, and recourse to litigation may be adopted only as a last resort. As frequent adjournments are resorted to by Government Counsels, unnecessary and frequent adjournment should be frowned upon, and infractions dealt with seriously.
4. Each Ministry/Department should chalk out an Acton Plan for Special Arrears Clearance Drives' to reduce the number of court cases by following various methods mentioned in the above and implement the plan on Mission Mode. All these efforts should yield in a significant reduction in a total number of court cases in each Ministry/Department. Each Ministry/Department should also send a Quarterly Report on reduction in total no. of court cases withdrawn settled/disposed as per the Annexure enclosed. This report

should contain details of reduction in court cases in your Ministry/Department including Autonomous Bodies, Subordinate or Attached Offices as per the enclosed format. I am directing Secretary, Department of Justice to hold meetings with all Ministries/Departments to review this matter regularly.

5. I shall be grateful if you kindly send action taken in this regard at the earliest.

(61)

Sub: Ease of Compliance to maintain Registers under various Labour Laws Rules, 2017 – reg.

I am directed to forward herewith the following Gazette Notification & DO Letter for information, guidance and compliance.

S.No.	Office Memorandum No.	Subject
1.	DO No. Z-20025/27/2016-LRC dated 23.2.2017 from Secretary, Ministry of Labour & Employment, Govt. of India forwarding therewith Gazette Notification No. G.S.R. 154 (E) dated 21.2.2017.	Ease of Compliance to maintain Registers under various Labour Laws Rules, 2017 – reg.

Copy of CSIR letter No. 5-1(17)/2008-PD dated 8.5.2017

F.No. Z-20025/27/2016-LRC dated 23.2.2017 of Government of India.

As you are aware, Government of India has taken several initiatives to reduce the complexity of compliance and bring transparency and accountability in enforcement of Labour Laws. These initiatives include legislative reforms where the age old labour laws are proposed to be amended and also the procedural reforms making the compliance of labour easy and user friendly. While reviewing the requirement of filing various returns/register/forms provided under various labour laws, it was observed that the 56 Register/Form prescribed under the 9 Central Labour Acts and the Rules made thereunder had several over-lapping/redundant fields. Therefore, an exercise was undertaken to do away with overlapping fields and reduce the number of registers/forms to promote ease of compliance and also to save efforts and cost. The same can also be maintained in the digital form.

2. Accordingly, Ministry of Labour & Employment has notified “Ease of Compliance to maintain Registers under various Labour Laws Rules, 2017” on 21st February 2017 which has in effect replaced the 56 Registers/Forms under 9 Central Labour Laws and Rules made thereunder into 5 common Registers/Forms. This will save efforts, costs and lessen the compliance burden by various establishments. I am enclosing a copy of the notified “Ease of Compliance to maintain Registers under various Labour Laws Rules, 2017” with request that this may be widely publicized among the stakeholders under

your Ministry/Department. These Rules are also available on the Website of this Ministry at the link below:

<http://labour.gov.in/whatsnew/ease-compliance-maintain-registersunder-various-labour-laws-rules-2017>

(62)

Sub: Simultaneous action of prosecution and initiation of departmental proceedings – reg.

I am directed to forward herewith the following Office Memorandum for information, guidance and compliance.

S.No.	Office Memorandum No.	Subject
1.	Govt. of India, MoPPG&P DoPT OM No. 11012/6/2007 – Estt. (A-III) dated 21.7.2016.	Simultaneous action of prosecution and initiation of departmental proceedings – reg.

Copy of CSIR letter No. 5-1(424)/2017-PD dated 24.5.2017

F.No. 11012/6/2007 – Estt. (A-III) dated 21.7.2016 of Government of India, Ministry of Personnel, Public Grievances and Pensions, DoPT.

The undersigned is directed to refer to the Department of Personnel and Training OM of even number dated the 1st August, 2007 on the above subject and to say that in a recent case, Ajay Kumar Choudhary vs Union of India Through Its Secretary & Anr, Civil Appeal No. 1912 of 2015, (JT 2015 (2) SC 487), 2015(2) SCALE, the Apex Court has directed that the currency of a Suspension Order should not extend beyond three months if within this period a Memorandum of Charges/Charge sheet is not served on the delinquent officer/employees;

2. It is noticed that in many cases charge sheets are not issued despite clear prima facie evidence of misconduct on the ground that the matter is under investigation agency like Central Bureau of Investigation. In the aforesaid judgement the Hon'ble Court has also superseded the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance.
3. In the subsequent paras the position as regards the following issues has been clarified:
 - i. Issue of charge sheet against an officer against whom an investigating agency is conducting investigation or against whom a charge sheet has been filed in a court,
 - ii. Effect of acquittal in a criminal case on departmental inquiry
 - iii. Action where an employee convicted by a court files an appeal in a higher court

Issue of charge sheet against an officer against whom an investigating agency is conducting investigation or against whom a charge sheet has been filed in a court.

4. It has been reaffirmed in a catena of cases that there is no bar in law for initiation of simultaneous criminal and departmental proceedings on the same set of allegations. In *State of Rajasthan vs. B.K. Meena & Ors* (1996) 6 SCC 417 = AIR 1997 SC 13 = 1997 (1) LLJ 746 (SC), the Hon'ble Supreme Court has emphasized the need for initiating departmental proceedings in such cases in these words:

It must be remembered that interests of administration demand that the undesirable elements are thrown out and any charge of misdemeanor is enquired into promptly. The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements. The interest of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law.

5. In *Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. & Anr.*, (1999) 3 SCC 679, the Supreme Court has observed that departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

Effect of acquittal in a criminal case on departmental inquiry

6. The question as to what is to be done in the case of acquittal in a criminal case has been answered by the Hon'ble Supreme Court in *R.P. Kapur vs. Union of India & Anr.* AIR 1964 SC 787 (a five Judge bench judgement) as follows:

If the trial of the criminal charge results in conviction, disciplinary proceedings are bound to follow against the public servant so convicted. Even in case of acquittal proceedings may follow where the acquittal is other than honourable.

7. The issue was explained in the following words by the Hon'ble Supreme Court in the following words in *Ajit Kumar Nag v G M, (PJ), Indian Oil Corporation Ltd.*, (2005) 7 SCC 764:

Acquittal by a criminal court would not debar an employer from exercising power in accordance with Rules and Regulations in force. The two proceedings criminal and departmental are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with service Rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and

procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt', he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation.

8. The judgement of the Hon'ble Supreme Court in G.M. Tank vs. State of Gujarat (2006) 5 SCC 446 has reaffirmed the principles laid down in R.P. Kapur (supra). In G.M. Tank case, Court observed that there was not an iota of evidence against the appellant to hold that he was guilty. As the criminal case and the departmental proceedings were based on identical set of facts and evidence, the Court set aside the penalty imposed in the departmental inquiry also.
9. Ratio in the G.M. Tank judgement should not be misconstrued to mean that no departmental proceedings are permissible in all cases of acquittal or that in such cases the penalty already imposed would have to be set aside. What the Hon'ble Court has held that is no departmental inquiry would be permissible when the evidence clearly establishes that no charge against the Government servant may be made out.

Action where an employee convicted by a court files an appeal in a higher court

10. In many cases Government servants who have been found guilty by lower courts and have filed appeals in higher courts represent for reinstatement/setting aside the penalty imposed under Rule 19(i) of the CCS (CCA) Rules, 1965. In such cases, the following observations of the Hon'ble Supreme Court in K.C. Sareen vs. C.B.I., Chandigarh, 2001 (6) SCC 584 are to be kept in view:

When a public servant was found guilty of corruption after a judicial adjudicatory process conducted by a court of law, judiciousness demands that he should be treated as corrupt until he is exonerated by a superior court. The mere fact that an appellate or revisional forum has decided to entertain his challenge and to go into the issues and findings made against such public servants once should not even temporarily absolve him from such findings. If such a public servant becomes entitled to hold public office and to continue to do official acts until he is judicially absolved from such findings by reason of suspension of the order of conviction it is public interest which suffers and sometimes even irreparably. When a public servant who is convicted of corruption is allowed to continue to hold public office it impairs the morale of the other persons manning such office, and consequently that would erode the already shrunk confidence of the people in such public institutions besides demoralizing the other honest public servants who would either be the colleagues or subordinates of the convicted person. If

honest public servants are compelled to take orders from proclaimed corrupt officers on account of the suspension of the convicting the fall out would be one of shaking the system itself.

11. Thus action against a convicted Government servant should be taken straight away under Rule 19(1). An appeal against the conviction or even a stay on the sentence will have no effect unless the conviction itself is stayed.
12. In view of the law laid down in various judgements, including the ones quoted above, in cases of serious charges of misconduct particularly involving moral turpitude, the Ministries/Departments should keep the following points in view to take prompt action:
 - i. All incriminating documents should be seized promptly to avoid their tempering or destruction of evidence.
 - ii. Particular care needs to be taken for retention of copies of such documents while handing over the same to an investigating agency. These documents may be attested after comparison with the originals.
 - iii. In case the documents have been filed in a court, certified copies of documents may be obtained.
 - iv. Documents and other evidence must be examined to see whether any misconduct, including favour, harassment, negligence or violation of rules/instructions has been committed. If there is a prima facie evidence of misconduct, charge sheet under the appropriate rule must be issued.
 - v. Court judgements should be promptly acted upon:
 - a. In cases of conviction action is to be taken under Rule 19(i) of the CCS (CCA) Rules, 1965;
 - b. In cases of acquittal also, if the Court has not acquitted the accused honorably, charge sheet may be issued;
 - c. An acquittal on technical grounds or where a benefit of doubt has been given to the accused will have no effect on a penalty imposed under CCS (CCA) Rules, 1965, as while in a criminal trial the charge has to be proved beyond reasonable doubt, in the departmental inquiry the standard of evidence is preponderance of probability.
 - vi. An appeal by the accused against conviction, but where the conviction has not been overturned/stayed, will have no effect on action taken under Rule 19(i) of the CCS (CCA) Rules, 1965, even if Court has directed stay/suspension of the sentence.
13. All Ministries/Departments are requested to bring the above guidelines to the notice of all concerned officials for compliance.
14. Hindi version follow.

(63)

Sub: Restoration of full pension of absorbee pensioners in view of the order dated 1.9.2016 of Hon'ble Supreme Court in Civil Appeal No. 6048/2010 and Civil Appeal No. 6371/2010.

I am directed to forward herewith the following Office Memoranda issued by the Government of Indian for your information, guidance and compliance.

S.No.	Office Memorandum No.	Subject
1.	Gol, MoPG&P, DoP&PW OM No. 4/34/2002-P&PPW(D). Vol.II dated 23.6.2017	Restoration of full pension of absorbee pensioners in view of the order dated 1.9.2016 of Hon'ble Supreme Court in Civil Appeal No. 6048/2010 and Civil Appeal No. 6371/2010.
2.	Gol, MoPPG&P, DoP&PW OM No. 4/34/2002-P&PW(D). Vol.II dated 21.7.2017	

Copy of CSIR letter No. 5-1(336)/2016-PD dated 9/10.10.2017

F.No. 4/34/2002-P&PPW(D). Vol.II dated 23.6.2017 of Government of India, Ministry of Personnel, Public Grievances & Pensions, DoPT.

The undersigned is directed to say that in accordance with the instructions which existed before 31.3.1995, a Government servant, on absorption in a Public Sector Undertaking or an Autonomous Body, had the option to draw pro-rata gratuity and a lump sum amount in lieu of pension. The option regarding payment of lump sum amount in lieu of monthly pension on absorption in a PSUs or autonomous body was available in terms of the instructions issued vide Department of Expenditure's OM No. 26(18)/E.V(B)/75 dated 8.4.1976, Department of Personnel & Training's OM No. 28016/5/85-Estt.(C) dated 31.1.1986 and Department of Pension & Pensioners' Welfare OM No. 4(12)/85-P&PW dated 31.3.1987 and Department of option was also available to Government employees on absorption in PSUs/autonomous bodies of the State Governments employees on absorption in PSU/autonomous bodies of the State Governments and Joint Sector undertakings in terms of this Department's OM No. 4/43/88-P&PW(D) dated 16.10.1989. The terms and conditions for absorption of Government employees consequent on conversion of a Government Department into a PSU or autonomous body issue vide this Department's OM No. 4/18/87-P&PW(D) dated 5.7.1989 also provided for a similar option of lumpsum payment in lieu of monthly pension.

2. In accordance with Rule 37-A of the Central Civil services' (Pension) Rules, 1972, incorporated vide Department of Expenditure's Notification No. 44(1)-E.V/71 dated 9.4.1973, on exercise of the above option, an employee was entitled to a lump sum amount not exceeding the commuted value of one-third of the pension and terminal benefit equal to twice the aforesaid lump-sum amount, subject to the condition that the Government servant surrendered his right of drawing two-third of his pension.

3. The option to draw a lump sum amount in lieu of pension was withdrawn vide this Department's OM No. 4/42/91-P&PW(D) dated 31st March, 1995. Accordingly, the erstwhile Rule 37-A was omitted from the CCS (Pension) Rules, 1972 vide Notification No. 4/42/91-P&PW(D) dated 25.6.1997.
4. In implementation of the Order dated 15.12.1995 of Hon'ble Supreme Court in WP(C) No. 11855/85, instructions were issued vide this Department's OM No. 4/3/86-P&PW(D) dated 30.9.1996 for restoration of one-third commuted portion of pension of Government servants who had drawn lump sum payment on absorption in a PSU/autonomous body. Further instructions were issued, from time to time, for computation and revision of the one-third restored pension of such absorbee pensioners and for payment of the attendant benefits like dearness relief, etc. to such absorbee pensioners. Order for revision of the one-third restored pension w.e.f 1.1.2006 of such absorbee pensioners were issued vide this Department's Om No. 4/38/2008-P&PW(D) dated 15.9.2008, OM No. 4/30/2010-P&PW(D) dated 11/07/2013 and OM No. 4/38/2008-P&PW(D) dated 4.8.2016 . These absorbee pensioners were, however, entitled to dearness relief and age-related additional pension bases on the notional full pension.
5. Hon'ble High Court of Judicature of Madras, in its judgement dated 2.8.2007 in Writ Petition no. 22207/2002 filed by one Shr. K. Ganesan, an officer in the office of Controller General of Accounts, held that surrendering of the right for drawal of 2/3rd of Pension after its commutation, as provided under Rule 37-A(b), was repugnant to Section 12 of the Pensions Act, 1871 and that the petitioner was lawfully entitled for the restoration of his pension after the expiry of the period of commutation of 2/3rd pension. Hon'ble High Court, accordingly, directed restoration of 2/3rd pension and payment of arrears accordingly.
6. An SLP(Civil) No. 4054/2008 (converted into Civil Appeal No. 6048/2010) was filed by the Union of India challenging the aforesaid order dated 2.8.2007 of Hon'ble High Court of Judicature of Madras. In its order dated 1.9.2016, Hon'ble Supreme Court found no justification to interfere with the order dated 2.8.2007 of Hon'ble High Court directing restoration of 2/3rd pension in respect of the respondent (Shri K. Ganesan), after the expiry of the requisite period of commutation. The Civil Appeal No. 6048/2010 was accordingly dismissed by Hon'ble Supreme Court. In the said judgement dated 1.9.2016, similar direction was passed by Hon'ble Supreme Court in the Civil Appeal No. 6371/2010 for restoration of 2/3rd pension in respect of the petitioners, Shri K.L. Dhall, an absorbed employee of Ministry of Civil Aviation and member pensioner of Welfare Association of Central Government Officers, CAD Absorbed in PSU.
7. Review Petitions No. 465/2017 and No. 472/2017 were filed by Union of India in the Supreme Court against the aforesaid order dated 1.9.2016. Instructions were separately issued to the office of Controller General of Accounts and the Ministry of Civil Aviation vide Om No. 4/34/2002-P&PW(D), Vol.II dated 21.12.2016 and OM No. 4/34/2002-P&PW(D).Vol.II dated 21.12.2016 respectively, for implementation of the orders of Hon'ble Supreme Court in respect of the petitioner/respondent pensioners in the aforesaid Civil Appeals, subject to the final outcome of the Review petitions. The

aforesaid Review Petitions No. 465/2017 and No. 472/2017 have been dismissed by Hon'ble Supreme Court on 22.3.2017.

8. The matter has been examined in consultation with the Department of Legal Affairs and the Ministry of Finance (Department of Expenditure). It has been decided to extend the benefit of order dated 2.8.2007 of the Hon'ble Madras High Court and the Order dated 1.9.2016 of the Hon'ble Supreme Court to all similarly placed absorbee pensioners. Accordingly, all such absorbee petitioners who had taken 100% lump-sum amount in lieu of pension on absorption in PSUs/Autonomous Bodies in accordance with the then existing Rule 37-A and in whose case 1/3 pension had been restored after 15 years, may be allowed restoration of full pension after expiry of commutation period of 15 years from the date of payment of 100% lump-sum amount.
9. The absorbee pensioners whose full pension is restored in terms of the above instructions would also be entitled to revision of their pension in accordance with the instructions issued from time to time in implementation of the recommendations of the Pay Commissions, including the 7th Central Pay Commission.
10. In their application to the persons belonging to the Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.
11. Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay & Accounts Officers and Attached & subordinate Offices under them on a top priority basis and for taking necessary action for implementation of the above instructions. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.
12. This issues with the approval of Ministry of Finance (Department of Expenditure) vide their ID Note No. 1(11)/EV/2017 dated 26.5.2017 and dated 13.6.2017.
13. Hindi version will follow.

F.No. 4/34/2002-P&PW(D).Vol.II dated 21.7.2017 of Government of India, Ministry of Personnel, Public Grievances & Pensions, DoPT.

Corrigendum

The undersigned is directed to refer to this Department's OM of even no. dated 23.6.2017 on the above subject. As per the said OM, the benefit of the orders of Hon'ble High Court of Madras dated 2.8.2007 and the Orders of Hon'ble Supreme Court dated 1.9.2016 would be extended to all similarly placed absorbee pensioners. Accordingly the words "absorbee petitioner" in para 8 of the above OM may be read as "absorbee pensioners".

(64)

Sub: Reservation in promotion – treatment of SC/ST candidates promoted on their own merit – reg.

I am directed to refer to CSIR letter No. 5-1(17)/2008-PD dated 19.12.2016 wherein DoPT OM No. 36012/11/2016-Estt. (Res.) dated 30.9.2016 regarding reservation in promotion – treatment of SC/ST candidates promoted on their own merit has been adopted for information, guidance and compliance in CSIR.

In this regard, I am directed to inform you that an ID Note was sent to DoPT vide CSIR ID Note No. 3-3(C)/2016-E.I dated 18.4.2017 there by seeking the following clarification from DoPT:

“...DoPT is requested to kindly clarify as to whether CSIR should proceed further with to consider promotion of SC candidates who are sufficiently higher in seniority list. Should these SC candidates be considered for promotion against unreserved posts because of their being within the vacancy zone and higher in the seniority list or be ignored till such time reserved posts become available for them.”

In response, DoPT vide their ID Note No. 1250710/17/CR dated 4.9.2017 has informed as under:

“...the matter of own merit in reservation in promotion is sub-judice before the Hon’ble Supreme Court of India. The file is being returned to Council of Scientific & Industrial Research. As and when any decision is taken in the matter it would be intimated to all Departments/Ministries.

The above response of DoPT instructions may kindly be brought to the notice of all concerned for information, guidance and compliance.

Hindi version will follow.

Copy of CSIR letter No. 5-1(39)/2008-PD dated 23.11.2017