

Copy of Circular letter No. 111055-(7)-PR-II-61/54 dated 1st January 1962 from Shri Sampuran Singh I.A.S. Secretary to Government, Punjab Chandigarh to all Heads of Depts., etc. to Government, Punjab Subject: Recoveries from Subsistence Allowance.

In supersession of Punjab Government, Finance Department circular letter No. 8741-FR-II-60/8550, dated 6th October, 1960, on the subject indicated above, I am directed to say that the recoveries of overpayments from a Government servant under suspension should not ordinarily be made at a rate greater than one-third of the amount of the subsistence allowance, i.e., exclusive of dearness allowance, if any, admissible to him under rule 72(1)(ii)(a) of the Punjab CSR Vol. I Part I.

(Circulated vide Secretary PSEB Patiala memo. No. 1924571 of 1960 and 77/HOS/Z-156-A dated 26-11-62).

Copy of Circular letter No. 728/8-GS/62-1501 dated 15th January, 1962 from the Chief Secretary to Government, Punjab, to all Heads of Depts. etc.

Subject: Allegations against individual Government Servants in the Press—Action to be taken in the case of Government Servants involved in legal proceedings—Provision for legal and financial assistance.

I am directed to say that Government have for some time past been considering the question of adopting a suitable procedure in regard to the action to be taken in the case of allegations against individual Government Servants in the Press and to provide legal and financial assistance to the Government servant involved in legal proceedings and have decided as follows:—

2. When allegations are made in the Press or by individual against a Government servant in respect of his conduct in the discharge of his public functions, a preliminary confidential enquiry by a

Senior Officer may be ordered by Government, depending on the nature of the case. 3. If such an enquiry leads to the conclusion that the allegations are based on ignorance, insufficient information or even malice, it should be further considered whether, having regard to the nature and circumstances of the case, any action in a Court of Law is necessary to vindicate the conduct of the Government Servant concerned. In some cases, mere publication of the result of the enquiry may not always carry conviction with the public. If it is decided to have resort to a Court of Law, it should also be considered whether Government should themselves initiate proceedings in a Court of Law against the party which made the allegations or whether the Government Servant should be required to initiate such proceedings. If on the other hand, it is considered as a result of the enquiry that there are reasonable grounds to doubt the propriety and correctness of the conduct of the Government Servant, or if the enquiry is not conclusive, Government may entrust the case to the Vigilance Department for investigation or order a full departmental enquiry under the Punjab Civil Services Rules, or require the officer to vindicate his conduct by resorting to a Court of Law.

4. In cases where Government decide to initiate Criminal proceedings themselves, the provisions of Section 198-B of the Criminal Procedure Code should be made use of. According to these provisions, the complaint can be filed within six months of the date of the alleged offence, by the Public Prosecutor directly in a Court of Sessions. With the previous sanction of the Government and the case will thereafter be pursued by Government. Where the Government decide to institute civil proceedings, the usual procedure for institution of the civil proceedings by Government may be followed.

5. In cases where the Government Servant is required to vindicate his conduct in a court of law, Government will give financial assistance as laid down in this letter. 6. When a Government Servant desired to institute proceedings

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who not to vindicate his conduct in the course of the discharge of his official duties, he will have to obtain the previous sanction of the Government as required in Rule 23 of the Government Servants' Conduct Rules, 1955.

If Government decide to grant such sanction, no question of reimbursement of any expenses to the Government Servant will arise, but advances may be granted as laid down in the following paragraphs:

7. The appropriate authority for taking decisions in each case will be the Administrative Department concerned who will consult the Finance Department and the Legal Remembrancer to Government, Punjab, where necessary.

8. (a) Proceedings initiated by Government in respect of matters connected with the official duties or position of Government Servant will not give any assistance to a Government Servant for his defence in any proceedings, civil or criminal instituted against him by the State in respect of matters arising out of the or connected with his official duties or his official position. Should, however, the proceedings conclude in favour of the Government Servant, Government will entertain his claim for reimbursement of costs incurred by him for his defence, and if Government are satisfied from the facts and circumstances of the case that the Government Servant was subjected to, or strained of, the proceedings without proper justification, they will consider whether the whole or any reasonable proportion of the expenses incurred by the Government Servant for his defence would be reimbursed to him.

(b) Proceedings in respect of matters not connected with official duties or position of the Government Servant. Government will not give any assistance to a Government Servant or reimburse the expenditure incurred by him in the conduct of proceedings in respect of matters not arising out of or connected with his official duties or his official position, irrespective of whether the proceedings were instituted by a private party against the Government Servant or vice-versa.

(c) Proceedings instituted by a private party against a Government Servant in respect of matters connected with his official duties or position.

(i) If the Government on consideration of the facts and circumstances of the case consider that it will be in the public interest that Government should themselves undertake the defence of the Government Servant in such proceedings and if the Government Servant agrees to such a course, the Government Servant should be required to make a statement in writing as in Annexure "A" and thereafter Government should make arrangements for the conduct of the proceedings, as if the proceedings had been instituted against Government.

(ii) If the Government Servant proposes to conduct his defence in such proceedings himself, the question of reimbursement of reasonable costs incurred by him for his defence may be considered in case the proceedings conclude in his favour in determining the amount or costs to be so reimbursed. Government will consider how far the court has vindicated the acts of the Government Servant. The conclusion of the proceedings in favour of the Government Servant will not by itself justify reimbursement.

To enable the Government Servant to meet the expenses of his defence, Government may sanction at their discretion, an interest free advance not exceeding Rs. 500 or the Government Servant's substantive pay for three months, whichever is greater, after obtaining from the Government Servant a bond in the form reproduced, as Annexure "B". The amount advanced would be subject to adjustment against the amount, if any, to be reimbursed as above.

(d) Proceedings instituted by a Government Servant on his being required by Government to vindicate his official conduct.

A Government Servant may be required to vindicate his

whether costs incurred by the Government Servant in certain circumstances. The question be reimbursed by the Government, and, if so, to what extent, should be left over for consideration in the light of the result of the proceedings. Government may, however, sanction an interest free advance in suitable instalments, of an amount to be determined by the process each case on the execution of a bond by the Government Servant in the form reproduced in Annexure 'B'.

In determining the amount of costs to be reimbursed on the conclusion of the proceedings, the Government will consider to what extent the Court has vindicated the acts of the Government Servant in the proceedings. Conclusion of the proceedings in favour of the Government Servant will not by itself justify reimbursement, but will be a strong consideration in favour of doing so.

(e) Proceedings instituted by a Government Servant *suo motu* with the previous sanction of Government to vindicate his conduct arising out of or connected with his official duties or position.

If a Government Servant resorts to a Court of Law with the previous sanction of Government to vindicate his conduct arising out of or connected with his official duties or position, though not required in the manner indicated in sub-para-c (ii) above, but no part of the expenses incurred by the Government Servant will be reimbursed to him, even if he succeeds in the proceedings.

Clause (d) of article 320 (3) of the Constitution requires consultation with the Public Service Commission on any claim by a Government Servant for the reimbursement of the costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty. In other cases consultation with the Public Service Commission is not obligatory, but it will be open to Government to seek the Commission's advice, if considered necessary. The question whether a case falls under article 320(3) (d)

of the Constitution so as to require consultation with the Commission may at times be difficult to determine. It may be stated generally that the consultation is obligatory in a case where a reasonable connection exists between the act of the Government servant and the discharge of his official duties. The act must bear such relation to the official duties that the Government servant could lay a reasonable but not a pretended or a fanciful claim that he did it in the course of the performance of his duties.

9. The recovery of advance will be made in not less than twelve and not more than twenty four equal instalments, the exact number being determined by the sanctioning authority.

The advance will be debitable to the head "P—Loans and Advances by State Governments Loans to Government servants—M—Other Advances—Advances for legal proceedings" for expenditure connected with the interest-free advances to Government servants involved in legal proceedings.

10. These instructions are being issued with the concurrence of the Finance Department vide their U.O. No. 5447-FGI (DS)-61, dated the 21st December, 1961. I am to request that these instructions may be brought to the notice of all Government servants under your control.

11. The receipt of this letter may please be acknowledged.

(Adopted vide Secretary PSEB Patiala circular endst. No. 64262/925/ENGG-148/D dated 28-8-70)