

No. 1/23/2010-2PR(FD)

From

Addl. Chief Secretary to Government Haryana,
Finance Department, Haryana.

To

1. All the Heads of Departments in Haryana.
2. All the Divisional Commissioners in Haryana.
3. All the Deputy Commissioners/SDOs(Civil) in Haryana.
4. Registrar, Punjab & Haryana High Court.

Dated Chandigarh, the 23th February, 2016.

Subject:- Regarding recovery of excess payments/amount made to Government employees.

Sir,

I am directed to invite your attention to the Finance Department's instruction issued vide U.O. No. 1/23/2010-2PR(FD) dated 06.02.2013 on the subject noted above and to say that the issue of recovery of excess amount from Government employee was considered by the State Government keeping in view the judgment of the Hon'ble Supreme Court of India in case of Col. B.J.Akkara (Retd.) V/s Govt. of India and others [(2006)] 11 SCC 709] and Syed Abdul Qadir and others Vs. State of Bihar & others [(2009) 3 SCC 475].

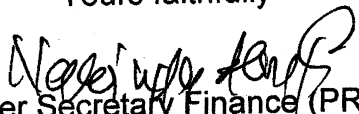
Now, in the Civil Appeal No. 11527 of 2014 State of Punjab and others etc Vs. Rafiq Masih (White Washer) etc., Hon'ble Supreme Court of India has decided that the recovery of excess amount cannot be made in the following cases:-

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.
- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

All the Administrative Secretaries and Head of Departments are requested to take final decision on each case of their department keeping in view the observation of Hon'ble Supreme Court of India. All the court cases pertaining to their department which are still pending for adjudication before the Hon'ble Court may be contested on the basis of these observations.


Copy of this letter is also available on website www.finhry.gov.in which can be downloaded from there.

Yours faithfully


Under Secretary Finance (PR)
for Addl. Chief Secretary to Government Haryana,
Finance Department


Endst. No. 1/23/2010-2PR(FD) Dated, Chandigarh the 23th February, 2016

A copy is forwarded to the Accountant General, Haryana (i) A& E, (ii) (Audit), Chandigarh for information.


Under Secretary Finance (PR)
for Addl. Chief Secretary to Government Haryana,
Finance Department


A copy if forwarded to:-

1. All the Addl. Chief Secretary in Haryana
2. All the Principal Secretary in Haryana
3. All the Commissioners & Administrative Secretaries to Government, Haryana for information & necessary action.
4. Director, information & Public Relations for information & necessary action.


Under Secretary Finance (PR)
for Addl. Chief Secretary to Government Haryana,
Finance Department

~~Endst.~~ No. 1/23/2010-2PR(FD) Dated, Chandigarh the 23th February, 2016

A copy is forwarded to the Principal Secretary to the Chief Minister, Senior Secretaries to Ministers, Secretaries to Minister and Private Secretaries to Ministers/ Ministers of State Chief Parliamentary Secretary and Parliamentary secretary for information of Chief Minister & Ministers of State, Chief Parliamentary Secretary.


Under Secretary Finance (PR)
for Addl. Chief Secretary to Government Haryana,
Finance Department