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Office of the Spl. Director General/Airport Sector
Central Industrial Security Force
(Ministry of Home Affairs)

13 CGO Complex,
Lodhi Road, New Delhi
Dated: 26 March 2013

NO.V-14011/APS/Policy-V2/LS/2012- 2994

1. DIG/AP (NZ), New Delhi
2. DIG/AP (WZ), Mumbai.
3. DIG/AP (E&NE), Kolkata.
4. DIG/AP (SZ), Chennai.
5. DIG/Security, GBS New Delhi.
6. DIG/SSG, Greater Noida, (U.P).
7. DIG, CISF Unit IGI Airport New Delhi.
8. DIG/ASG Mumbai

Subject: - Handling of Court Cases by the CAPFs-Reg:

GOI, MHA vide their letter No.145020/2/2013-Pers.II dated 19.02.2013 has consolidated the instructions on the above matter which had already been issued earlier vide UO dated 02.06.2011 dt.22.09.11 and dt.31.12.2012. Airport Sector HQrs had circulated instructions vide this office letter No.152 dated 07.01.2013 and earlier in compendium. The consolidated instructions of MHA as per UO Note dated 19.02.2013 is enclosed herewith for further action and compliance.

2. MHA has directed to give consolidated information promptly.

- a) In the matter of contempt where Home Secretary or any other Secretary to UOI is a party
- b) Timely filing of C.A without delay.

c) Maintenance of a register for court cases.

3. It is therefore, requested that the following measures may be taken on priority basis.

i) A register of Court cases may be opened in each Zone and Unit headed by DIG having consolidated information of all types of cases with their information and updated status in each case. detailed

ii) If any information/notice is received about any contempt petition it shall be communicated to FHQ and this office by quickest possible means giving brief of the matter and status of the compliance of the Court order against which contempt has been made.

iii) C A must be filed within the time frame given by the Court. If there is any unavoidable delay for filing CA. The CGSC concerned shall be provided brief information within 07 days on the matter with necessary rules/instructions etc. for submission before the Court so as to take sufficient time for filing CA.

sd/xxx 26.03.13

Encl: As above. DY.INSPECTOR GENER//APS

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F.No.I-45020/2/2013-Pers.II
Government of India
Ministry of Home Affairs
Pers.II

North Block, New Delhi

Dated the 19 February, 2013.

Subject : Handling of Court cases by the CAPFs & AR -reg.

All Central Armed Police Forces(BSF/CRPF/CISF/ITBP/SSB) and Assam Rifles Forces have dedicated Law Branches to deal with the legal matters arising out in the Force concerned. The Court cases are defended by the Forces by filing Counter Affidavits after seeking approval of Ministry of Home Affairs and vetting of the Draft Counter Affidavit from Ministry of Law and Justice.

2. However, it has been noticed that at some times the counter affidavits are not filed in time in the Hon'ble Courts and the Court cases are not defended properly by not submitting full facts, rules and the extant instructions before the Hon'ble Courts by the Force or the Counsels concerned. As a result any adverse orders against the interest of the Govt are to be defended/ challenged by filing appeals in the Hon'ble Division Benches or Hon'ble higher Courts which some times also lead to financial loss to the Government exchequer and as well as unproductive involvement of manpower. It has also been noticed that due priority and seriousness is, some time, not accorded to the Contempt cases and the eleventh hour rush leaves the Government with no alternative options to submit any fresh facts before the Hon'ble courts but to implement the directions of the Hon'ble Courts.

3. Detailed instructions have been issued from time to time by this Ministry vide UO No.I-45020/1/2011-Pers.II dated 2.06.2011, OM No.I-45020/1/2011-Pers.II dated 22.09.2011 and UO No.I-45020/9/2012-Pers.II dated 31.12.2012 for handling of the Court cases. The same are being consolidated herewith:-

- (i) The Force will send para-wise comments to the Govt. Counsel within 1 week of receiving the affidavit filed by the petitioner. The Govt. Counsel will send Draft Counter Affidavit(DCA) within another 1 week time to the Force. The Force will send the same to MHA within one week. MHA will process the same and send approval after consulting other Departments within 2 weeks.
- (ii) While preparing the Draft Counter Affidavits(DCA)/para-wise comments in reply to Court cases filed by Force personnel, the following points may carefully be taken care of by the Force concerned before sending the DCA to this Ministry/MoL&J for vetting:

- (a) The Counter Affidavit should contain a paragraph on the main issue of the Court case.

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- (7) (16)
- (b) Factual position given in the Writ Petition/complaint may be checked and certified before preparing the DCA.
 - (c) Correctness of the rule position mentioned may be checked.
 - (d) Whether other Ministries/Departments of Govt. of India viz. DoPT, DoP&PW, Min. of Finance etc. are required to be consulted where the Department proposes to challenge the Court order, may be clearly brought out.
- iii) For all matters relating to Group A Officers in respect of which MHA is the cadre Controlling Authority, the cases/files would continue to be referred to MHA for guidance, action, vetting and necessary permissions etc.
 - iv) For all matter relating to filing of cases/SLPs etc. in the Supreme Court of India, the cases/files would continue to be referred to MHA for guidance, action, vetting and necessary permissions etc.
 - v) All cases involving a policy matter being dealt at the level of MHA or having cascading financial implications would continue to be referred to MHA for guidance, action, vetting and necessary permissions etc.
 - vi) The other Court cases relating to Group B & C officers would be handled by the respective CAPFs at their own level, including vetting of the affidavits/counter affidavits by Ministry of Law and Justice, up to the level of High Court, except in the cases where the CAPFs feel that the matter is important with far reaching administrative or financial implications and it is important to involve MHA for guidance, action, vetting and necessary permissions etc.
 - vii) All affidavits/counter affidavits to be filed in the High Courts and Supreme Court of India would be approved at the level of DG of the CAPF concerned. In other cases the affidavits/counter affidavits should be approved at least at the level of the Inspector General concerned.
 - viii) Since in cases filed by the petitioners (Group B & C personnel of CAPFs), Union of India through Secretary to Government, Ministry of Home Affairs, New Delhi is generally impleaded as respondent (generally respondent No.1), the CAPF concerned shall protect the interest of the Ministry of Home Affairs while filing any affidavit/counter affidavit in such cases.
 - ix) If in any interim/final order/judgment passed by the Hon'ble Courts, any specific observations are made with regard to MHA, the CAPF concerned shall immediately bring the same to the notice of MHA and such cases shall thereon be defended after necessary guidance, vetting and approval of MHA.
 - x) Whenever the CAPF concerned feel it necessary to challenge the judgments passed by the Hon'ble High Court in case of Group B & C personnel of CAPFs in the Hon'ble Supreme Court, the file shall continue to be referred to the MHA after the approval of the DG concerned.
- P. M. J.

(96) (167)

- xi) In all the cases where a Contempt Petition has been filed wherein Union Home Secretary or any other Union Secretary is also a party, the DIG(Law) of the CAPF concerned shall personally apprise the matter to the MHA and follow up the same vigorously so that appropriate action is taken in the matter in time and before the due date specified by the Court, either by way of implementation of the Order or by way of challenging the impugned order/judgment in the higher court
 - (xii) A list indicating status and details of Contempt case alleging Home Secretary/MHA as contemnor be sent to the Directors/ Deputy Secretaries concerned on weekly basis, who shall follow up these cases personally.
 - (xiii) All Directors/ Deputy Secretaries concerned will maintain separate Force-wise Registers for monitoring the status of all the court cases. Such registers may contain all important dates regarding the court cases including the date of filing, the date given by the Hon'ble Court for final CA, the date of filing replies / date of hearing/ arguments and gist of any court order issued, with timelines prescribed, if any. It shall be the responsibility of the Director/ Deputy Secretary concerned to ensure that all the Counter Affidavits are filed in time without delay, after receiving inputs from the Force concerned.
 - (xiv) All Forces concerned would also maintain similar registers and ensure that wherever inputs requested by MHA, the same are sent in the stipulated time without fail. In case of any difficulty/ clarification, the officer concerned of CAPF will directly get in touch with the Director/ Deputy Secretary concerned.
- These instructions would be implemented in letter and spirit.

4. This Issues with the approval of competent authority.

D. Mahur
19.02.2017
(Dinesh Mahur)
Director(Pers)
Telefax: 2309 2933

The Director General,
BSF/CRPF/CISF/ITBP/SSB/AR.

Copy to:

- 1. Dir(PF), MHA.
- 2. DS(Pers-I), MHA.
- 3. Pers.III Section.