

New Delhi, the 24th January, 1994

OFFICE MEMORANDUM

Subject:- Settlement of Disputes between the Government Department and another and one Government Department and a Public Enterprises and Public Enterprises and another.

The undersigned is directed to refer to this Sectt.O.M.No.53/3/6/91-Cab. dated 31st December, 1991 whereby a Committee was constituted to give clearance to the disputes between a Government Department and another and one Government Department and a Public Sector Enterprises and Public Enterprises themselves, before these are agitated in a Court/Tribunal. The Hon. Supreme Court had an occasion to go into the working of the Committee in the Civil Appeal Nos.2058-59/ 1988 (IA Nos. 3 & 4 of 1992) between Oil & Natural Gas Commission Vs. Collector of Central Excise and has further directed vide its Order dated 7-1-1994 as follows:-

- (i) All the pending matters before any Court or Tribunal should also be subject matter of the deliberations of the Committee. All the matters pending as on 7.1.1994 either instituted by the Union of India or any of the Public Sector Undertakings, shall within one month from the said date i.e. 7.1.1994 be referred by the appellant or the petitioner, as the case may be, to the High Power Committee.
- (ii) There should be no bar to the lodgement of an appeal or petition either by the Union of India or by the Public Sector Undertakings before any Court or Tribunal, so as to save limitation. But, before such filing, every endeavour should be made to have the clearance of the Committee. However, as to what the Court or Tribunal should do if such judicial remedies are sought before such a Court or Tribunal, the Supreme Court's Order of 11th October, 1991 clarifies:-

"It shall be the obligation of every High Court and every Tribunal where such a dispute is raised hereafter to demand a clearance from the Committee in case it has not been so pleaded and in the absence of the clearance, the proceeding would not be proceeded with".

- (iii) Wherever appeals/petitions etc., are filed without the clearance of the High Power Committee, so as to save limitation, the appellant or the Petitioner, as the case may be, shall within one month from such filing, refer the matter to the High Power Committee, with prior notice to the designated authority in Cabinet Secretariat (Under Secretary (Coordination)) authorised to receive notices in that behalf. The reference shall be deemed to have been made and become effective only after the notice of the reference is lodged with the Under Secretary (Coordination) in the Cabinet Secretariat. The reference shall be deemed to be valid if made in the case of Union of India by its Secretary, in the Ministry of Finance, Department of Revenue and in the case of Public Sector Undertakings by its Chairman, Managing Director or Chief Executive, as the case may be. It is only after such reference to the Committee is made in the manner indicated that the operation of the order or proceedings under challenge, shall be suspended till the Committee resolves the dispute or gives clearance to the litigation. If the High Power Committee is unable to resolve the matter for reasons to be recorded by it, it shall grant clearance for the litigation.

2. In view of the directions of the Hon. Supreme Court mentioned above, it is requested that the Ministry/Department of Government of India and Public Sector Undertakings should refer the dispute to the Committee in a self-contained note. It is also requested that while forwarding the requisite note (15 copies) to this Secretariat, the note may also be circulated to the Members of the Committee viz., Secretary, Department of Industrial Development, Secretary, Department of Public Enterprises, Secretary, Department of Legal Affairs, Finance Secretary, Secretary of the administrative Ministry/Department of Public Sector Undertakings and Chief Executive of the concerned Public Sector Undertakings viz. Public Sector Undertakings which are parties to the dispute/ or concerned in that matter.

3. The foregoing instructions may be brought to the notice of all concerned for guidance and strict compliance.

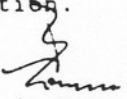

(B.K. Das)

Joint Secretary

To


Secretary, Department of Legal Affairs.
Secretary, Department of Industrial Development.
Finance Secretary.

Secretary, Department of Public Enterprises with the request that immediate instructions may be issued to all Public Sector Enterprises to comply with the Court's direction.


(B.K. Das)

Joint Secretary

All other Secretaries/Additional Secretaries to Government for information and necessary action.


(B.K. Das)

Joint Secretary

Copy to Secretary-General, standing conference of Public Enterprises (Shri M.A. Hakim), SCOPE complex, 7-Lodi Road, New Delhi, with the request to inform all Public Sector Enterprises to comply with Court's direction.


(B.K. Das)

Joint Secretary

250 Copies