

May 1 see the file
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F.No.A-11019/36/89-AT
Government of India,
Department of Personnel & Training

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New Delhi, the 29 August, 1989.

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31-8-89

~~USCAT~~

Subject:-Central Administrative Tribunal - Whether legal opinion of Legal Remembrancer/Law Officer is necessary - Clarification regarding.

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SO(A)
31/8

The undersigned is directed to forward herewith a copy of the Ministry of Law (Deptt. of Legal Affairs) Govt. of India I.D.No.11526/89-Adv.(A) dated 24.7.89 on the subject noted above for information, guidance and compliance to:-

1. All Ministries/Departments of the Govt. of India.
2. Dy. Registrars of all Benches of the Central Administrative Tribunals (As per list attached).
3. Department of Legal Affairs, Ministry of Law & Justice (Judicial Section), New Delhi.
4. Branch Secretariates of the Department of Legal Affairs at Bombay/Calcutta/Madras/Bangalore/Central Agency Section/Lit(UC)/Lit.(SC)/Sections of the Department of Legal Affairs, New Delhi.
5. All Officers and Sections of the Department of Personnel & Trg.
6. All Senior C.G.S.C./Addl. C.G.S.C. Standing Counsals as per list attached.
7. This also clarifies the position with regard to the point raised in Ministry of Defence O.M.No.221/89/D(Lab) dated 24.2.89.

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(Smt. P.V. Valsala G. Kutty)
Under Secretary to the Govt. of India.

Ref. JSCAT to subsec

Pl put up with
notes on subsec
So(A) 4/5
Director

The file is placed below
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USCAT
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I.D. Note No.11526/89-Adv.(A) dated 24.7.89 from
the Department of Legal Affairs.

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Ministry of Law, Department of Legal Affairs is concerned with rendering legal advice to all the ministries, departments, attached/subordinate offices of the Central Govt. When a litigation is initiated in a District Court where it is not possible for the concerned department to obtain urgent advice from the Law Ministry the department used to seek the opinion of the District Govt. Counsel of the State Govt. attached with that Court in urgent matter. Even, in such cases the Deptt. of Legal affairs have to be consulted later on as to the defence of the case.

2. With the establishment of Central Administrative Tribunals these courts and also High Courts have not jurisdiction in service matters. The question of obtaining opinion from DGC of the State Govt. does not arise and, therefore, a legal rememberances as properly decline to give any opinion for defence of the cases before CAT.

3. In most of the service matters the concerned department would have already obtained the opinion of the Legal Affairs Department in the matter at the stage of consideration of the case within the Deptt. Even, if a person goes to CAT the concerned department would have to consult the Deptt. of Legal Affairs for seeking opinion as to the defence of the case. A decision on defining a case should be taken by the concerned department only after obtaining such opinion. If the case is required to be defended the matter would be entrusted to the Standing Counsel attached to the concerned Tribunal unless the department engages another counsel. When a reply in defence is prepared by the Counsel entrusted to the case the same should be shown to Deptt. of Legal Affairs for vetting. If the judgement of CAT goes against the department they should immediately obtain a copy of the judgement and opinion of the Counsel who has handled the case as to whether he would recommend filing a Review petition or a Special Leave Petition indicating the grounds and reasons therefor. A reference should again be made to the Deptt. of Legal Affairs alongwith a copy of the judgement and the opinion of the concerned counsel for advice on the further course of action. While pursuing this course of action the limitation for filing Review application and SLP should invariably kept in mind and action taken by the concerned officer if necessary by personal contacts at all level because if limitation expires for seeking remedies available in law which may cause irreparable damage to Govt.'s interests.

4. Judicial Section/O&M Section may also see before this is sent back to the administrative ministry.

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