

CONFIDENTIAL

38

REGISTERED/SDS
Dte Gen Border Roads
Seema Sadak Bhawan
Ring Road, Delhi Cantt
New Delhi - 110010

17001/P/DGBR/ 38 /E1E

02 Aug 2010

(All Projects)

ORDERS OF COMPETENT FINANCIAL AUTHORITIES ON COURT
OF INQUIRY FOR RECOVERY OF LOSS

1. Please refer to this Dte letter No:-
 - (a) 69546/Policy/DGBR/E1E dated 03 Feb/08 Feb 1989,
 - (b) 17001/P/DGBR/378/E1E dated 06 June 1996 and
 - (c) 17001/P/DGBR/389/E1E dated 03 Dec 1996
2. It is noticed that the directions given vide the above letters have been misconstrued. As a result, different sets of Rules/Acts are applied on the same person for the same offence/charge at various stages of disciplinary action against the defaulting officials.
3. As per para 2 of our letter mentioned at para 1(c) above, it was clarified that the recovery of the loss in part or in full can be affected either in combination with any other disciplinary action or otherwise through trial of the individual by the court martial or summarily. It was further clarified vide para 3 of the same letter that CFA should endorse his order regarding recovery of loss without mentioning any reference to Army Act etc.
4. However, it is seen that Court of Inquiries are being finalized by ordering recoveries from personnel specifically mentioning Army Act Section 90(g) or 91(g) and simultaneously ordering action under Rule 14/16 of CCS (CCA) Rules 1965, which is not correct.
5. Punishments, by applying different sets of Rules and Acts at different stages ie., at the time of finalization of Court of Inquiries for penal recovery and again at the end of completion of Departmental Enquiry proceedings for other major or minor punishments may be construed as double punishment which is not justified and hence may be challenged in the Court of Law.

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6. Recovery of loss is permitted under both the rules i.e., Army Act as well as CCS (CCA) Rules 1965 under the relevant paras which are as under:-

(a) Army Act -

AA Sec 91 (g) read in conjunction with AA Sec 80(i) and AA Sec 94

Or

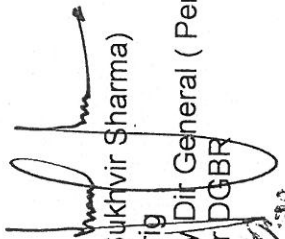
AA Sec 90(g)

Please also ref NOTES under relevant secs in MIML

(b) CCS(CCA) Rule 1965 :-

Rule 11(iii) and G of I instruction No- 9, 22 & 23 below Rule 11 of CCS (CCA) Rule 1965.

7. In view of the above it is advised that due care may be taken at all level to deal with such cases judiciously so that decision of the CFA/ Disciplinary Authority is not challenged in the Court of Law.


(Sukhvir Sharma)
Brig
Dy Dir General (Pers/D&V)
for DGBR
4/1/88
02/8

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