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Government of Orissa
General Administration Department.

Memo No. IM-18/2000. 14596 /Gen., Bhubaneswar, Dtd: 3.5.2001

From: Shri U.N. Behera, IAS,
Special Secretary to Government.

To

All Departments of Government /
All Heads of Department /
All Collectors.

Sub: Starting of Departmental proceedings concurrently with the Criminal Case on the same set of facts in cases where recovery of financial loss to Government is to be made.

Instructions were issued in the erstwhile Political and Services (A.T.) Department letter No. 298-A.T.-P.23/62 dated the 28th August, 1962 to the effect that in the absence of any legal bar, a departmental enquiry can be started or continued when a criminal case is subjudice, on the same set of facts, provided no scope is allowed, to cause any embarrassment to the Court trying the criminal case, as a result of the departmental proceedings. But, it is observed that these instructions are not strictly being followed. Consequently recovery of financial loss caused to the Government by the delinquent Officers can not be made due to non-initiation of departmental proceedings. The Hon'ble Supreme Court of India in Civil Appeal No. 3129 of 1988 (Arising out of S.L.P.(C) No. 10467 of 1987), Dt. 6.9.1988 reported in AIR 1988 Supreme Court 2118 has clarified that there is no legal bar for taking criminal action and disciplinary proceedings simultaneously against the delinquent employee upon the same set of facts with regard to the particulars of individual situation.

Government, therefore, wish to bring to the notice of all concerned that in future while sanctioning prosecution either under Section 197(1) of the Code of Criminal Procedure, 1973 (Act 2 of 1974) for the criminal offences relating to Indian Penal Code and causing financial loss to the Government or under Section-19(i)(b) of the Prevention of Corruption Act, 1988 (Act 49 of 1988) for the offence of criminal mis-conduct committed as outlined in Section 13(i)(c) of Prevention of Corruption Act, 1988 and causing financial loss to the Government, the prosecuting authorities have to invariably send draft charges alongwith

articles of charge, statement of allegations and memo of evidence to the concerned disciplinary authorities under whom the delinquent employee is working for initiating proceedings under rule 15 of the Orissa Civil Services (Classification, Control & Appeal) Rules, 1962 and for serving a copy of the charge-memo on the concerned delinquent employee immediately in order to safe-guard the interest of the Government. It is further clarified that acquittal of delinquent employee in a criminal case does not 'ipsofacto' put a stop to any disciplinary proceeding initiated against him. An Officer acquitted in a criminal case may be found guilty in a departmental enquiry as in the latter, a less rigorous standard of evidence is insisted upon.

The above instructions may please be communicated to sub-ordinate officers under their control for their guidance.

W. B. Chandra
4/5/2001

Special Secretary to Government.

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Copy forwarded to Commissioner-cum-Secretary to Governor/Registrar, Orissa High Court / Director General, Gopabandhu Academy of Administration / Secretary, Orissa Public Service Commission / Registrar, Orissa Administrative Tribunal, Bhubaneswar / Secretary, Orissa Staff Selection Commission / Copy to all Branches of the G.A. Department / Copy to Guard file for information.

W. B. Chandra
4/5/2001

Special Secretary to Government.

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