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No. 9283/Gen.
Government of Orissa
Political and Services Department

(v1)

OFFICE MEMORANDUM

Bhubaneswar, the 23rd June, 1973

Subj:- Government providing legal and financial assistance to Government servants in legal proceedings instituted against them by private party.

1. Attention is invited to the instructions issued in this Department Memorandum No. 13983/Gen., dated 14.11.59 (copy enclosed) regarding the grant of legal and financial assistance to Government servants involved in legal proceedings. In connection with these instructions, the following decisions have been taken and are circulated for information and guidance:-

(i) Where, in a civil suit a Government servant sought to be made liable for damages for acts or negligence in discharge of his official duties of civil nature and Government is impleaded on the ground of vicarious liability, the Government should arrange for the defence of the Government servant also, provided the defence of the Government and the Government servant are substantially the same and there is no conflict of interest. Each case should be examined in consultation with the Law Department before undertaking common defence. If it is decided to arrange for the defence of the Government servant the Government servant should be required to make a statement in writing as in Annexure 'A' of this Department memorandum referred to above.

In case, where the Government servant concerned is involved in civil and criminal prosecution, it is considered essentially necessary for him to furnish a certificate regarding the fact that while discharging his official duties he has not exceeded the limits of his official duties and responsibilities towards the public and also does not bear any personal malice on any account whatsoever. Accordingly it has been decided that while sending proposals to Government for taking up the defence of Government servants in such cases a certificate from a responsible officer to the effect that the Government servant has not exceeded the limit in discharging his duty and it is not tainted with personal malice should always be sent to the Law Department along with other requirements as prescribed in the Political and Services Department memorandum referred to above.

(ii) In cases falling under para 2(d) of memorandum referred to above, the amount of the interest free advance will also not exceed Rs. 500/- or the Government servant's substantive pay for three months whichever is greater.

(iii) The authority competent to sanction the advance under para 2(c)(ii), 2(d) and 2(e) of the above memorandum will be the administrative Department concerned.

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(iv) No second advance in respect of the same proceedings will be admissible. There will, however, be no objection to the grant of advance than one advance if they relate to different proceedings against a Government servant.

(v) The recovery of the advance may be made in not more than twenty five equal monthly instalments, the ^{exact number} ~~exact amount~~ being determined by the sanctioning authority provided the advance is recovered before the date of retirement. The recovery of the advance should commence on the first issue of monthly pay/leave salary subsistence allowance following the month in which the advance is drawn. The advance is recoverable from each issue of monthly pay/leave salary/subsistence allowance till it is repaid in full. At the time of reimbursement of legal expenses, the entire balance of advance outstanding against the Government servant should be recovered from the amount re-imbursed to him. If the amount reimbursed is less than the outstanding dues of the advance, the remaining amount will be recovered in instalments as already fixed. In the case of grant of more than one advance, the recovery of such advances should run concurrently.

(vi) Where advance under the above instructions is sanctioned to a temporary Government servant he should be asked to furnish a surety of a permanent Government servant of equivalent or higher status working under the State Government in the attached form Annexure 'C'.

(vii) The amount of advance sanctioned under the above instructions is debitable to minor head "other advances" subordinate to the Major Head "Loans to Government servants under section 'Demand No. 41-Q-Loans and Advance by State/Union Territories' Governments etc."

(viii) The Administrative Department competent to sanction the advance will furnish estimates to the Finance Department which will control the expenditure.

(ix) The form of the bond at Annexure 'B' to the instructions of the 14th November, 1959, is hereby substituted by the one attached herewith.

2. The above instructions are issued in consultation with the Finance Department and the Law Department.

Sd/- S.N. Palit

Additional Secretary to Government

Memo no. 9284(140)gen. dt. 23rd June 1973
copy forwarded to All Dep'ts of Govt. (including all other branches of P. & S. Deptt) All Heads of Dep'ts. / P.T.O.