

To

Shri Narendra Modi  
 Hon'ble Prime Minister of India  
 152, South Block, Raisina Hill,  
 New Delhi- 110011

Dated: - 23.06.2017

Speed Post

**Most Immediate**

**Sub: -Harassment and inordinate delay by Estt. IV Division of M/o Water Resources, RD & GR in encashment of 157 days of EL, 136 days of HPL and Retirement Gratuity for the service rendered in NWDA from 20.05.2006 (date of joining) to 31.05.2016 (date of superannuation) due to discontinuation of earlier service in parent office (NOVOD Board) on voluntary retirement as per decision of DoPT vide their ID Note dated 23.10.2015.**

Hon'ble Sir,

I am constrained to request your kind honour to kindly intervene and direct the Estt. IV division of MoWR, RD & GR to issue orders for encashment of 157 days of EL, 156 days of HPL and retirement gratuity as the same has been pending since 31.05.2016 for last more than one year. The Estt. IV of MoWR has not been taking any action despite the clear decision of DoPT and the NWDA has been raising irrelevant objections as per following details: -

| <b>Objections raised by NWDA</b>  | <b>Reply</b>  |
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| <p>1. <b>Retirement Gratuity:</b> -<br/>           The NWDA vide their letter no. 3/72/2012-Admn/Vol-IV/11265 dated 05.08.2016 (<b>Enclosure I</b>) regarding payment of gratuity has informed that as per Rule 3 (2) of National Water Development Agency (Death-cum-Retirement Gratuity) Rules, 2012 "the</p> | <p>The Rule 3 (2) of National Water Development Agency (Death-cum-Retirement Gratuity) Rules, 2012 is not applicable in my case and is irrelevant because DoPT vide its ID Note Dy. No. 1036448/CR/2014 dated 26.10.2015 (on F.No. 17/6/2014-Estt.IV of M/o Water Resources) – <b>Enclosure II</b> has already conveyed its decision to MoWR that <b>"since Shri Gupta has availed the retirement pension and pro-rata benefits from his parent organization for the service upto 19.05.2006 which is</b></p> |

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| <p>amount of gratuity received by you from NOVOD Board has to be considered and adjusted before NWDA makes payment of Retirement Gratuity”.</p>   | <p><b>tantamount to discontinuation of his earlier service”</b>. As per this decision of DoPT, my service in NWDA from 20.05.2006 to 31.05.2016 has been treated as fresh and my past service has not been counted for any purpose including MACP, EL encashment, retirement gratuity etc. <b>Because of this decision of DoPT, the NWDA had shifted grant of MACP to me from 01.11.2011 to 20.05.2016 and had recovered Rs. 630000/-</b>. The aforesaid rule is applicable for deputation followed by absorption whereas I had taken <b>voluntary retirement under Rule 56 (K)(i) from NOVOD Board on attaining the age of 50 years and got the retirement benefits till 19.05.2006 before joining NWDA on the post of Director (Finance) w.e.f. 20.05.2006</b>. Therefore, the Rule 3 (2) of National Water Development Agency (Death-cum-Retirement Gratuity) Rules, 2012 is irrelevant and is not applicable in my case. The payment of retirement gratuity for the period 20.05.2006 to 31.05.2016 in NWDA is, therefore, strictly as per rule and as per decision of DoPT and Deptt. of Pensions and Pensioners’ Welfare.</p> |
| <p>2. <b>EL &amp; HPL Encashment:</b> - The NWDA vide its letter no. 3/72/2012-Admn/Vol-IV/1128 dated 19.01.2017 (<b>Enclosure III</b>) had informed that “NWDA is following Central Civil Services (Leave) Rules, 1972 for its employees since inception of NWDA in 1982. As per CCS</p> | <p>As per above mentioned decision of DoPT, my service in NWDA has been treated as fresh from 20.05.2006 to 31.05.2016, the earned leave encashed by NOVOD Board before joining NWDA cannot be reduced by NWDA while encashing EL / HPL for the service rendered in NWDA. The NWDA had however, reduced EL encashment and had allowed only 11 days of EL encashment. This is in contradiction as my past service of NOVOD Board has not been counted in NWDA for any purpose</p>  |

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| <p>(Leave) Rules, 1972, the admissible encashment of earned leave on retirement has already been paid to you by NWDA vide O.O.No. 3/72/2012-Admn/Vol-IV/7730-31 dated 02.06.2016 and subsequent office order of even number dated 05.09.2016”.</p> | <p>including MACP as DoPT had already decided that it is tantamount to discontinuation of past service as mentioned above. Therefore, the decision of NWDA in not encashing 157 days of EL &amp; 136 days of HPL is wrong and is not as per decision of DoPT. The provisions of CCS (Leave) Rules, 1972 are only applicable in such cases where past service has been counted i.e. in cases which are covered by deputation followed by absorption but my case is voluntary retirement and there is no continuity of service. Hence, the NWDA has wrongly applied this rule in my case as it is totally irrelevant. 157 days of EL encashment and 136 days of HPL encashment for the period 20.05.2006 to 31.05.2016 in NWDA is, therefore, strictly as per rule and as per decision of DoPT and Deptt. of Pensions and Pensioners’ Welfare.</p> |
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The DoPT in its ID Note Dy. No. 1036448/CR/2014 dated 23.10.2015 received on file no. 17/6/2014-Estt. IV of M/o Water Resources (**Enclosure II**) had also, under para 7 requested the M/o Water Resources to take up the matter with the Deptt. of Pensions and Pensioners’ Welfare being nodal Department on pension for clarification as to whether service for which pensionary benefit has been availed may be taken into reckoning for other purposes or not. Accordingly, the M/o Water Resources had referred the case to Deptt. of Pensions and Pensioners’ Welfare vide its ID Note No. 17/6/2014-Estt. IV/1947 dated 05.11.2015. The Deptt. of Pensions and Pensioners’ Welfare vide its ID No. 4/2/15- P&PW(D) dated 17.11.2015 (**Enclosure IV**) had advised the M/o Water Resources that **“those who resign from one organization before joining new organization on absorption basis are not entitled to count past service for the purpose of pensionary benefits from the new organization, if they receive pro-rata retirement benefits for the service rendered before absorption”**.

**Further, the DoPT had also advised the M/o Water Resources, RD & GR vide its ID No. 14028/1/2016-Estt (L) dated 15.11.2016 (Enclosure V) to take administrative decision keeping in view the facts and circumstances of the case in consultation with their Integrated Finance Division (IFD).**

Since, Estt. IV division of MoWR has not yet taken any decision even after a lapse of more than 13 months, I am constrained to request your kind honour to kindly intervene and direct the Estt. IV division of MoWR to immediately take a decision and direct NWDA to release arrears on account of encashment of EL, HPL and Retirement Gratuity by implementing the above mentioned decision of DoPT and Deptt. of Pensions and Pensioners' Welfare without any further delay to mitigate my genuine hardship. The NWDA had applied the above decision of DoPT and Deptt. of Pensions and Pensioners' Welfare for recovery of Rs. 630000/- by shifting the date of MACP from 01.11.2011 to 20.05.2016 alone and had not applied the same decision of DoPT and Deptt. of Pensions and Pensioners' Welfare for encashment of EL/HPL and payment of retirement gratuity arbitrarily.

Encl. as Above

Yours faithfully

(M.P. Gupta)

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Copy to: -

Dr. Amarjit Singh, Secretary, M/o Water Resources, RD & GR,  
Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001

To

Dated: - 27.06.2017

The Secretary  
 Ministry of Water Resources, RD & GR  
 Shram Shakti Bhawan, Rafi Marg  
 New Delhi- 110001

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**Most Immediate**

(Kind attention: Shri Arun Kumar, Under Secretary (Estt. IV))

**Sub: - Encashment of 157 days of EL and 136 days of HPL on retirement on superannuation on 31.05.2016 from NWDA as per DoPT Frequently Asked Question issued vide letter No. 21011/08/2013-Estt(AL) dated 25.03.2013**

Sir,

This is in continuation of my representation dated 23.06.2017 & NWDA letter no. 3/72/2012-Admn/Vol-IV/8660-61 dated 19.06.2017. In this context, it is stated that the Ministry of Water Resources, RD & GR (US- Estt. IV) had referred F.No. 17/6/2014-Estt IV to DoPT regarding payment of leave encashment to the undersigned. While referring the file to DoPT, M/o Water Resources had not mentioned that NWDA is following Central Civil Services (Leave) Rules, 1972 for its employees since inception of NWDA in 1982. It is because of this reason that the DoPT vide its ID No. 14028/1/2016-Estt (L) dated 15.11.2016 (**Enclosure I**) could not give concrete advice and had accordingly advised the M/o Water Resources (US – Estt. IV) that Administrative Ministry decision may take administrative decision in consultation with their Integrated Finance Division (IFD).

The NWDA vide its letter no. 3/72/2012-Admn/Vol-IV/1128 dated 19.01.2017 (**Enclosure II**) had informed that “NWDA is following Central Civil Services (Leave) Rules, 1972 for its employees since inception of NWDA in 1982”. Further, the DoPT vide its letter no. 21011/08/2013-Estt(AL) dated 25.03.2013 (**Enclosure III**) under “Frequently asked Questions” had advised as under: -

| <b>Encashment of Earned Leave on joining Central Government from PSUs &amp; vice versa</b> |  |  |
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| <b>Sl.No.</b>  | <b>Frequently asked Questions</b>              | <b>Answer</b>  |
| 1  | Whether earned leave encashment allowed by the | Encashment of EL allowed by the State Governments, Public Sector |

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|   | State Governments, PSUs, Autonomous Bodies to Govt. servant prior to his joining the Central Govt. is to be taken into account while calculating ceiling of leave encashment on his superannuation and retirement from Central Govt.? | Undertakings/Autonomous Bodies for service rendered therein need not be taken into account for calculating the ceiling of 300 days of Earned leave to be encashed as per CCS (Leave) Rules.   |
| 2 | Whether Leave encashment allowed by Govt. under CCS (Leave) Rules, 1972 on absorption in a Central autonomous body/PSU is to be taken into account?   | Encashment of EL allowed by the Govt. under the CCS(Leave) Rules, 1972 for service rendered in the Central Govt. prior to absorption in Central autonomous body shall not be taken into account while calculation the number of days of E.L. encashable in an autonomous body/PSU for the post absorption period. |

The NWDA had allowed only 11 days of EL encashment at the time of superannuation after taking into consideration 289 days of EL encashment allowed by NOVOD Board, Ministry of Agriculture at the time of voluntary retirement under rule 56 K(i) from total 300 days. From the above mentioned DoPT guidelines, it is evident that NWDA should not have taken into consideration 289 days of EL encashment allowed earlier at the time of voluntary retirement by Ministry of Agriculture, my former employer. The above mentioned guidelines of DoPT were also not forwarded by M/o Water Resources while referring my case earlier to DoPT. Hence, the DoPT could not decide appropriately as per rules.

In view of the above, it is for kind consideration that M/o Water Resources may either forward my case again to DoPT along with their above mentioned guidelines (**Enclosure III**) and a copy of NWDA letter dated 19.01.2017 (**Enclosure II**) or may take a decision in consultation with IFD. As per above

mentioned DoPT guidelines, it is crystal clear that NWDA has to allow 157 days of EL encashment and 136 days of HPL encashment and not restrict it to only 11 days of EL encashment.

Encl. as Above

Yours faithfully

(M.P. Gupta)

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