

F. No. 4(1)/2013-DPE(GM)/FTS-1835
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan,
Block No. 14, CGO Complex,
Lodhi Road, New Delhi-110003.
Dated: 22nd May, 2018

OFFICE MEMORANDUM

Subject: Settlement of commercial disputes between Central Public Sector Enterprises (CPSEs) *inter se* and CPSE(s) and Government Department(s)/Organization(s) - Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD).

The undersigned is directed to refer to Department of Public Enterprises guidelines issued vide OM No. 4(1)/2011-DPE (PMA)-GL dated 12.06.2013, No.4(1)2011-DPE(PMA) dated 24.03.2014, No. 4(1)/2011-DPE (PMA) dated 26.03.2014 and No. 4(1)/2013-DPE(PMA)/FTS-1835 dated 11-04-2017 regarding the resolution of commercial disputes between Central Public Sector Enterprises (CPSEs) *inter se* and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments) through PMA (Permanent Machinery of Arbitration) mechanism.

2. To make the mechanism more effective and binding on the disputing parties, a new mechanism namely Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD) having two level (tier) structure has been evolved in consultation with various stakeholders to replace the existing PMA mechanism which stands wound up from the date of issue of this OM.

3. Applicability

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts *inter se* and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways,

Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for its resolution through AMRCD.

4. As per the approved new mechanism to resolve the commercial disputes, the following structure and procedure shall be followed by the concerned disputing parties:

A. Structure:

- i. At the First level (tier), such commercial disputes shall be referred to a Committee comprising of Secretaries of the Administrative Ministries/Departments to which the disputing CPSEs/Parties belong and Secretary-D/o Legal Affairs. The Financial Advisors (FAs) of the two concerned Administrative Ministries/Departments will represent the issues related to the dispute in question before the above Committee. In case the two disputing parties belong to the same Ministry/Department, the above said Committee will comprise Secretary of the administrative Ministry/Department concerned, Secretary-D/o Legal Affairs and Secretary-Department of Public Enterprises. In such a case, the matter may be represented before the Committee by the FA and one Joint Secretary of that Ministry/Department.

Further, in case of a dispute between CPSE and State Government Department/Organization, the above said Committee will comprise the Secretary of the Ministry/Department of the Union to which the CPSE belongs and Secretary-D/o Legal Affairs and a senior officer nominated by the Chief Secretary of the State concerned. In such a case, the matter will be represented before the Committee by the FA of the concerned administrative Ministry/Department and the concerned Principal Secretary of the State Government Department/ Organisation.

- ii. In case the dispute remains unresolved even after consideration by the above Committee, the same will be referred at the Second level (tier) to the Cabinet Secretary, whose decision will be final and binding on all concerned.

B. Procedure:

- i. At the First level(tier), the claiming party(Claimant) will approach the FA of it's administrative Ministry/Department for representing the dispute before the Secretary of it's administrative Ministry/Department. The Secretary of administrative Ministry/Department of claiming party will intimate the same to the Secretary of administrative Ministry/Department of responding party (Respondent) and Secretary-D/o Legal Affairs and thereafter meetings will take place in the administrative Ministry/Department of the claiming party to examine the facts and resolve the dispute on merit. The FAs of the concerned administrative Ministries/Departments will represent the issues related to the dispute in question before the above Committee. After arriving at a decision by the Committee, the Secretary of the administrative Ministry/Department of the claiming party will write down the decision and it will be signed jointly by both the Secretaries and Secretary- D/o Legal Affairs. A copy of the decision will be communicated by the Secretary of the administrative Ministry/Department of the claiming party to each party to the dispute for implementation.

In case where one party (1st party) to the dispute is a Department/Organization of a State Government, the procedure for admitting the dispute will be same as above, however, all meetings in connection with resolution of the dispute will be held in the administrative Ministry/Department (Union) of other party(2nd Party) irrespective of the position of the 1st Party whether as a Claimant or Respondent. The presentation of the issues before the above Committee in this case will be done by the FA of the concerned Administrative Ministry/Department and concerned Principal Secretary of the State Government Department/Organization.

- ii. The Committee of Secretaries at the First level(tier) shall finalise its decision within 3 months after having received the reference/notice in writing regarding the dispute from the concerned aggrieved party.

5. Appeal

Any party aggrieved with the decision of the Committee at the First level (tier) may prefer an appeal before the Cabinet Secretary at the Second level (tier) within 15 days from the date of receipt of decision of the Committee at First level, through it's administrative Ministry/Department, whose decision will be final and binding on all concerned.

6. Arbitration Clause

- (i) The CPSEs will ensure inclusion of a clause in all the existing and future commercial contracts between CPSEs, *inter-se* and CPSEs and Government Departments/Organizations as under:-

"In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018".

- (ii) The on-going contracts shall also be suitably amended accordingly.

7. Disposal of pending cases in PMA

All pending cases with Sole Arbitrator-PMA and Appellate Authority shall stand transferred with immediate effect to concerned administrative Ministries/Departments to be dealt with as per above mentioned laid down mechanism of dispute resolution. All cases in which the hearing has been completed

by Sole Arbitrator, the award will be made by Sole Arbitrator. Appeal if any, made against such cases will lie with the Cabinet Secretary at Second level(tier).

8. All the administrative Ministries/Departments concerned with Central Public Sector Enterprises/ Port Trusts etc. are requested to bring these guidelines to the notice of all CPSEs under their administrative control for strict compliance.

9. This issues with the approval of the Competent Authority.


22/05/2018
(J. N. Prasad)
Director
Tel. 24360736

To.

1. Secretary of all Ministries/Departments of the Government of India.
2. Chief Secretary of all the States and Union Territories.

Copy to:

1. Sh. G. S. Yadav, Joint Secretary & Arbitrator-PMA, DPE.
2. Chief Executive of all CPSEs for information and necessary compliance.

Copy forwarded for kind information to:

- (i) The Prime Minister's Office, South Block, New Delhi.
- (ii) The Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
- (iii) PS to the Minister (HI&PE), Udyog Bhawan, New Delhi.
- (iv) Secretary(DPE), CGO Complex, New Delhi
- (v) Secretary (Law), D/o Legal Affairs, Shastri Bhawan, New Delhi.


22/05/2018
(J. N. Prasad)
Director
Tel. 24360736

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Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan,
Block No. 14, CGO Complex,
Lodhi Road, New Delhi-110003.

Dated: 4th July, 2018

OFFICE MEMORANDUM

Subject: Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD).

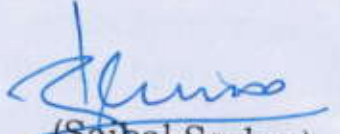
This is in continuation of DPE OM of even no. dated 22nd May 2018 where-in a new mechanism namely AMRCD having two level (tier) structure has been prescribed regarding the resolution of commercial disputes of CPSEs. At the first level, the resolution of dispute is to be done at the level of Secretaries of the Ministries / Departments of the concerned disputing parties and Secretary, Department of Legal Affairs. The appeal for cases remaining unresolved at the first level can be made to the Cabinet Secretary through the concerned administrative Ministry / Department in terms of Para-4, 5 and 7 of DPE OM dated 22-05-2018.

2. However, Cabinet Secretariat vide its ID No. 252/2/1/2011-Cab.III dated 25th June 2018 has brought to the notice of this Department that some CPSEs have been approaching Cabinet Secretariat directly on this subject instead of approaching through their Administrative Ministry / Department as required, under the extant guidelines.

3. AMRCD provides for resolution of disputes between Government agencies at the Ministry / Department in the first instance before appeal is made to Cabinet Secretary.

P.T.O.

4. Accordingly no appeals are to be made to Cabinet Secretary in such matters, including those in which Sole Arbitrator has passed order before the date of notification of AMRCD, unless the resolution of the disputes has been considered at the level of Administrative Ministry / Department as per AMRCD.
5. Further, an appeal to Cabinet Secretary by the Administrative Ministry / Department of the aggrieved Party should be in the form of a concise self-contained Note which should invariably include the comments / views of the Opposite Party (Respondent) through its Administrative Ministry / Department.
6. All the administrative Ministries/Departments concerned with Central Public Sector Enterprises/ Port Trusts etc. are requested to advice CPSEs under their administrative control accordingly.
7. This issue with the approval of the Competent Authority.



(Saibal Sarkar)
Director
Tel. 24360841

To.

1. Secretary of all Ministries/Departments of the Government of India.
2. Chief Secretary of all the States and Union Territories.

Copy to:

- (i) The Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
- (ii) Secretary (DPE), CGO Complex, New Delhi
- (iii) Secretary (Law), D/o Legal Affairs, Shastri Bhawan, New Delhi.
- (iv) Chief Executive of all CPSEs for information and necessary compliance.
- ✓ (v) CMD, NTPC and CMD, The Shipping Corporation of India along with concern references received.


(Saibal Sarkar)
Director
Tel: 24360841

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Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan,
Block No. 14, CGO Complex,
Lodhi Road, New Delhi-110003.

Dated: 11th July, 2018

OFFICE MEMORANDUM

**Subject: Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD)
- clarification.**

This is in continuation of DPE OM of even no. dated 22nd May 2018 and 4th July 2018 on the above mentioned subject.

2. It is further clarified that appeal in reference to resolution of the commercial dispute of Central Public Sector Enterprises (CPSEs) under proposed new mechanism of AMRCD may be made to Cabinet Secretary only after exhausting the channel of dispute resolution at the level of the Committee of Secretaries of the administrative Ministries/Departments of disputing CPSEs and Secretary D/o Legal Affairs (i.e. first level of dispute resolution under AMRCD). In addition to cases being dealt under newly proposed AMRCD mechanism, this process will also be followed for the cases in which Sole Arbitrator has passed an order and an appeal is being preferred by an aggrieved party.

3. Further, as stated vide OM of even no. dated 04.07.2018, an appeal to Cabinet Secretary by the Administrative Ministry/Department of the aggrieved party should be in the form of a concise self-contained Note which should invariably include the comments/ views of the Opposite Party (Respondent) through its Administrative Ministry/Department.

4. This issues with the approval of the Competent Authority.


(Saibal Sarkar)
Director
Tel. 24360841

To.

1. Secretary of all Ministries/Departments of the Government of India.
2. Chief Secretary of all the States and Union Territories.

P.T.O.

Copy to:

- (i) The Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
- (ii) Secretary (Law), D/o Legal Affairs, Shastri Bhawan, New Delhi.
- (iii) Chief Executive of all CPSEs for information and necessary compliance.


(Saibal Sarkar)
Director