

No. 5(1)/2000-GM
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises

Public Enterprises Bhavan,
Block 14, CGO Complex,
Lodi Road, New Delhi-110003.

Dated the 28th May, 2009

OFFICE MEMORANDUM

Subject : Maintenance and preparation of Annual Performance Appraisal Reports -
communication of all entries for fairness and transparency in public
administration

The undersigned is directed to refer this Department's O.M. of even no. dated 18th October, 2005 regarding performance appraisal of top management incumbents of CPSEs, wherein it has been, inter alia, provided that all adverse entries recorded in the Annual Performance Appraisal (APR) of an officer should be communicated to the concerned officer (para 6 of DPE O.M. dated 18.10.2005)

2. The issue of communication of entries in the APR has been considered by Supreme Court in the case of Shri Dev Dutt Vs. Union of India (Civil Appeal No.7631 of 2002). In their judgement dated 12.5.2008, the Supreme Court has observed that "when the entry is communicated to him the public servant should have a right to make a representation against the entry to the concerned authority, and the concerned authority must decide the representation in a fair manner and within a reasonable period. We also hold that the representation must be decided by an authority higher than the one who gave the entry, otherwise the likelihood is that the representation will be summarily rejected without adequate consideration as it would be an appeal from Caesar to Caesar. All this would be conducive to fairness and transparency in public administration, and would result in fairness to public servants. The State must be a model employer, and must act fairly towards its employees. Only then would good governance be possible." It has been further mentioned in the judgement that the above directions will, inter alia, be applicable to the employees of Public Sector Corporations.

3. In compliance of the above referred judgement of Supreme Court, the Government has issued instructions to the effect that full Annual Performance Appraisal Report (APAR) including the overall grade shall be communicated to the concerned officer. It has also been provided that the concerned officer shall be given the opportunity to make any representation against the entries and final grading given in the report. A copy of the O.M. dated 14.5.2009 issued by Department of Personnel & Training in this regard is enclosed.

4. Keeping in view the directions of the Supreme Court and the decision of the Government to make the Performance Appraisal system more consultative and transparent, it has been decided that the above instructions issued by DOPT shall be made applicable for CPSEs also. Para 6 of the DPE O.M. dated 18.10.2005 will deem to have been amended to that extent.

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5. All Administrative Ministries/Departments are, therefore, requested to take note of the contents of the DOPT O.M. dated 14.5.2009 and ensure all CPSEs under their respective administrative control comply with the provisions of the aforementioned O.M. issued by DOPT.

sd/-
(G Ramachandran)
Director
Tel : 2436-3066

Encl : As above

Secretaries of all Administrative Ministries/Departments
(by name)

Copy to :-

- ✓ (i) Chief Executives of Central Public Sector Enterprises.
- (ii) Secretary, Central Vigilance Commission, Satarkata Bhawan, GPO Complex, Block-A, INA, New Delhi-110023.
- (iii) PSES (Dr. P.S. Behuria, Secretary), CGO Complex, New Delhi
- (iv) DOPT (Shri C.A. Subramanian, Director), North Block, New Delhi

G Ramachandran
(G Ramachandran)
Director

No. 21011/1/2005-Estt (A) (Pt-II)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi, 14th May, 2009

OFFICE MEMORANDUM

Subject:- Maintenance and preparation of Annual Performance Appraisal Reports-
communication of all entries for fairness and transparency in public
administration.

The undersigned is directed to invite the attention of the Ministries/Departments to the existing provisions in regard to preparation and maintenance of Annual Confidential Reports which inter-alia provide that only adverse remarks should be communicated to the officer reported upon for representation, if any. The Supreme Court has held in their judgement dated 12.5.2008 in the case of Dev Dutt vs Union of India (Civil Appeal No.7631 of 2002) that the object of writing the confidential report and making entries is to give an opportunity to the public servant to improve the performance. The 2nd Administrative Reforms Commission in their 10th Report has also recommended that the performance appraisal system for all services be made more consultative and transparent on the lines of the PAR of the All India Services.

2. Keeping in view the above position, the matter regarding communication of entries in the ACRs in the case of civil services under the Government of India has been further reviewed and the undersigned is directed to convey the following decisions of the Government:-

- (i) The existing nomenclature of the Annual Confidential Report will be modified as Annual Performance Assessment Report (APAR).
- (ii) The full APAR including the overall grade and assessment of integrity shall be communicated to the concerned officer after the Report is complete with the remarks of the Reviewing Officer and the Accepting Authority wherever such system is in vogue. Where Government servant has only one supervisory level above him as in the case of personal staff attached to officers, such communication shall be made after the reporting officer has completed the performance assessment.
- (iii) The Section entrusted with the maintenance of APARs after its receipt shall disclose the same to the officer reported upon.
- (iv) The concerned officer shall be given the opportunity to make any representation against the entries and the final grading given in the Report within a period of fifteen days from the date of receipt of the entries in the APAR. The representation shall be restricted to the specific factual observations contained in the report leading to assessment of the officer in terms of attributes, work output etc. While communicating the entries, it shall be made clear that in case no representation is received within the fifteen days, it shall be deemed that he/she has no representation to make. If the concerned APAR Section does not receive any information from the concerned officer on or before fifteen days from the date of disclosure, the APAR will be treated as final.

- (v) The new system of communicating the entries in the APAR shall be made applicable prospectively only with effect from the reporting period 2008-09 which is to be initiated after 1st April 2009.
 - (vi) The competent authority for considering adverse remarks under the existing instructions may consider the representation, if necessary, in consultation with the reporting and/or reviewing officer and shall decide the matter objectively based on the material placed before him within a period of thirty days from the date of receipt of the representation.
 - (vii) The competent authority after due consideration may reject the representation or may accept and modify the APAR accordingly. The decision of the competent authority and the final grading shall be communicated to the officer reported upon within fifteen days of receipt of the decision of the competent authority by the concerned APAR Section.
3. All Ministries/Departments are requested to bring to the notice of all the offices under them for strict implementation of the above instructions.


 (C.A. Subramanian)
 Director

To

All Ministries/Departments of Government of India

Copy to:-

1. Chief Secretaries of All State Governments/U.T.s
2. The President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
4. The Cabinet Secretariat, New Delhi.
5. The Rajya Sabha Secretariat.
6. The Lok Sabha Secretariat.
7. The Comptroller and Auditor General of India, New Delhi.
8. The Union Public Service Commission, New Delhi.

Copy also to:-

- (a) All Attached offices under the Ministry of Personnel, Public Grievances and Pensions.
- (b) Establishment Officer and Secretary, ACC (10 copies).
- (c) All officers and Sections in the Department of Personnel and Training.
- (d) Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi.
- (e) All Staff Members of Departmental Council (JCM).
- (f) All Staff members of the Departmental Council (JCM), Ministry of Personnel, Public Grievances and Pensions.
- (g) NIC (DoP&T) for placing the Office Memorandum on the web-site of DoP&T.
- (h) Hindi Section for Hindi version of the O.M.