

TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LIMITED
(ABSTRACT)

TANGEDCO - Recovery of Wrongful/Excess Payments made to Employees/Pensioners/Family Pensioners - Responsibility and recovery of overpayments consequent upon recent changes in the process - Orders issued by the Government - Adoption in TANGEDCO - Orders - Issued.

(SECRETARIAT BRANCH)

(Per) CMD TANGEDCO PROCEEDINGS No.114

Dated the 27th June, 2019.

Vigari Varudam, Aani-12,
Thiruvalluvar Aandu-2050.

READ:

G.O.Ms.No.286, Finance (Pension) Department, dated 28.08.2018.

Based on the orders of Hon'ble Supreme Court, the Government in its G.O. read above, have issued orders to the Administrative Departments of Secretariat, Head of Departments and Head of Offices on dealing with the issue of Wrongful/Excess payments made to Government Servants/Pensioners/Family Pensioners. It has also been ordered that wherever overpayments occur due to wrong attestation of claims/wrong submission of returns by establishment, the irregular payments, be recovered from such establishments. In cases of excess debits by banks/overpayments compared to cheque amounts/payments authorized by disbursing Officers due to reasons not attributable to staff and officers, the irregular amount will be recovered from bank.

2. The Hon'ble Supreme Court while observing that it is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement has summarized the following few situations, wherein recoveries by the employers would be impermissible in law:-

- i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
- ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.
- iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

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3. After careful consideration, it has been decided to adopt the aforesaid Government Order in TANGEDCO. Accordingly, the Secretariat Branch, Administrative Branch, Accounts Branch and other Officers are advised to deal with the issue of wrongful excess payments made to employees/ Pensioners/Family Pensioners of TANGEDCO in accordance with the instructions detailed below:-

- i) In all cases where the excess payments on account of wrong Pay / pension / family pension fixation, grant of scale without due approvals, promotions without following the procedure, or in excess of entitlements etc., come to notice, immediate corrective action must be taken.
- ii) In a case like this where the authorities decide to rectify an incorrect order, **a show-cause notice** may be issued to the concerned Employee / Pensioner / Family Pensioner informing him/her of the decision to rectify the order which has resulted in the overpayment, and intention to recover such excess payments. Reasons for the decision should be clearly conveyed to enable the Employee / Pensioner / Family Pensioner to represent against the same. Speaking orders may thereafter be passed after consideration of the representations, if any, made by the Employee / Pensioner / Family Pensioner.
- iii) Whenever any excess payment has been made on account of fraud, misrepresentation, collusion, favoritism, negligence or, carelessness, etc., roles of those responsible for overpayments in such cases, and the Employees / Pensioners / Family Pensioners who benefitted from such actions should be identified, and departmental/criminal action should be considered in appropriate cases.
- iv) Recovery should be made in all cases of overpayment barring few exceptions of extreme hardships as detailed in para-2 above. No waiver of recovery may be allowed without the approval of Secretary/TANGEDCO.
- v) While ordering recovery, all the circumstances of the case should be taken into account. In appropriate cases, the concerned employee may be allowed to refund the money in suitable installments with the approval of Secretary / TANGEDCO.
- vi) Wherever the relevant rules provide for payment of interest on amounts retained by the employee beyond the stipulated period etc., interest would continue to be recovered from the employee as done hitherto.
- vii) Wherever the waiver of recovery in the above-mentioned situations is considered, the waiver of recovery will be allowed by the authority concerned with the express approval of Secretary/TANGEDCO.
- viii) Wherever overpayments occur due to wrong attestation of claims/wrong submission of returns by establishment, the irregular payments will be recovered from such establishments.

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4. The TANGEDCO also directs that the procedure on recovery of overpaid amounts shall be as follows.-

- (a) Wherever any overpayments are noticed, the action for fixing the responsibility on erring officials be initiated by the pay Drawing Officer concerned immediately.
- (b) Endeavour should be made to recover the overpaid amount from the recipient of the said amount.
- (c) In case the reasons of overpayment are attributable to the Employee / Pensioner / Family Pensioner or the establishment concerned, legal action / other follow up actions be initiated against such member or establishment for recovery of the overpaid amount.
- (d) The recovery of overpayments from the officials will be made only when responsibility of such overpayments are fixed by the Pay Drawing Officer concerned. In these cases also, efforts should be made to recover the amounts from the recipients to the extent possible and permissible under law.

5. The TANGEDCO also directs that the ratio of responsibility in case of overpayments/ Irregular payments shall be as under:-

(1) When Over Payment occurs in such cases where the excess payments on account of wrong pay fixation, grant of scale without due approvals, promotions without following the procedure, the ratio of responsibility will be as under:-

(a) If the overpayment occurs due to reasons solely attributable to Pay Fixation Authority, the ratio of responsibility will be as under:-

(i) **Secretariat Branch :**

(a)	Dealing Assistant Section Officer	65% of the overpaid amount
(b)	Section Officer concerned	35% of the overpaid amount.

(ii) **Administrative Branch :**

(a)	Dealing Assistant	65% of the overpaid amount
(b)	Section Superintendent	35% of the overpaid amount.

(iii) **Audit Branch :**

(a)	Dealing Auditor	65% of the overpaid amount
(b)	Assistant Audit Officer	35% of the overpaid amount.

(iv) **Accounts Branch/Other Offices:**

(a)	Dealing Assistant	65% of the overpaid amount
(b)	Dealing Accounts Supervisor/ Administrative Supervisor	35% of the overpaid amount.

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- (b) If the overpayment occurs due to reasons solely attributable to Bill Passing Authority i.e. Audit Branch, the ratio of responsibility will be as under:-

(a)	Dealing Auditor	50% of the overpaid amount
(b)	Assistant Audit Officer	25% of the overpaid amount.
(c)	Internal Audit Officer	25% of the overpaid amount.

(2) Over Payment occurred in Pension / Family Pension cases

- (a) If the overpayment occurs due to reasons solely attributable to Pension Sanctioning Authority, the ratio of responsibility will be as under:-

(i) **Secretariat Branch :**

(a)	Dealing Assistant Section Officer	65% of the overpaid amount
(b)	Section Officer concerned	35% of the overpaid amount.

(ii) **Administrative Branch :**

(a)	Dealing Assistant	65% of the overpaid amount
(b)	Section Superintendent	35% of the overpaid amount.

(iii) **Audit Branch :**

(a)	Dealing Auditor	65% of the overpaid amount
(b)	Assistant Audit Officer	35% of the overpaid amount.

(iv) **Accounts Branch/Other Offices:**

(a)	Dealing Assistant	65% of the overpaid amount
(b)	Dealing Accounts Supervisor/ Administrative Supervisor	35% of the overpaid amount.

- (b) If the overpayment occurs due to reasons solely attributable to the Pension Disbursing Authority i.e. Chief Internal Audit Officer/Audit Branch, the ratio of responsibility will be as under:-

(i) **Pension Pay Office, Chennai:**

(a)	Dealing Auditor	50% of the overpaid amount
(b)	Assistant Audit Officer	25% of the overpaid amount
(c)	Internal Audit Officer	25% of the overpaid amount

(In the foregoing, overpaid amount shall mean the amount that has been overpaid and is not recoverable from the Employee / Pensioner / Family Pensioner concerned in accordance with the Hon'ble Supreme Court order indicated in para-2 above).

6. The TANGEDCO also directs that the Heads of Offices concerned shall circulate this order among the staff and officers concerned under their control for strict compliance so that

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eventual loss to the TANGEDCO is protected. The staff handling these cases such as dealing Assistant Section Officers/Assistants/Auditors and Section Officers/Superintendents/ Accounts Supervisors/Administrative supervisors/Assistant Audit Officers and Internal Audit Officers, etc. may be advised to be cautious while processing cases, authorizing payments, particularly those that cannot be recovered under the Hon'ble Supreme Court guidelines. Every care must be taken to avoid any excess payment by making staff / officers accountable for such payment.

7. The TANGEDCO also directs that the delay in processing of fixation of Pay/Pension/ Family Pension with due approvals shall be avoided so as to avoid hardship to the Employees/Pensioners/Family Pensioners concerned and also to avoid payment of interest on delayed payment of the entitlements.

8. The receipt of the Proceedings shall be acknowledged.

(BY ORDER OF THE CHAIRMAN-CUM-MANAGING DIRECTOR)

V.CHINNAPPAIYAN
SECRETARY.

To

All Chief Engineers.

All Chief Financial Controllers/TANGEDCO & TANTRANSCO.

The Chief Internal Audit Officer/Audit Branch.

All Superintending Engineers.

Copy to:

The Chairman-cum-Managing Director's Table.

The Joint Managing Director's Table.

The Director General of Police/Vigilance.

All Directors/TANGEDCO & TANTRANSCO.

The Secretary/TANGEDCO/Chennai-2.

The Legal Adviser/TANGEDCO/Chennai-2.



All Officers in Secretariat Branch/TANGEDCO/Chennai-2.

All Senior Personnel Officers/Administrative Branch/Chennai-2.

The Asst.Personnel Officer/Tamil Development – for publication in the Bulletin (2 copies).

All Sections/Secretariat Branch/TANGEDCO/Chennai-2.

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2/7/2019
SECTION OFFICER

4/7/19