

Letter No. TMS(NHP)-25/91-8122/W., dt. 7.4.92 from  
Works Department addressed to the Chief Engineer, Roads &  
others.

Subj:

Provision of escalation clause in PWD contract  
form-payment of escalation charges to the  
Contractor during the extended period.

In supersession of this Department letter  
No. 32557 dated 15.11.86 and memo No. 32558 dt. 15.11.86 on  
the subject noted above I am directed to enclose an extract  
of the views of the Law Department for your future reference  
and guidance.

2. The upshot of the views of the Law Deptt. is  
that giving a no claim certificate for escalation charges on  
any account during the extended period, a contractor forfeits  
his right to any escalation charges otherwise admissible to  
him under the appropriate clause of the agreement executed by  
the contractor with the Government.

Memo No. 8123 dt. 7.4.92.

Copy along with copy of the extract of the views of  
Law Department forwarded to the Irrigation Department/ R.D.  
Department/H & U.D. Department for favour of information and  
necessary action.

Sd/-

FA-cum-Jt. Secretary to Government.

Extract of views of Law Department  
Law Department

U/Section 63 of the Indian Contract Act a promisee  
can dispense with or remit, a promise wholly or in part, the  
performance of the promise made to him, or may extend the time  
for such performance, or any accept instead of it any satisfac-  
tion which he thinks fit. In AIR 1973 SC 281 while interpreting  
section 63 the Supreme Court observed, a promisee can remit  
a promise in part and it is not necessary under the Contract Act  
that such remission should be supported by consideration.

An undertaking given by the Contractor not to  
claim any monetary compensation on any account from the  
department for delay in completion of the work or not to claim  
the benefit of prices escalation during the period of extension  
for the work amounts to remission or waiver u/s 63 of the  
Contract Act and he is, therefore, bound by the terms of that  
undertaking.

Sd/-

March, 12, 1992

L.R.-cum-Addl. Secretary  
Law Department

Government of Orissa  
Rural Development Department

(13)

No. Ac/s-I-RW-47/92. 8511/RD. Dated, the 23/4/92  
From:

Sri Tarachand Panda, OFS(I)  
Financial Adviser-cum-  
Joint Secretary to Government.

To

The Chief Engineer, Rural Works-I & II//  
Chief Engineer, Minor Irrigation//  
Chief Engineer, R.W.S. & Sanitation,  
Orissa, Bhubaneswar.

Subject: Provision of escalation clause in PWD contract  
form - Payment of escalation charges to the  
Contractor during the extended period.

Sir,

In enclosing herewith a copy of the Works Department  
letter No. 8122 dt. 7.4.92 alongwith it's enclosure on the above  
subject I am directed to say that the guide lines contained  
therein be strictly followed.

Any deparature to this will be seriously viewed.

Yours faithfully,

*[Signature]*  
FA-cum-Joint Secretary to Government.

Memo No. 8512/RD., Dated, the 23/4/92

Copy alongwith it's enclosures forwarded to  
Managing Director, Orissa Lift Irrigation Corporation Ltd. for  
information and necessary action.

*[Signature]*  
FA-cum-Joint Secretary to Government.

Memo No. 8513/RD., Dated, the 23/4/92

Copy alongwith it's enclosures forwarded to all  
Superintending Engineers/ ALL Executive Engineer (Except LI Wing)  
under Rural Development Department for information and necessary  
action.

*[Signature]*  
FA-cum-Joint Secretary to Government.

Copy to Guard file  
10 spare copies.

*[Signature]*  
panda/22.4.