

VIGILANCE COMPENDIUM

(Compilation of circulars/documents on non-technical matters of CVC, DoPT, provisions of Indian Penal Code 1860, Prevention of Corruption Act 1988, Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 applicable on public servants)

(Volume - 1 of 2)

October, 2014



NATIONAL FERTILIZERS LIMITED
(A Govt. of India Undertaking)

Prepared by:

VIGILANCE DIVISION
Corporate Office
A-11, SECTOR-24, NOIDA-201301(UP)

From the Desk of C.V.O.

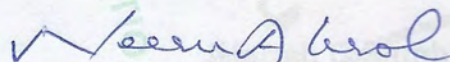
Message

from Chairman & Managing Director

I am glad to see that during 'Vigilance Awareness Week-2014' the Vigilance Division has taken an appreciable initiative to bring out first Compendium on non-technical vigilance related matters consisting relevant Circulars/Guidelines issued by various authorities from time to time.

This will be a major step towards bringing awareness of various vigilance concepts and practices in the organization for good governance. It is a step forward in gaining knowledge to help avoid mistakes in future while discharging duties and will be of great help towards preventive vigilance.

I extend my best wishes to Vigilance Division and compliment their efforts in bringing transparency in the system and taking steps for inculcating the culture of participative vigilance.



(Neeru Abrol)

Chairman & Managing Director

NATIONAL FERTILIZERS LTD. NATIONAL FERTILIZERS LTD. NATIONAL FERTILIZERS LTD.

From the Desk of C.V.O

Vigilance Division of National Fertilizers Limited (NFL), in recent past had consolidated various relevant Circulars/Guidelines issued by Central Vigilance Commission (CVC) on technical matters i.e. Leveraging Technology, Contracts /Purchases and other related matters in the form of a Compendium for ready reference of all concerned.

A need was also felt to consolidate all relevant non-technical vigilance related circulars/documents of CVC, DoPT, provisions of Indian Penal Code 1860, Prevention of Corruption Act 1988, Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 applicable on public servants and others.

I am happy that all these circulars/documents on non-technical matters have also been consolidated in the form of a Compendium. This shall be very useful in bringing awareness to all the officials of NFL.

I hope this Compendium would not only lead to increased efficiency in NFL but would also demystify the subject of vigilance in the minds of employees of NFL.

(Harish C. Singh)
Chief Vigilance Officer

27/1/14

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Chapter-I

Circulars / Guidelines from CVC/DoPT regarding Complaints and Complaints Policy

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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
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98/DSP/9

सं./No.....
25th November, 2014

दिनांक / Dated.....

Circular No. 07/11/2014

Subject: Action on anonymous / pseudonymous complaints.

The Commission had vide its circular Nos. 3(v)/99/2 dated 29th June, 1999 and of even number dated 31st January, 2002 prescribed that no action should be taken on any anonymous or pseudonymous complaints. However, an enabling provision was made subsequently, vide circular of even number dated 11th October, 2002, that if any, verifiable facts contained in such complaints are proposed to be looked into, prior concurrence of the Commission is required to be taken by the departments / organizations.

2. The Commission has reviewed the matter and considering all aspects, would prescribe that no action should be taken on anonymous / pseudonymous complaints by Ministries / Departments / Organisations in line with its earlier instructions dated 29th June, 1999 and 31st January, 2002 and such complaints should be filed. Commission's circular of even number dated 11th October, 2002 stands withdrawn with immediate effect. Accordingly, Para 3.8.1 of Chapter -III of Vigilance Manual (Volume-I – Sixth Edition, 2004) would stand modified to that extent.

(J. Vinod Kumar)
Officer on Special Duty

To

1. All Secretaries in Ministries/Departments to the Government of India
2. All Chief Vigilance Officers in the Ministries / Departments / Public Sector Undertakings / Public Sector Banks / Insurance Companies / Societies and other Local Authorities.

No. 104/76/2011-AVD.I
Government of India
Ministry of Personnel, Public Grievances & Pension
Department of Personnel & Training

New Delhi , the 18th June, 2014.

Office Memorandum

Subject:- Guidelines regarding handling of complaints in Ministries/Departments.

The undersigned is directed to refer to this Department's O.M. of even number dated 18.10.2013 on the above subject and to say that the Ministries/Departments of the Government of India have been seeking clarifications from this Department on operation of the aforesaid O.M. The matter has been considered and it is clarified as under:-

- (i) **'Anonymous complaints'** are such complaints which do not carry both, **name and address** of the complainant and need to be dealt with in terms of para **3 (i)** of the DOP&T O.M. dated 18.10.2013 referred to in para 1 above, irrespective of the nature of allegations.
- (ii) The complaints other than anonymous complaints which contain vague allegations need to be dealt with in terms of para **3 (ii)** of the DOP&T O.M. dated 18.10.2013 referred to in sub- para (i) above.
- (iii) The complaints which contain verifiable allegations and are not anonymous, need to be dealt with in terms of para **3 (iii)** of the DOP&T O.M. dated 18.0.2013 referred to in para 1 above



(G.Srinivasan)

Under Secretary to the Govt. of India

1. All Ministries/Departments as per standard circulation list.
2. Secretary, Central Vigilance Commission, New Delhi.
3. Department of Public Enterprises.
4. All Desks/Sections of DOP&T.
5. Guard File.
6. NIC, DOP&T Cell for placing a copy of this OM on the website of the Ministry.

No.104/76/2011-AVD.I
Government of India
Ministry of Personnel & Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, Dated October 18, 2013

OFFICE MEMORANDUM

Subject:- Guidelines regarding handling of complaints in Ministries/Departments.

The undersigned is directed to say that the instructions regarding dealing with anonymous and pseudonymous complaints as contained in this Department's OM No. 321/4/91-AVD.III, dated 29th September, 1992 and as reiterated vide DOP&T's OM No. 371/38/97-AVD.III, dated 3/11/1997, being at variance with instructions issued by CVC in this regard vide curcular No.3(V)/99/2 dated 29th June, 1999, No. 98/DSP/9, dated 31st January, 2002 and 11th October, 2002, had been receiving the attention of the Government for the past some time.

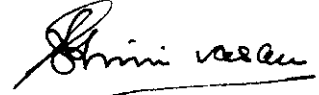
2. The matter was examined afresh in consultation with the Central Vigilance Commission. Subsequent to the Public Interest Disclosure & Protection of Informers' Resolution - 2004 (PIDPI), the Commission has created a mechanism for handling complaints where identity of the complainant is kept secret and the complainant is provided protection. This has been endorsed and operationalized by the Central Government with the approval of the competent authority.

3. In view of the fact that complainants who desire to protect their identity now have the protection of the Public Interest Disclosure & Protection of Informers' Resolution - 2004 (PIDPI), the following procedure is laid down for handling anonymous and pseudonymous complaints, in supersession of instructions contained in DoP&T's OM No. 321/4/91-AVD.III dated 29th September, 1992:

- (i) No action is required to be taken on anonymous complaints, irrespective of the nature of allegations and such complaints need to be simply filed.
- (ii) Complaints containing vague allegations could also be filed without verification of identity of the complainant.

(iii) If a complaint contains verifiable allegations, the administrative Ministry/Department may take cognizance of such complaint with the approval of the competent authority to be designated by the Ministry/Department as per their distribution of work. In such cases, the complaint will be first sent to the complainant for owning/disowning, as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous by the Ministry/Department.

4. Instructions contained in para-3 above would also be applicable (with appropriate competent authority to be designated under para 3 (iii) above) for dealing with complaints against Secretaries to the Government of India or Chief Executives / CMDs / Functional Director of PSEs/PSBs/FIs, which will continue to be referred to the Cabinet Secretariat for placing before the Group of Secretaries headed by the Cabinet Secretary/Secretary (Co-ordination) in the Cabinet Secretariat, as the case may be, as per procedure given in Department's OM No. 104/100/2009-AVD.I, dated 14/1/2010 and DPE's OM No. 15(1)/2010-DPE(GM), dated 11/3/2010, as amended from time to time.



(G. Srinivāsān)

Under Secretary to the Government of India

To,

1. All Ministries/Departments as per standard circulation list
2. Secretary, Central Vigilance Commission
3. Department of Public Enterprises
4. All Desks/Sections of DOP&T
5. Guard File
6. NIC, DOP&T Cell for placing a copy of this OM on the website of the Ministry.

No. 012/VGL/022
CENTRAL VIGILANCE COMMISSION

SATARKTA BHAVAN,
BLOCK-A, GPO COMPLEX,
INA, NEW DELHI-110023

Dated: 29.03.2012

CIRCULAR No.09/03/12

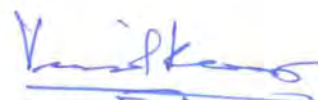
Subject: IT enabled application in CVC for the Core Processes.

Central Vigilance Commission has been working towards leveraging IT for not only simplification of processes but also enhancing interaction with all the stakeholders in the fight against corruption. An IT enabled Application for Complaints processing online has been developed and implemented in the Commission. This Application handles complaints from all sources in electronic form and ensures expeditious disposal.

2. In this process, complaints on which it has been decided to send the same for 'Necessary Action' (NA) are being forwarded to the CVO concerned by the Commission through this Application. Such complaints sent for necessary action would henceforth not be sent in hard copy and will be transmitted electronically. However, the complaints sent for investigation and report to the CVO will continue to be handled/sent by post. In addition, the CVOs can also send the Monthly Reports electronically through this Portal.

3. E-mails and SMS systems are also being integrated by this application for sending alerts to all the CVOs and for status updates to the complainants.

4. All CVOs have to access their accounts with User ID and Passwords, through the CVC portal <http://portal.cvc.gov.in> For any further query/help please contact the following numbers: 011-24657642 & 24651087.



(J.Vinod Kumar)

Officer on Special Duty

All Chief Vigilance Officers of Ministries / Departments / PSUs / Banks / Insurance Companies / Autonomous Organizations / Societies / UTs.

Most Immediate

No.104/100/2009-AVD.1
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

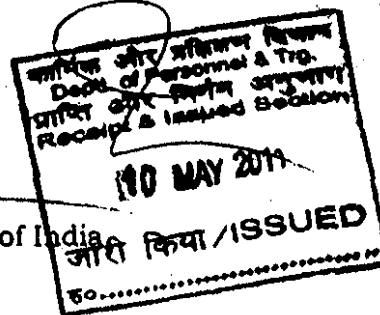
New Delhi, Dated May , 2011

OFFICE MEMORANDUM

Subject:- Complaints against Secretaries to the Government of India - procedure for handling regarding.

The procedure regarding handling complaints against Secretaries to the Government of India, is laid down in this Department's OM of even number dated 14th January, 2010, as amended vide corrigendum dated 8th March, 2010.

2. The proposal to bring within its purview officers empanelled as Secretaries holding equivalent positions, Chairpersons of CBDT, CBEC, autonomous and statutory bodies, in the apex scale of 80,000/- and retired Secretaries, was under consideration of the Government. It has been decided with the approval of the competent authority that complaints against officers who do not hold the post of Secretary, but whose pay-scales are equivalent to that of Secretaries to Government of India (Secretary-equivalent position) and who are functioning under an administrative Ministry/Department (i.e. where there is an administrative superior to such officers) shall be looked into by the concerned Ministry/Department and the matter may be referred to Cabinet Secretariat (Group of Secretaries headed by Cabinet Secretary) only if it merits further action. This procedure can be adopted in the case of those officers who have retired from Secretary-equivalent posts too.



(Dr. S. K. Sarkar)
Additional Secretary
04/05/2011

To,
Secretary to the Government of India
All Ministries/Departments

Copy to:

- (i) Secretary, CVC, (ii) Additional Secretary(S&V), DOP&T,
- (iii) Establishment Officer, DOP&T (iv) Joint Secretary(V), DOP&T,
- (v) Joint Secretary(E), DOP&T (vi) Prime Minister's Office (Dr. Sharmila Mary Joseph K., Deputy Secretary), (vii) Cabinet Secretariat (Shri K.V.S. Rao, Director, Director), (viii) All Desks/Section in AVD & AIS Division of DOP&T, (ix) Guard File.

Copy also to: NIC, DOP&T Cell: with the request that a copy of this OM may be placed on the website of DOP&T.

No. 010/VGL/008
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, I.N.A.,
New Delhi- 110023
Dated the 14th March, 2011

Circular No. 06/03/11


Sub: Complaints against Secretaries to the Government of India and Chief Executives of the Public Sector Enterprises and CMDs of the Public Sector Banks and Financial Institutions.

Attention is invited to DoPT OM No. 104/100/2009-AVD.1 dated 14.01.2010 / 08.03.2010 and DPE OM No. 15(1)/2010-DPE(GM) dated 11.03.2010 / 12.04.2010, constituting Groups under the Chairmanship of Cabinet Secretary and Secretary (Coordination) in the Cabinet Secretariat respectively for handling complaints received against Secretaries to the Government of India and Chief Executives of the Public Sector Enterprises and CMDs of the Public Sector Banks and Financial Institutions. In this connection, the Central Vigilance Commission (CVC) vide circular No. 29/07/10 dated 27/07/2010 had issued a clarification regarding handling complaints in respect of the above mentioned categories of officers received by the CVC and referred to the concerned administrative authorities by CVC.

2. Cabinet Secretariat has brought to the notice of the CVC that in spite of above clarifications issued by CVC, some Ministries/Departments which receive complaints from CVC for taking appropriate action, instead of taking further necessary action at their level continue to forward the same to the Group of Secretaries or Group of Officers for consideration. Cabinet Secretariat has therefore, desired that instructions be issued by CVC to all the Ministries/Departments in this regard.

3. In the light of above, the Commission would like to impress upon all Ministries/Departments of the Government of India that the Central Vigilance Commission has been assigned powers under Section 8(1) of the CVC Act, 2003 (45 of 2003) to inquire or cause an inquiry or investigation to be made into any complaint alleging commission of offences under Prevention of Corruption Act, 1988 against any official belonging to such categories of officials specified in sub-section (2) of ibid section. The categories of officials prescribed are the members of All India Services serving in connection with the affairs of the Union and Group 'A' Officers of the Central Government which would include the Secretaries to the Government of India. Further, the notifications issued by the DoPT under clause (b) of sub-section (2) of Section (8) of the CVC Act, 2003 dated 18.03.2004 and 12.09.2007 prescribing categories/levels of officers in PSUs /Banks etc. includes the Chief Executives and Functional Directors of the Public Sector Enterprises and CMDs and Functional Directors of the Public Sector Banks and Financial Institutions.

4. The Commission would, therefore, make it clear that all complaints referred by the Commission to the Ministries/Departments against the above categories of officials are to be dealt/inquired into and reports submitted to the Commission by the respective authorities to whom the complaints are sent by the Commission and such complaints should not be forwarded or referred to the Group of Secretaries or Group of Officers for consideration. All Ministries/Departments of the Government of India may ensure compliance in this regard.



(J. Vinod Kumar)
Officer on Special Duty

To

**Secretary to the Government of India,
All Ministries/Departments**

Copy to:

- (i) Additional Secretary (S&V), DoPT**
- (ii) Joint Secretary (V), DoPT**
- (iii) Cabinet Secretariat (Shri K.V.S. Rao, Director)**
- (iv) Department of Financial Services**
- (v) Department of Public Enterprises**
- (vi) Chief Vigilance Officers of all Ministries/Departments**

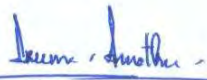
No.010/VGL/008
Central Vigilance Commission

Satarkta Bhawan, GPO Complex,
Block-A, INA, New Delhi
Dated 27th July, 2010

Circular No.29/07/10

Sub: Recent Gol circular setting up Committees to handle complaints against Secretaries etc. – CVC's Clarification.

- Department of Personnel and Training has issued Circular No.104/100/2009-AVD.I dated 14.1.2010 forming a Committee to deal with the complaint against Secretaries to Government of India.
- The Department of Public Enterprise has issued similar circular vide Office Memorandum No.15(1)/2010-DPE(GM) dated 11th March 2010 forming a Committee to deal with the complaint against CMDs, Functional Directors of PSUs and Banks.
- An issue has been raised recently in the Press saying that these circulars:
 - a) dilute the powers of the CVC
 - b) seek to offer a measure of protection to certain class of officers in Government, PSUs and Public Sector Banks
- It is clarified that
 - a) In so far as the complaints received by CVC, the Committee so set up can enquire into complaints referred to the Cabinet Secretary by the CVC.
 - b). It is not incumbent on the part of the CVC to send all complaints against the Officers so classified to the said Committee.
 - c). It has been the practice even before the setting up of the Committees, for the Commission to send complaints against the Secretaries to Government of India to the Cabinet Secretary. Similarly, complaints against CMDs and the Functional Directors of PSUs Banks were sent to the Administrative Ministries concerned.
 - d). The complaints so received from the Commission are to be enquired by the authorities to whom they were sent and report submitted and advice sought from the Commission.


27/7/2010 (Vineet Mathur)
Director

No. 002/VGL/61
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, I.N.A.,
New Delhi- 110023
Dated the 19.05.2010

Office Order No. 20/05/10


Subject: Adherence to time limits for investigation of complaints - reg.

Reference: (i) Commission's office order No. 16/03/04 dated 01.04.2004
(ii) Commission's office order No. 4/2/09 dated 27.02.2009
(iii) Commission's circular No. 9/5/09 dated 12.05.2009

As per provisions contained in Para 4.13.1 of Chapter IV of the Vigilance Manual Volume -I (Sixth Edition - 2004), the Chief Vigilance Officers of Organisations/Departments are required to furnish investigation reports on complaints referred by the Commission for investigation and report within three months of the date of receipt of such references. In so far as PIDPI complaints, the Commission has prescribed a period of one month for submission of investigation reports.

2. The Commission observes that Organisations/Departments do not adhere to the time limits prescribed and there is undue delay in submission of investigation reports. While emphasising the need for strict adherence to the prescribed time limits for furnishing reports, in case, if it is not possible for completing investigations within the specified periods, the Chief Vigilance Officer of the Organisations/Departments concerned should personally look into the matter and send an interim reply/report to the Commission seeking extension of time limit, indicating the progress of investigation and reasons for delay without fail in each complaint case.

3. All CVOs should ensure strict compliance to the above guidelines.


19/5/2010 (Vineet Mathur)
Director

To
All Chief Vigilance Officers.

010/VGL/008
Government of India
Central Vigilance Commission

Satarkata Bhawan,
GPO Complex, Block-A,
INA, New Delhi – 110 023

Dated : 05th May, 2010

Sub : Recent GOI Circular setting up Committees to handle complaints against Secretaries etc – CVC's Clarification.

- * Department of Personnel and Training has issued Circular No. 104/100/2009-AVD.1 dated 14.1.2010 forming a Committee to deal with the complaint against Secretaries to Government of India.
- * The Department of Public Enterprise has issued similar circular vide Office Memorandum No. 15(1)/2010-DPE(GM) dated 11th March 2010 forming a Committee to deal with the complaint against CMDs, Functional Directors of PSUs and Banks.
- * An issue has been raised recently in the Press saying that these Circulars
 - a) dilute the powers of the CVC
 - b) seek to offer a measure of protection to certain class of officers in Government, PSUs and Public Sector Banks.
- * It is clarified that
 - a) The Committee so set up can only enquire into complaints referred to the Cabinet Secretary by the CVC.
 - b) It is not incumbent on the part of the CVC to send all complaints against the officers so classified to the said committee.
 - c) It has been the practice even before the setting up of the Committees, for the Commission to send complaints against the Secretaries to Government of India to the Cabinet Secretary. Similarly, complaints against CMDs and the Functional Directors of PSUs and Banks were sent to the Administrative Ministries concerned.
 - d) The complaints so received from the Commission are to be enquired by the authorities to whom they were sent and report submitted and advice sought from the Commission.

THIS HAS BEEN SUBSTITUTED WITH CIRCULAR No.29/07/10 DATED 27/7/2010

No.104/100/2009-AVD.I
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

—————
New Delhi, Dated March 08, 2010

Corrigendum

Subject:- Complaints against Secretaries to the Government of India –
procedure for handling regarding.

The following are amendments to this Department's O.M. of even number dated 14.1.2010 (copy enclosed):

In Para 3, first sentence:

For "Complaints against Secretaries to the Government of India, whether pseudonymous or otherwise, received by the Cabinet Secretariat or the CVC or the DOPT or the Prime Minister's Office, will be first scrutinised by the group headed by the Cabinet Secretary."

Read "Complaints against Secretaries to the Government of India, whether pseudonymous or otherwise, received by the Cabinet Secretariat or the DOPT or the Prime Minister's Office, will be first scrutinised by the group headed by the Cabinet Secretary."

In Para 5:

For "Since the group constituted will also be looking into the complaints received by the CVC under the CVC Act or the Public Interest Disclosure Resolution, the CVC shall be kept informed at regular intervals about the status of the scrutiny/review undertaken by the group into complaints forwarded by the CVC."
Page 12 of 251

Read "The group constituted will also be looking into the complaints received by the Cabinet Secretary from CVC under the CVC Act or the Public Interest Disclosure Resolution. The CVC shall be kept informed at regular intervals about the status of the scrutiny/review undertaken by the group into complaints forwarded by the CVC."

(Dr. S. K. Sarkar)
Additional Secretary
08/03/2010

To,
Secretary to the Government of India,
All Ministries/Departments

Copy to:

- (i) Secretary, CVC
- ✓ (ii) Additional Secretary(S&V), DOP&T
- (iii) Joint Secretary(V), DOP&T
- (iv) Joint Secretary(E), DOP&T
- (v) Prime Minister's Office (Ms. V. Vidyavathi, Director)
- (vi) Cabinet Secretariat (Ms. Nivedita Shukla Verma, Director)
- (vii) All Desks/Section in AVD & AIS Division of DOP&T
- (viii) Guard File

Copy also to:

NIC, DOP&T Cell: with the request that the above corrigendum may be placed on the website of DOP&T.

No.104/100/2009-AVD.I
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, Dated January 14, 2010

OFFICE MEMORANDUM

Subject:- Complaints against Secretaries to the Government of India – procedure for handling regarding.

The procedure regarding handling complaints against Secretaries to the Government of India, whether pseudonymous or otherwise, has been attracting attention of the Government. It has been observed that under the system presently prevalent, complaints against Secretaries to the Government of India are sent to the Department of Personnel and Training or the administrative Ministries concerned for examination and necessary action. Sometimes frivolous or vague complaints are also given importance meant for grave complaints. It is considered appropriate that complaints against Secretaries to the Government of India are scrutinized carefully and appropriate action taken based on their gravity, seriousness and the nature of the allegations.

2. It has, therefore, been decided to constitute a group, under the Chairmanship of the Cabinet Secretary, to take a view on such complaints. The composition of the group shall be as follows:-

- (i) Cabinet Secretary
- (ii) Secretary to the Prime Minister
- (iii) Secretary (Coordination) in the Cabinet Secretariat
- (iv) Secretary, DOPT, and
- (v) Secretary, CVC

3. Complaints against Secretaries to the Government of India, whether pseudonymous or otherwise, received by the Cabinet Secretariat or the CVC or the DOPT or the Prime Minister's Office, will be first scrutinised by the group headed by the Cabinet Secretary. This group, after reviewing the complaints, would proceed as follows:-

- a) If there is no substance in the complaint or the complaint is frivolous in nature, the group would close the complaint and inform the relevant office from where the complaint was received;

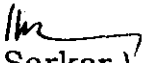
b) In case the preliminary scrutiny of the complaint indicates that there is some substance in it or there are verifiable allegations, the group could do one or more of the following:-

- Seek the comments of the Secretary concerned;
- Call for the concerned file(s);
- Call for the relevant records, including annual property returns, other reports etc.

4. Having received appropriate inputs on the complaints, the group will then proceed in the following manner:-

- In case the records/comments indicate that there is no substance in the complaint, it will be closed.
- If after scrutiny, it is felt that there is some substance in the complaint, a view would have to be taken by the group regarding the nature of the investigation called for and an appropriate recommendation made in this regard.
- Thereafter, the recommendation would be submitted to the Disciplinary Authority, for action as deemed fit.

5. Since the group constituted will also be looking into the complaints received by the CVC under the CVC Act or the Public Interest Disclosure Resolution, the CVC shall be kept informed at regular intervals about the status of the scrutiny/review undertaken by the group into complaints forwarded by the CVC.


(Dr. S. K. Sarkar)
Additional Secretary
14/01/2010

Cabinet Secretary,
Secretary to PM
Secretary (Coordination) in the Cabinet Secretariat
Secretary, DOPT
Secretary, CVC

Copy to:

- (i) Additional Secretary(S&V), DOP&T
- (ii) Joint Secretary(V), DOP&T
- (iii) Prime Minister's Office (Ms. V. Vidyavathi, Director)
- (iv) Cabinet Secretariat (Ms. Nivedita Shukla Verma, Director)
- (v) CVC
- (vi) US(AVD.I), DOP&T

Satarkta Bhawan, Block-A,
GPO Complex, INA,
New Delhi- 110023
Dated the 1st July, 2009

Circular No. 15/07/09

Sub: Access of complaints to the CVOs- Instructions regarding.

Complaints containing information about corruption, malpractice or misconduct by public servants are received in a decentralized manner. CVOs receive complaints, also from many a decentralized location. According to the prevailing practice what is sent to the CVO from different decentralized locations entirely depends on the appreciation of 'vigilance angle' or otherwise by the officers controlling these decentralized locations. In such a system there is every chance that a complaint with a vigilance overtone may not be forwarded to the CVO, due to a lack of appreciation or for other bonafide reasons. This has also been revealed through the vigilance audit by the Commission in some organizations.

2. In order to have uniform practices and procedures in the handling and processing of complaints in an organisation/department, it is imperative that a 'Complaint Handling Policy' is laid down in all organisations/departments for receipt, handling and processing of all types of complaints/grievances from the public, contractors, vendors, suppliers etc. The policy should make it clear that any complaint/grievance received in the organisation/department by any functionary containing any element of alleged corruption, malpractices or misconduct etc., should necessarily be sent to the CVO of the organisation for scrutiny and action. All Departments/Organisations are, therefore, directed to put in place necessary policy and systems in this regard.

3. Para 3.2.2 of Chapter III of Vigilance Manual Volume-I (6th edition) prescribes that the CVO concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation, for collecting intelligence about any malpractice and misconduct among the employees.

4. The Commission is of the view that all CVOs should, on a continuous basis, scrutinize the complaints, grievances etc., received by other divisions/units of the department/organisation concerned and ensure that issues/allegations involving vigilance angle if any, in such complaints are duly forwarded to them to be duly attended to by the Vigilance Department.



(Shalini Darbari)
Director

To

All Chief Vigilance Officers

004/VGL/26
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, INA,
New Delhi- 110023
Dated 12th May, 2009

Circular No. 9/5/09

Subject: Govt. of India Resolution on Public Interest Disclosure and Protection of Informer (PIDPI) - Delay in submission of investigation report on PIDPI complaints- reg.

Please refer to the Commission's Office Order No. 33/5/04 dated 17.05.2004, prescribing the procedure to be followed by CVOs on complaints forwarded by the Commission under PIDPI Resolution, wherein, the Government of India authorised the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. Commission wide Office Order No. 4/2/09 dated 27.02.2009 had recently advised the Ministry/Departments/Organisations to submit their investigation reports on complaints forwarded by the Commission under PIDPI Resolution within a period of one month from the receipt of reference of the Commission.

2. Of late, the Commission has observed inordinate delays beyond the prescribed time limit in submission of investigation reports by the CVOs, of some organisations which is against the spirit of the PIDPI Resolution.

3. The Commission has, therefore, now decided that, henceforth, in all cases of delays beyond the prescribed one month time limit, the exact reasons for delay in investigation/submission of reports should be stated/explained specifically by the CVOs while reporting to the Commission on PIDPI references.

4. All CVOs may note the Commission's above directions for strict compliance.


12/5/09
(Shalini Darbari)
Director

To
All Chief Vigilance Officers

No.004/VGL/26
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 27th February 2009

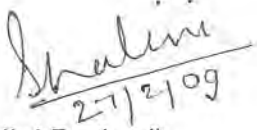
Office Order No.4/2/09

Subject:- Govt. of India Resolution on Public Interest Disclosures & Protection of Informer.

Please refer to the Commission's Office Order No.33/5/2004 dated 17.5.2004 wherein the Government of India authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. CVOs of the Ministries/Depts./Orgns, were required to submit their investigation report on complaints forwarded by the Commission under the PIDPI Resolution within a period of two weeks.

2. The issue regarding submission of investigation reports on PIDPI complaints has been reconsidered in the Commission and taking in view the difficulties being faced by the CVOs in submission of reports, it has now been decided by the Commission to extend the time limit for submission of reports. Henceforth, CVOs would submit the reports within a period of **one month** from the receipt of reference of the Commission.

3. All CVOs should adhere to the Commission's above time limit for strict compliance.


27/2/09
(Shalini Darbari)
Director

All Chief Vigilance Officers

No.005/VGL/031
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 23rd November 2007

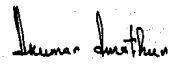
Office Order No.40/11/07

Sub:- Reporting of cases in the monthly report of the CVOs, where sanction for prosecution is to be granted by the competent authority.

The Hon'ble Supreme Court in Vineet Narain Vs Union of India case had directed that "time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any Law Officer in the AG's office". It is observed that the time limit set by the Supreme Court is not being adhered to by the organizations concerned in many a cases.

2. The Commission had decided to modify para 4 of the monthly report and para 8 of the Annular Report to be submitted by the CVOs to the Commission to enable monitoring of delay in grant of sanction for prosecution. Copies of the modified format of para 4 of the Monthly Report and para 8 of Annual Report are enclosed. The complete and modified formats of the Monthly Report and Annual Report are available on the Commission's web-site i.e. <http://cvc.nic.in> in a downloadable forms.

3. All CVOs are directed to forward the data in the revised formats and the details pertaining to officers/officials of all category against whom sanction for prosecution is pending beyond the specified time limit may be attached alongwith the monthly/annual report as a separate annexure.



(Vineet Mathur)
Deputy Secretary

All Chief Vigilance Officers

Monthly Report

Details regarding request for Prosecution sanctions received and disposed

Category	Opening Balance	Received during the month	Total	Sanction granted	Sanction Refused	Balance	Age wise pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

* (details of cases pending for prosecution sanction beyond 3 months to be shown in annexure)

Sl.No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

Annual Report

Details regarding request for Prosecution sanctions received and disposed

Category	Opening Balance	Received during the year	Total	Sanction granted	Sanction Refused	Balance	Age wise pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

* (details of cases pending for prosecution sanction beyond 3 months to be shown in annexure)

Sl.No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

MONTHLY REPORT OF THE CVO

ORGANISATION:

MONTH:

CVO Email ID:

PART A (TO BE GENERATED FROM DCM & MIS)

1. COMPLAINTS (Nos)

Source	Opening Balance	Received during the month	Total	Disposed	Balance	Age wise Pendency(Months)			
						< 1	1-3	3-6	>6
CVC									
OTHERS									

2. ACTION ON THE CVC ADVICE (Nos)

Stage of Advice	Type of Proceedings	Opening Balance	Received during the month	Total	Disposed *	Balance	Age wise pendency(Months)			
							<1	1-3	3-6	>6
I	Major									
	Minor									
II	Major									

3. DEPARTMENTAL INQUIRIES (Nos)

a) UNDER THE CVC JURISDICTION **

Opening Balance	Received during the month	Total	Disposed	Balance	Age wise Pendency(Months)			
					< 6	6-12	12-18	>18

b) OTHERS (Nos) ***

Opening Balance	Received during the month	Total	Disposed	Balance	Age wise Pendency(Months)			
					< 6	6-12	12-18	>18

4. PROSECUTION SANCTIONS

Category	Opening Balance	Received during the month	Total	Sanction granted	Sanction refused	Balance	Age wise Pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

*(details of cases pending for prosecution sanction beyond 3 months to be shown in annexure)

S. No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

5. Age-wise data of disposed departmental proceedings (time taken to conclude the proceedings from the stage of registration of complaint till final disposal) (nos)

Nature of Proceedings	< 3 Months	3-6 Months	6 Months-1year	1-2 year	>2years
Major					
Minor					

6. QUALITATIVE PARAMETERS OF VIGILANCE ADMINISTRATION

a) MAJOR PENALTY PROCEEDINGS

No. of Cases	No. of officials against whom proceedings finalized (out of column 1)	Cut in pension (out of column 2)	Dismissal/ Removal/ Compulsory Retirement	Reduction in Lower time Scale/Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure/ Warning	No action

b) MINOR PENALTY PROCEEDINGS

No. of Cases	No. of officials against whom proceedings finalized	Reduction to lower stage	Postponement /Withholding of Increment	Recovery from pay	With holding of promotion	Censure/ Warning	No action

c) RANK-WISE BREAK UP OF PUNISHMENT AWARDED

Group	No. of Cases	No. of officials against whom proceedings finalized	Cut in pension	Dismissal/ Removal/ Compulsory Retirement	Reduction to lower time scale/ in Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure/ Warning	No action
(1) Group C									
(2) Group B									
(3) Group A up to DS/Dir level									
(4) JS and above									

Note : For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.

7. List of cases where major penalty imposed

Jurisdiction	Sl.No.	Case No.	Name(s) of Charged Officer(s)	Date of issue of Charge sheet	Date of final order	Punishment	Remarks
CVC							
Others							

PART B

(TO BE PREPARED BY THE CVO)

8.a) INVESTIGATION REPORTS SUBMITTED BY THE CVO W.R.T. ALL COMPLAINTS/AUDIT REPORTS INVESTIGATIONS OF WORKS ETC. (Nos)

Upto the end of previous month (from Jan.)	During the Month	Action Recommended on the cases of the Month*			
		Major	Minor	Others	Closure

*This should include information provided on complaints in Col. 1.

b) RANK WISE DETAILS ON ACTION RECOMMEND ABOVE

Rank	Action recommended (No. of officers)				
	Major	Minor	Others	Closure	Total
(1) Group C					
(2) Group B					
(3) Group A up to DS/Dir level					
(4) JS and above					
Total					

Note: For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.

PREVENTIVE VIGILANCE

9. INSPECTIONS CONDUCTED BY THE CVO (Nos) [CTE LIKE INSPECTIONS & OTHERS]

Type	Upto the end of the previous month	During this month	No. resulting in Vig. Cases	Recovery effected (in Rs.)
Periodic				
Surprise				
Major Works				

10. SCRUTINY OF ANNUAL PROPERTY RETURNS

Total No. of APRs	No. scrutinsed up to the end of the previous month	No. scrutinized during the month	Balance	Comments

11. WHETHER FOLLOWING LIST PREPARED

- a) Agreed List
- b) List of Officers of Doubtful Integrity

12. OTHER ACTIVITIES

- a) Training Courses conducted in vigilance awareness
- b) Systems Improvement undertaken
- c) Extent of IT usage and the e-governance
- d) Job Rotation
- e) Whether QPR has been forwarded by CVO [Yes/No]
- f) Whether CTE type inspections conducted by CVO [Yes/No]

13. a) Whether tender put up on web-site [Yes/No]
- b) Whether details of tenders above threshold value are put on web-site subsequent to finalisation of tenders. (Attach details) [Yes/No]

14. REMARKS/COMMENTS ON VIGILANCE MATTERS OF THE ORGANISATION

PLACE:
DATE

SIGNATURE OF THE CVO
NAME OF THE CVO

Criteria of disposal-

- 1) Complaints- Either issue of charge sheet or final decision for closing or dropping the complaint.
- 2) *Action taken in table 2:
 - a) Minor Penalty
 - i) I Stage - Issuing Final Orders
 - b) Major Penalty
 - i) I Stage – Appointment of IO/case dropped by DA
 - ii) II Stage-Issue of Final Orders.

**Departmental inquiries under the CVC jurisdiction would include cases of Group ‘A’ Officers (Government organized services), Board Level Appointees and two levels below Board Level (PSUs) Scale V and above (PSBs and others) and composite cases where one of the Charged Officers is one of the above categories.

***Departmental inquiries - others would include the cases of Group ‘B’ and ‘C’ categories not required to be referred to CVC.

With respect to column 6(c) and 8, the categories (1), (2), (3) and (4) are as follows for Banks & PSUs:-

Category	Banks	PSUs
(1)	Below Scale-III	May give the break-up as per their prevalent scale*
(2)	Scale-III & IV	
(3)	Scale-V and above	Two level below board level
(4)	Board level appointees	Board level appointees

- * (1) relates to Junior Management
(2) relates to Middle Management
(3) relates to Senior Management

ANNUAL REPORT OF VIGILANCE WORK FOR THE YEAR _____

ORGANISATION:

NAME OF THE CVO

E-mail ID:

PART-I

ORGANISATIONAL PROFILE

1. No. of employees
 - a) Group A or equivalent and above
 - b) Others
2. Nature of important activities carried out
3. Nature of Public Dealing Extensive/Moderate/Low/Indirect
4. Vigilance set up
 - a) Whether the CVO is full time or Part time
 - b) No. of Gazetted/executive level in the vigilance wing
 - c) No. of other officials in the Vigilance wing

PART II

ANNUAL PERFORMANCE FOR THE PERIOD TO BE GENERATED FROM THE DCM&MIS

5. COMPLAINTS (Nos)

Source	Opening Balance	Received during the year	Total	Disposed	Balance	Age wise Pendency (Months)			
						< 1	1-3	3-6	>6
CVC									
OTHERS									

6. ACTION ON THE CVC ADVICE (Nos)

Stage of Advice	Type of Proceedings	Opening Balance	Received during the year	Total	Disposed *	Balance	Age wise pendency (Months)			
							<1	1-3	3-6	>6
I	Major									
	Minor									
II	Major									

7. DEPARTMENTAL INQUIRIES (Nos)

a) UNDER THE CVC JURISDICTION

Opening Balance	Received during the year	Total	Disposed	Balance	Age wise Pendency(Months)			
					< 6	6-12	12-18	>18

b) OTHERS (Nos)

Opening Balance	Received during the year	Total	Disposed	Balance	Age wise Pendency (Months)			
					< 6	6-12	12-18	>18

8. PROSECUTION SANCTIONS

Category	Opening Balance	Received during the year	Total	Sanction granted	Sanction refused	Balance	Age wise Pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

*(details of cases pending for prosecution sanction beyond 3 months to be shown in an annexure)

S. No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

9. AGEWISE DATA OF DISPOSED DEPARTMENTAL PROCEEDINGS (time taken to conclude the proceedings from the stage of registration of complaint till final disposal) (Nos)

Nature of Proceedings	< 3 Months	3-6 Months	6 Months-1year	1-2 year	>2years
Major					
Minor					

10. QUALITATIVE PARAMETERS OF VIGILANCE ADMINISTRATION

a) MAJOR PENALTY PROCEEDINGS (Grouping penalty wise)

No. of Cases	No. of officials against whom proceedings finalized	Cut in pension	Dismissal/ Removal/ Compulsory Retirement	Reduction to Lower time Scale/ Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure / Warning	No action

b) MINOR PENALTY PROCEEDINGS (Grouping penalty wise)

No. of Cases	No. of officials against whom proceedings finalized	Reduction to lower stage	Postponement /Withholding of Increment	Recovery from pay	With holding of promotion	Censure/ Warning	No action

c) RANK WISE BREAK UP OF PUNISHMENT AWARDED

Group	No. of Cases	No. of officials against whom proceedings finalized	Cut in pension	Dismissal/ Removal/ Compulsory Retirement	Reduction to lower time scale / in Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure/ Warning	No action
(1) Group C									
(2) Group B									
(3) Group A up to DS/Dir level									
(4) JS and above									

Note : For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.

11. LIST OF CASES WHERE MAJOR PENALTY WAS IMPOSED

Jurisdiction	Sl.No.	Case No.	Name(s) of Charged Officer(s)	Date of issue of Charge sheet	Date of final order	Punishment	Remarks
CVC							
Others							

PART III (TO BE PREPARED BY THE CVO)

12.a) INVESTIGATION REPORTS SUBMITTED BY THE CVO W.R.T. ALL COMPLAINTS/AUDIT REPORTS/ INVESTIGATIONS OF WORKS ETC. (Nos)

Upto the end of previous year	During the Year	Action Recommended on the cases of the Year*			
		Major	Minor	Others	Closure

*This should include information provided on complaints in Col.5.

b) RANK WISE DETAILS ON ACTION RECOMMEND ABOVE

Rank	Action recommended (No. of officers)				
(1) Group C					
(2) Group B					
(3) Group A up to DS/Dir level					
(4) JS and above					
Total					

Note: For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.

13. INSPECTIONS CONDUCTED BY THE CVO (Nos) [CTE LIKE INSPECTIONS]

a) CONTRACTS AND MAJOR PURCHASES

Type	Up to the end of the previous year	During this year	No. resulting in Vig. Cases	Recovery effected (in Rs.)
Periodic				
Surprise				
Major Works				

b) OTHER THAN CONTRACTS AND MAJOR PURCHASES

Type	Up to the end of the previous year	During this year	No. resulting in Vig. Cases	Recovery effected (in Rs.)
Periodic				
Surprise				
Major Works				

14. CASES IN WHICH COMMISSION ADVICE HAS NOT BEEN COMPLIED WITH

Names of officers	IO's findings	CVC 2 nd Stage advice	Final Decision

15. ACTION TAKEN ON CTEs REPORT(IF ANY)

Names of works with date of inspection	No. of paras referred to CVO for action	No of paras in which action taken by CVOs	Paras settled by CTE	No. of paras referred for vigilance investigation with date	Paras pending for disposal	Recovery proposed by CTE	Recovery affected by dept

16. NATURE OF VIGILANCE ACTIVITY

Total No of Departmental Inquiries		No. of inquiries pertaining to core activities of the organization out of col 1		No. of inquiries pertaining to personnel matters out of col 1	
Major	Minor	Major	Minor	Major	Minor

17. ACTION ON APPOINTMENT OF CDIs AS IOs

Opening balance of pending appointment	Nominations received during the year	No. of appointment orders issued	Closing balance		
			<6 months	6m-1yr	>1year

18. DETAILS OF MISCONDUCTS WHERE MAJOR PENALTY WAS IMPOSED

- a) In respect of officers coming within the jurisdiction of CVC
- b) Others

Nature of misconduct	1 st stage advice of CVC	Findings of IO	2 nd stage advice of CVC	Nature of penalty imposed by disciplinary authority

This information is meant to see the consistency in nature of misconduct vis-à-vis penalty imposed by the DA.

PREVENTIVE VIGILANCE

19. SCRUTINY OF ANNUAL PROPERTY RETURNS

Total No. of APRs	No. scrutinsd upto the end of the previous month	No. scrutinized during the month	Balance	Comments

20. WHETHER FOLLOWING LIST PREPARED

- a) Agreed List
- b) List of Officers of Doubtful Integrity

21. OTHER ACTIVITIES

- a) Training Courses conducted in vigilance awareness
- b) Systems Improvement undertaken
- c) Extent of IT usage and the e-governance
- d) Job Rotation
- e) Whether QPR has been furnished by CVO [Yes/No]
- f) Whether CTE type inspections conducted by CVO [Yes/No]
- g) Amount of expenditure in gifts to public/Govt. servants in terms of CVC office order No. 60/9/04 dated 22.9.2004.

22. a) Whether tender put up web-site [Yes/No]
 b) Whether details of tender about threshold value are put on web-site subsequent to finalisation of tenders. [Yes/No]
23. Has computerised file tracking system been introduced.
24. No. of cases in which deptl. Action initiated/punishment awarded for causing delays.
25. Any systems designed to ensure that principle of first come first serve in dealings with public/ others stake holders is followed.
26. No. of cases in which deptl. Action initiated/ punishment awarded for violating sequential approach.
27. Any steps taken to increase transparency in dealing with public /other stake holders.
28. Systems improvement recommended to reduce opportunities for corruption.
29. Remarks/comments on vigilance matters of the organization.

Place
Date

SIGNATURE OF THE CVO
(NAME OF THE CVO)

Criteria of disposal-

- 1) Complaints- Either issue of charge sheet or final decision for closing or dropping the complaint.
- 2) *Action taken in Table-2:
- a) Minor Penalty
1st Stage- Issuing Final Orders
- b) Major Penalty
i) I Stage – Appointment of IO/case dropped by DA
ii) II Stage – Issue of Final Orders

**Departmental inquiries under the CVC jurisdiction would include cases of Group ‘A’ Officers (Government organized services), Board Level Appointees and two levels below Board Level (PSUs) Scale V and above (PSBs and others) and composite cases where one of the Charged Officers is one of the above categories.

***Departmental inquiries - others would include the cases of Group ‘B’ and ‘C’ categories not required to be referred to CVC.

With respect to column 10(c) and 12(b), the categories (1), (2), (3) and (4) are as follows for Banks & PSUs:-

Category	Banks	PSUs
(1)	Below Scale-III	May give the break-up as per their prevalent scale*
(2)	Scale-III & IV	
(3)	Scale-V and above	Two level below board level
(4)	Board level appointees	Board level appointees

- * (1) relates to Junior Management
 (2) relates to Middle Management
 (3) relates to Senior Management

No.007/VGL/013
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 23rd February 2007

Circular No.3/2/07

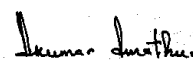
Subject: Investigation of complaints by the CVOs - seizure of records reg.

It has come to the Commission's notice that when a complaint is received by the CVO either from the Commission or from other sources, the time taken by the department for investigating the complaint is unduly long and beyond the time-limit of three months stipulated by the Commission vide its circular No.000/VGL/18 dated 23.5.2000. The main reason cited by the CVOs for the delay is non-availability of records/documents pertaining to that particular complaint/allegation. The Commission vide Para 4.4 (a) of Vigilance Manual, 6th Edition has already issued guidelines stating that "if the allegations contain information which can be verified from any document or file or any other departmental records, the investigating / vigilance officer should, without loss of time, secure such records, etc., for personal inspection. If any of the papers examined is found to contain evidence supporting the allegations, such papers should be taken over by him for retention in his personal custody to guard against the possibility of available evidence being tampered with".

2. The Commission observes that these guidelines are not being adhered to and would therefore reiterate its aforementioned guidelines and direct the CVOs to ensure that all relevant records/documents/files etc. are taken into personal custody by the investigating officer **immediately** on receipt of the reference/complaint for processing the allegations, and finalizing the investigation within the stipulated three months' time-limit prescribed by the Commission.

3. The Commission, exercising its authority as contained in para 8(1)(c&d) and para 11 of CVC Act, 2003, also conducts direct inquiry into complaints through Direct Inquiry Officers as nominated by the Commission. It is directed that as soon as a direct inquiry is ordered by the Commission, the CVOs should immediately seize the relevant records pertaining to the case and produce them before the Direct Inquiry Officers (DIOs) without any delay.

4. The above instructions may be noted for strict compliance.



(Vineet Mathur)
Deputy Secretary

All Chief Vigilance Officers

No.004/VGL/20
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA
New Delhi- 110 023
Dated the 29th April, 2005

OFFICE ORDER NO.25/4/05

Subject: Complaints forwarded by the Administrative Ministries/Departments.

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The CVOs of the Public Sector Corporations and subordinate organizations of the Central Govt. undertake investigations of the complaints having vigilance angles concerning their organizations. These complaints also include complaints forwarded by the administrative Ministries/Departments.

2. It has been observed that quite often in such cases, CVOs furnish a report to the administrative Ministry/Department and the complaint is closed as per the decision of the administrative Ministry/Department. It is clarified that the complaints against officials who are within the purview of the Commission, can be closed only with the approval of the Commission. Accordingly in all such cases, CVOs would endorse a copy of the report being sent to the Ministry, to the Commission also and such complaints will be closed only with the approval of the Commission.

The above instructions may please be noted for strict compliance.

Sd/-
(Mitter Sain)
Deputy Secretary

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/
Autonomous organizations/Societies

Copy for information to:- 1. All Branch Officers/ Section Officers
2. Sr.PPS to CVC, PPS to VC(J)/VC(D)
3. PS to Secretary/AS(B)/AS(G)

No.004/VGL/62
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, I.N.A.,
New Delhi – 110023
Dated, the 31st August 2004

Office Order No. 57/8/04

To

All the CVOs of:

- (i) Public Sector Undertakings
- (ii) Public Sector Banks

Sub: Time limit for investigation for complaints- regarding.

Sir/Madam,

The DOPT in their OM No. 27(12)(EO)/94/ACC dated 30.7.99 regarding guidelines for processing cases of Board level appointments in PSEs have taken cognizance of the fact that there are sometimes spate of complaints against individuals whose names are being considered/finalized by the PESB. It has also come to the notice of the Commission that sometimes when an official is due for promotion, some old complaints are taken cognizance of and investigations started against the official. This matter was also discussed in the meetings to review the performance of the CVOs wherein suggestions for modification in the time period were made.

2. The matter has been considered by the Commission and to avoid unnecessary harassment to the officials, against whom frivolous complaints are received at the time of their promotion/selection the Commission has decided that:

- (a) as a rule, complaints/cases which are more than 5 years old and no action has been taken till then, should not be investigated. However, the limit of 5 years will not apply to cases of fraud and other criminal offences; and
- (b) no cognizance should be taken of any complaint which is received 6 months prior to the initiation of selection process for senior posts.

Yours Faithfully,

Sd/-
(Mange Lal)
Deputy Secretary
Telefax 24651010

No.004/VGL/26
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 17th May, 2004

Office Order No. 33/5/2004

Subject:- Govt. of India Resolution on Public Interest Disclosures & Protection of Informer.

The Government of India has authorised the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

2. A copy of the Public Notice issued by the Central Vigilance Commission with respect to the above mentioned Resolution is enclosed. All CVOs are further required to take the following actions with respect to the complaints forwarded by the Commission under this Resolution:

- (i) All the relevant papers/documents with respect to the matter raised in the complaint should be obtained by the CVO and investigation into the complaint should be commenced immediately. The investigation report should be submitted to the Commission within two weeks.
- (ii) The CVO is to ensure that no punitive action is taken by any concerned Administrative authority against any person on perceived reasons/ suspicion of being "whistle blower."
- (iii) Subsequent to the receipt of Commission's directions to undertake any disciplinary action based on such complaints, the CVO has to follow up and confirm compliance of further action by the DA and keep the Commission informed of delay, if any.
- (iv) Contents of this order may be brought to the notice of Secy./CEO/ CMD.

All CVOs may note the above directions for compliance.

Sd/-
(Sujit Banerjee)
Secretary

To

All Chief Vigilance Officers

Central Vigilance Commission

Press Release:

The Government of India has authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

2. The jurisdiction of the Commission in this regard would be restricted to any employee of the Central Government or of any corporation established by or under any Central Act, government companies, societies or local authorities owned or controlled by the Central Government. **Personnel employed by the State Governments and activities of the State Governments or its Corporations etc. will not come under the purview of the Commission.**

3. In this regard, the Commission, which will accept such complaints, has the responsibility of keeping the identity of the complainant secret. **Hence, it is informed to the general public that any complaint, which is to be made under this resolution should comply with the following aspects.**

- i) The complaint should be in a closed / secured envelope.
- ii) The envelope should be addressed to Secretary, Central Vigilance Commission and should be superscribed "Complaint under The Public Interest Disclosure". If the envelope is not superscribed and closed, it will not be possible for the Commission to protect the complainant under the above resolution and the complaint will be dealt with as per the normal complaint policy of the Commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
- iii) Commission will not entertain anonymous/pseudonymous complaints.
- iv) The text of the complaint should be carefully drafted so as not to give any details or clue as to his/her identity. However, the details of the complaint should be specific and verifiable.
- v) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable, it will take the necessary action, as provided under the Government of India Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.

4. The Commission can also take action against complainants making motivated/vexatious complaints under this Resolution.

5. A copy of detailed notification is available on the web-site of the Commission <http://www.cvc.nic.in>.

Public Notices

GOI Resolution on Public Interest Disclosure and Protection of Informer

The Government of India has authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

2. The jurisdiction of the Commission in this regard would be restricted to any employee of the Central Government or of any corporation established by or under any Central Act, government companies, societies or local authorities owned or controlled by the Central Government. **Personnel employed by the State Governments and activities of the State Governments or its Corporations etc. will not come under the purview of the Commission.**

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- v) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are **advised not to enter into any further correspondence** with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable, it will take the necessary action, as provided under the Government of India Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.

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Issued in Public Interest by the Central Vigilance Commission, INA, Satarkta Bhawan, New Delhi.

**Sd/-
Secretary
Central Vigilance Commission**



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY
भाग I—खण्ड 1
PART I—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 89]
No. 89]

नई दिल्ली, बुधवार, अप्रैल 21, 2004/वैशाख 1, 1926
NEW DELHI, WEDNESDAY, APRIL 21, 2004/VAISHAKHA 1, 1926

कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

संकल्प

नई दिल्ली, 21 अप्रैल, 2004

सं.-371/12/2002-ए.वी.डी.-III.—जबकि सर्वोच्च न्यायालय ने श्री सत्येन्द्र दुबे की हत्या के संबंध में रिट याचिका (सी.) संख्या-559/2003 की सुनवाई करते समय यह इच्छा व्यक्त की कि उपयुक्त विधान के बनाए जाने तक "पर्दाफाशों या भण्डाफोड़ों (विसल ब्लोअर्स)" से प्राप्त शिकायतों पर कार्रवाई किए जाने के लिए उपयुक्त तंत्र व्यवस्था तैयार की जाए।

और जबकि विधि आयोग द्वारा तैयार किए गए लोकहित प्रकटीकरण और मुखबिर संरक्षण विधेयक, 2002 की जांच-पड़ताल चल रही है।

अतः अब, केन्द्र सरकार एतद्वारा निम्नलिखित संकल्प लेती है :—

1. केन्द्रीय सतर्कता आयोग को केन्द्रीय सरकार अथवा किसी केन्द्रीय अधिनियम के द्वारा अथवा इसके अंतर्गत स्थापित किन्हीं निगमों, केन्द्र सरकार के स्वामित्व वाली अथवा इसके द्वारा नियंत्रित सरकारी कम्पनियों, सोसाइटियों अथवा स्थानीय प्राधिकरणों के किसी कर्मचारी पर भ्रष्टाचार के किसी आरोप अथवा पद के दुरुपयोग के सम्बन्ध में लिखित शिकायतें प्राप्त करने अथवा प्रकटीकरण सम्बन्धी दस्तावेज प्राप्त करने के लिए एतद्वारा मनोनीत अभिकरण के रूप में प्राधिकृत किया जाता है। प्रकटीकरण अथवा शिकायत में यथासंभव सभी विवरण होंगे और इसमें समर्थक दस्तावेज अथवा अन्य सामग्री शामिल होगी।

2. मनोनीत अभिकरण यदि ऐसा उचित समझे तो वह प्रकटीकरण करने वाले व्यक्तियों से और जानकारी अथवा विवरण मांगवा सकता है। यदि शिकायत बेनामी है तो मनोनीत अभिकरण इस मामले में कोई कार्रवाई नहीं करेगा।

3. शासकीय गुप्त अधिनियम, 1923 में विहित किसी बात के बावजूद भी संविधान के अनुच्छेद 33 के खण्ड (क) से (घ) में संदर्भित व्यक्तियों से भिन्न कोई लोक सेवक अथवा किसी गैर-सरकारी संगठन सहित कोई अन्य व्यक्ति मनोनीत अभिकरण को लिखित प्रकटीकरण भेज सकता है।

4. यदि शिकायत में शिकायतकर्ता का ब्यौर भी दिया गया है तो मनोनीत अभिकरण निम्नलिखित कदम उठाएगा :—

- मनोनीत अभिकरण शिकायतकर्ता से यह पता लगएगा कि क्या यह वही व्यक्ति है अथवा नहीं है जिसने शिकायत की है।
- शिकायतकर्ता की पहचान उद्घाटित नहीं की जाएगी जब तक कि शिकायतकर्ता ने स्वयं शिकायत का ब्यौर सार्वजनिक न कर दिया हो अथवा किसी अन्य कार्यालय अथवा प्राधिकारी को अपनी पहचान नहीं बता दी हो।

(iii) शिकायतकर्ता की पहचान गुप्त रखने के पश्चात् मनोनीत अभिकरण प्रथमतः यह पता लगाने के लिए विवेकपूर्ण जांच-पड़ताल करेगा कि क्या इस शिकायत पर आगे कार्रवाई करने का कोई आधार बनता है। इस प्रयोजन हेतु मनोनीत अभिकरण एक समुचित तंत्र बनाएगा।

(iv) शिकायत की विवेकपूर्ण जांच-पड़ताल करने के परिणामस्वरूप अथवा बिना जांच-पड़ताल के केवल शिकायत के आधार पर ही यदि मनोनीत अभिकरण का यह मत होता है कि मामले की और जांच-पड़ताल करवाई जानी अपेक्षित है तो मनोनीत अभिकरण सम्बन्धित संगठन अथवा कार्यालय के विभागाध्यक्ष से सरकारी तौर पर उनकी टिप्पणियां/अथवा उनके स्पष्टीकरण मांगेगा। ऐसा करते समय मनोनीत अभिकरण मुखबिर की पहचान प्रकट नहीं करेगा और सम्बन्धित संगठन के अध्यक्ष को यह भी अनुरोध करेगा कि यदि उन्हें किसी कारणवश मुखबिर की पहचान का पता चल जाता है तो वे मुखबिर की पहचान गुप्त रखेंगे।

(v) सम्बन्धित संगठन का उत्तर प्राप्त होने के बाद यदि मनोनीत अभिकरण का यह मत होता है कि अन्वेषण से पद के दुरुपयोग अथवा भ्रष्टाचार के पुख्ता आरोपों का पता चलता है तो मनोनीत अभिकरण सम्बन्धित सरकारी विभाग अथवा संगठन को उपयुक्त कार्रवाई करने की संस्तुति करेगा। इनमें अन्य बातों के साथ-साथ निम्नलिखित शामिल होगा :—

(क) सम्बन्धित सरकारी कर्मचारी के विरुद्ध उपयुक्त कार्यवाहियां शुरू किया जाना।

(ख) भ्रष्टकृत्य अथवा पद के दुरुपयोग जैसी भी स्थिति हो, के परिणामस्वरूप सरकार को हुई हानि का पूर्ति के लिए उपयुक्त प्रशासनिक कदम उठाना।

(ग) मामले के तथ्यों और परिस्थितियों को देखते हुए यदि ऐसा न्यायसंगत हो तो उपयुक्त मामलों में आपराधिक कार्यवाहियां शुरू किए जाने के बारे में उपयुक्त प्राधिकारी/अभिकरण को सिफारिश करना।

(घ) भविष्य में ऐसी घटनाओं की पुनरावृत्ति रोकने के लिए सुधारात्मक उपाय किए जाने की सिफारिश करना।

5. पूर्ण जांच-पड़ताल करने अथवा सम्बन्धित संगठन से जानकारी प्राप्त करने के प्रयोजन से मनोनीत अभिकरण को प्राप्त शिकायत के अनुक्रम में जांच-पड़ताल को पूरी करने में सभी प्रकार की सहायता प्रदान करने के लिए यथावश्यक समझे जाने पर केंद्रीय अन्वेषण ब्यूरो अथवा पुलिस अधिकारियों को सहायता देने के लिए प्राधिकृत किया जाएगा।

6. यदि कोई व्यक्ति किसी कार्रवाई से इस आधार पर व्यथित होवे है कि उसे इस तथ्य के आधार पर पीड़ित किया जा रहा है कि उसने शिकायत दायर की है अथवा प्रकटीकरण किया है तो वह इस मामले के निवारण की प्रार्थना करते हुए मनोनीत अभिकरण के समक्ष एक आवेदन दायर कर सकता है जो यथावश्यक उपयुक्त समझी जाने वाली कार्रवाई करेगा। मनोनीत अभिकरण सम्बन्धित सरकारी सेवक अथवा सरकारी प्राधिकारी को जैसी भी स्थिति हो, उपयुक्त निर्देश दे दे।

7. शिकायतकर्ता के आवेदन पर अथवा एकत्रित की गई जानकारी के आधार पर यदि मनोनीत अभिकरण का यह मत होता है कि शिकायतकर्ता अथवा गवाहों को संरक्षण दिए जाने की आवश्यकता है तो मनोनीत अभिकरण सम्बन्धित सरकारी प्राधिकारियों को उपयुक्त निर्देश जारी करेगा।

8. इस कार्य में प्रयुक्त तंत्र, मौजूदा कार्य तंत्र के अतिरिक्त होगा। तथापि, यदि शिकायत इस तंत्र के अन्तर्गत प्राप्त होती है तो पहचान को गुप्त रखा जाएगा।

9. यदि मनोनीत अभिकरण शिकायत को अभिप्रेरित अथवा कष्टप्रद स्वरूप की पाता है तो मनोनीत अभिकरण उपयुक्त कदम उठाने के लिए स्वतंत्र है।

10. मनोनीत अभिकरण निम्नलिखित स्वरूप के प्रकटीकरण पर कार्रवाई अथवा उसकी जांच-पड़ताल नहीं करेगा :—

(क) ऐसे किसी मामले जिसमें लोक सेवक जांच अधिनियम, 1850 के अन्तर्गत एक औपचारिक और सार्वजनिक जांच का आदेश दे दिया गया हो; अथवा

(ख) ऐसा कोई मामला जिसे जांच आयोग अधिनियम, 1952 के तहत जांच के लिए भेजा गया है।

11. मनोनीत अभिकरण के निर्देशों के विपरीत मुखबिर की पहचान खुदायित हो जाने पर मनोनीत अभिकरण ऐसा प्रकटीकरण करने वाले किसी व्यक्ति अथवा अभिकरण के विरुद्ध मौजूदा विनियमों के अनुसार उपयुक्त कार्रवाई शुरू किए जाने के लिए प्राधिकृत है।

12. इस कार्य हेतु सृजित तंत्र, संसद द्वारा इस विषय में कानून बनाए जाने तक लागू रहेगा।

श्रीमती मंजुलिका गौतम, अपर सचिव

(Department of Personnel and Training)

RESOLUTION

New Delhi, the 21st April, 2004

No. 371/12/2002-AVD-III.—Whereas while hearing Writ Petition (C) No. 539/2003 regarding the murder of Shri Satyendra Dubey, the Supreme Court desired that pending enactment of a suitable legislation, suitable machinery should be put in place for acting on complaints from "whistle-blowers".

And whereas the 'The Public Interest Disclosure and Protection of Informers' Bill, 2002, drafted by the Law Commission is under examination.

Now, therefore, the Central Government hereby resolves as under :

1. The Central Vigilance Commission (CVC) is hereby authorized, as the Designated Agency, to receive written complaints or disclosure on any allegation of corruption or of mis-use of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government. The disclosure or complaint shall contain as full particulars as possible and shall be accompanied by supporting documents or other material.
2. The designated agency may, if it deems fit call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter.
3. Notwithstanding anything contained in the Official Secrets Act, 1923, any public servant other than those referred to clauses (a) to (d) of Article 33 of the Constitution or any other person including any non-governmental organisation, may make a written disclosure to the designated agency.
4. If the complaint is accompanied by particulars of the person making the complaint, the designated agency shall take the following steps :
 - (i) The designated agency will ascertain from the complainant whether he was the person who made the complaint or not.
 - (ii) The identity of the complainant will not be revealed unless the complainant himself has made the details of the complaint either public or disclosed his identity to any other office or authority.
 - (iii) After concealing the identity of the complainant, the designated agency shall make, in the first instance, discreet inquiries to ascertain if there is any basis of proceeding further with the complaint. For this purpose, the designated agency shall devise an appropriate machinery.
 - (iv) Either as a result of the discreet inquiry, or on the basis of the complaint itself without any inquiry, if the designated agency is of the opinion that the matter requires to be investigated further, the designated agency shall officially seek comments/or explanation from the Head of the Department of the concerned organisation or office. While doing so, the designated agency shall not disclose the identity of the informant and also shall request the concerned Head of the organisation to keep the identity of the informant secret, if for any reason, the concerned Head comes to know the identity.
 - (v) After obtaining the response of the concerned organisation, if the designated agency is of the opinion that the investigations reveal either mis-use of office or substantiate allegations of corruption, the designated agency shall recommend appropriate action to the concerned Government Department or Organization. These shall, *inter alia*, include following :
 - (a) Appropriate proceedings to be initiated against the concerned Government servant.
 - (b) Appropriate administrative steps for redressing the loss caused to the Government as a result of the corrupt act or mis-use of office, as the case may be.
 - (c) Recommend to the appropriate authority/agency initiation of criminal proceedings in suitable cases, if warranted by the facts and circumstances of the case.
 - (d) Recommend taking of corrective measures to prevent recurrence of such events in future.

5. For the purpose of making discreet inquiry or obtaining information from the concerned organisation, the designated agency shall be authorized to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.
6. If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency seeking redress in the matter, who shall take such action, as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.
7. Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.
8. The machinery evolved herein shall be in addition to the existing mechanisms in place. However, secrecy of identity shall be observed, only if the complaint is received under this machinery.
9. In case the designated agency finds the complaint to be motivated or vexatious, the designated agency shall be at liberty to take appropriate steps.
10. The designated agency shall not entertain or inquire into any disclosure :
 - (a) in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850; or
 - (b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952.
11. In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorized to initiate appropriate action as per extant regulations against the person or agency making such disclosure.
12. The machinery created herein shall operate till Parliament passes a law on the subject.

SMT. MANJULIKA GAUTAM, Addl. Secy.



भारत का राजपत्र

The Gazette of India

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कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

सूचिपत्र

नई दिल्ली, 29 अप्रैल, 2004

सं. 371/12/2002-ए.बी.डी.-III.—भारत के असाधारण राजपत्र भाग-I, खण्ड 1 में दिनांक 21 अप्रैल, 2004 को प्रकाशित भारत सरकार के संकल्प संख्या 89 का आंशिक संशोधन करते हुए, उक्त संकल्प के प्रारंभिक पैरा तथा पैरा-2 में निम्नलिखित संशोधन किए जाते हैं :

(i) संकल्प के प्रारंभिक पैरा को निम्न प्रकार से प्रतिस्थापित किया जाता है :

“जबकि श्री सत्येन्द्र दुबे की हत्या के सम्बन्ध में रिट चाचिका (सी.) संख्या 539/2003 की सुनवाई करते समय, ‘पर्दाफाशों या भण्डाफोड़ों (विसल ब्लोअर्स)’ से प्राप्त शिकायतों पर कार्रवाई किए जाने के लिए उपयुक्त तंत्र का प्रश्न उठा”।

(ii) संकल्प के अंग्रेजी पाठ के पैरा 2 में शब्द ‘designateed’ (डेजिगनेटीड) को शब्द ‘designated’ (डेजिगनेटिड) से प्रतिस्थापित किया जाता है।

श्रीमती मंजुलिका गौतम, अपर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

CORRIGENDUM

New Delhi, the 29th April, 2004

No. 371/12/2002-AVD.III.—In partial modification of the Government of India’s Resolution No. 89, published in the Gazette of India Part I Section 1, Extraordinary dated 21st April, 2004, the following modifications are made in the opening para and para-2 of the said Resolution :

(i) The opening para of the Resolution is substituted as :

“Whereas while hearing Writ Petition (C) No. 539/2003 regarding the murder of Shri Satyendra Dubey, the question of a suitable machinery for acting on complaints from ‘whistle-blowers’ arose.”

(ii) In para 2 the word “designateed” is substituted as “designated”.

Smt. MANJULIKA GAUTAM, Addl. Secy.

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No.002/VGL/61
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 1st April 2004

Office Order No.16/03/04

To

All Chief Vigilance Officers
The Deputy Secretary (AVD.III), DOPT

Subject: Disposal of complaints.

Reference is invited to the Commission's Office Order No. 53/9/03 dated 23.9.2003 and para 4.2, Chapter 2 of Vigilance Manual Vol.I on the above subject.

2. In case the complaint does not attract vigilance angle, or the issue is of petty nature which could be settled at the level of the department/organisation, the Commission forwards such a complaint to the organisation for **necessary action** at their end, to redress the grievances of the complainant. The action on these complaints is **not required** to be sent to the Commission for further advice until and unless something more serious is brought out during the investigation. The departments/organisations may themselves dispose of and close these complaints after necessary action. The concurrence of Commission for closure of such complaints is not required. The CVOs may close the complaints at their level. However if the complaint is sent for **action and report**, the organisations should submit an investigation report within 3 months of receipt of complaint for obtaining necessary advice of the Commission. It has been observed that there is a long delay in matter of investigation of complaints, the organisations are advised to strictly adhere to the time-schedule in this regard.

Sd/-
(Anjana Dube)
Deputy Secretary

No.002/VGL/61
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block 'A',
GPO Complex, I.N.A.,
New Delhi- 110 023
Dated the 23rd September 2003

Office Order No. 53/09/03

To

All Chief Vigilance Officers.

Subject:- Disposal of complaints- regarding

Sir/Madam,

The Commission has received a number of references from the various departments/organisations seeking clarifications whether a complaint forwarded by the Commission for report may be first got confirmed from the complainant before taking up for investigations.

2. The Commission has examined the issue and decided that once it calls for a report on a complaint, the departments/organisations, should treat it as a signed complaint though on the face of it the complaint may be anonymous/pseudonymous. Clarifications, if required, could be obtained from the complainant(s), as part of the enquiry into the matter.

3. CVOs may bring it to the notice of the concerned officials.

**Sd/-
(Mange Lal)
Deputy Secretary
Telefax- 24651010**

No.98/DSP/9
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 11th October 2002

To

All Chief Vigilance Officers

**Subject:- Improving vigilance administration - Action on anonymous/
pseudonymous complaints.**

Sir/Madam,

The undersigned has been directed to refer to the Commission's communication No. 3(v)/99/2 dated 29.06.1999 and the letter of even number dated 31.01.2002, on the above subject, and to say that the Commission has reviewed the instructions contained in the aforesaid communications and reiterates that no action is to be taken by the departments/organisations, as a general rule, on anonymous/pseudonymous complaints received by them. However, if any department/organisation proposes to look into any verifiable facts alleged in such complaints, it may refer the matter to the Commission seeking its concurrence through the CVO or the head of the organisation, irrespective of the level of employees involved therein.

Yours faithfully,

Sd/-
(K.L. Ahuja)
Officer on Special Duty

98/DSP/9
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 31st January 2002

To

All Chief Vigilance Officers

Subject: Improving vigilance administration – no action to be taken on anonymous/pseudonymous petitions/complaints.

The Commission had reviewed the instructions regarding action to be taken on anonymous/pseudonymous complaints and observed that the enabling provision in the DOPT's orders No.321/4/91-AVD.III dated 29.09.1992 had become a convenient loophole for blackmailing and detrimentally affecting the career of public servants whose promotions/career benefits were denied owing to consequent investigation. Considering all aspects, the Commission by virtue of powers invested under para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4th April 1999, had instructed all Govt. Deptts./Orgns., PSEs and Banks not to take action on anonymous/pseudonymous complaints. All such complaints are to be filed vide CVC's instruction No.3(v)/99/2 dated 29th June 1999.

2. However, it has come to the notice of the Commission that some Govt. Deptts./Orgns. and, in particular, banks are not complying with the CVC's instructions and have been taking cognizance/action on anonymous/pseudonymous complaints. Very often, the content of the complaint, described as verifiable, is used as a justification for such action. The instruction of the Commission does not permit this line of action.

3. It is hereby reiterated that, under no circumstance, should any investigation be commenced or action initiated on anonymous/pseudonymous complaints; these should invariably be filed. Any violation of this instruction will be viewed seriously by the Commission.

4. This issues with the approval of the Commission.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

No.3 (v)/99/2
Central Vigilance Commission

**Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 29th June 1999**

Subject: Improving vigilance administration - no action to be taken on anonymous/pseudonymous petitions/complaints.

.....

By virtue of the powers invested in the CVC under para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4th April 1999, the CVC is empowered to exercise superintendence over the vigilance administration of the various Ministries of the Central Government or Corporations established under any Central Act, Government Companies, Societies and local authorities owned or controlled by that Government.

2. One of the facts of life in today's administration is the widespread use of anonymous and pseudonymous petitions by disgruntled elements to blackmail honest officials. Under the existing orders, issued by Department of Personnel & Training letter No.321/4/91-AVD.III dt.29.9.92, no action should be taken on anonymous and pseudonymous complaints and should be ignored and only filed. However, there is a provision available in this order that in case such complaints contain verifiable details, they may be enquired into in accordance with existing instructions. It is, however, seen that the exception provided in this order has become a convenient loophole for blackmailing. The public servants who receive the anonymous/pseudonymous complaints, generally, follow the path of least resistance and order inquiries on these complaints. A peculiar feature of these complaints is that these are resorted to especially when a public servant's promotion is due or when an executive is likely to be called by the Public Enterprises Selection Board for interview for a post of Director/CMD etc. If nothing else, the anonymous/pseudonymous petition achieves the objective of delaying the promotion if not denying the promotion. These complaints demoralise many honest public servants.

Page 1 of 3

3. A person will resort to anonymous or pseudonymous complaints because of the following reasons:

- i. He is an honest person who is a whistle blower but he is afraid to reveal his identity because of fear of consequences of the powerful elements in the organisation.
- ii. He is a blackmailer who wants to psychologically pressurise the public servant complained against

4. There could be a view that if the anonymous/pseudonymous complaints contain an element of truth and if no action is to be taken on them then an important source of information will be lost. To that extent, corrupt practices may get a boost. At the same time the Central Vigilance Commission has initiated a number of steps to provide a channel of communication against the corrupt public servants. These measures include the following:

- i. Under CVC's order No.8 (1)(h)(1) dated 18.11.98, even junior officers can complain to the CVC in cases of corruption against the seniors;
- ii. The CVC has issued instructions that the name of the complainant will not be revealed when the complaint is sent to the appropriate authorities for getting their comments or launching inquiries;
- iii. Under CVC Order No. 8(1)(g)/99(4) dated 12th March 1999, in every office there should be public notice displayed directing that no bribe should be paid. If any bribe is demanded, the complaint should be made to the appropriate authority like CVO, CVC etc.; and
- iv. The CVC is now available on web - <http://cvc.nic.in> If anybody wants to complain they can easily lodge complaints on the website of CVC and also through e-mail - **vigilance@hub.nic.in**

5. In view of the above measures taken, there is very little possibility that genuine cases of corruption will not be brought to the notice of the appropriate authorities by those who were earlier resorting to anonymous/pseudonymous complaint route.

6. **It is, therefore, ordered under powers vested in the CVC under para 3(v) of the DOPT Resolution No.371/20/99-AVD.III dated 4th April 1999 that with immediate effect no action should at all be taken on any anonymous or pseudonymous complaints. They must just be filed.**

7. This order is also available on web site of the CVC at <http://cvc.nic.in>

All CVOs must ensure that these instructions are strictly complied with.



29.6.99

(N. VITTAL)

CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Vigilance Officers in the Ministries /Departments/PSEs /Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) President's Secretariat/ Vice-President's Secretariat/Lok Sabha Secretariat/ Rajya Sabha Secretariat/PMO

No.3(v)/99/1
Central Vigilance Commission

Satarkta Bhawan, Block "A"
GPO Complex, I.N.A.,
New Delhi-110023
Dated the 21st June 1999

Subject:- Improving vigilance Administration- Bringing in accountability- Regarding.

Accountability is one of the major factors in the effective administration of the Organisations. Administration without accountability is disastrous and provides ample scope for corruption. Dealing with the complaints is one of the areas, which calls for more accountability. Therefore, in order to bring in a sense of accountability both in the complainant and in the office receiving the complaint, the Commission, in exercise of its powers conferred on it vide Section 3(v) of the Resolution No.371/20/99-AVD.III dated 4/4/99, hereby directs all Departments/Organisations under its purview to compulsorily give proper receipt of the complaints being received in person to the complainant, with immediate effect.

2. This is subject to surprise check by the Commission.


(N. VITTAL) 20.6.99 |

CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Vigilance Officers in the Ministries /Departments/PSEs /Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) President's Secretariat/ Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

Chapter-II

**Circulars / Guidelines from CVC regarding
“Departmental Inquiries/ Disciplinary Matters”**

Circular No. 07/03/12

Sub: Guidelines for checking delay in grant of sanction for prosecution

The Central Vigilance Commission has been emphasising the need for prompt and expeditious disposal of requests of sanction for prosecution received from CBI/other investigating agencies under the Prevention of Corruption Act, 1988. It may be recalled that the Supreme Court had in the case of Vineet Narain & Ors. Vs. Union of India in its judgment dated 18.12.1997, issued directions to the effect that "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other Law Officer in the AG's office".

2. The Central Vigilance Commission under the CVC Act, 2003 has been empowered to review the progress of applications pending with the Competent Authorities for sanction of prosecution under the PC Act, 1988. Taking into account delays involved and the lack of appreciation on the part of Competent Authorities as to what is to be done while processing such requests, the Commission had prescribed detailed guidelines based on various decisions of the Supreme Court including the Vineet Narain case, to be followed strictly by the Competent Authorities while processing requests for sanction for prosecution vide its office order No. 31/5/05 dated 12.05.2005.

3. In the recent judgment of the Supreme Court, dated 31.01.2012, in the matter of Dr. Subramanian Swamy Vs. Dr. Manmohan Singh & another (Civil Appeal No. 1193 of 2012) while reiterating the time limits prescribed for grant or otherwise of sanction for prosecution, the Apex Court, also observed that the guidelines laid down by the Central Vigilance Commission in its office order dated 12.05.2005 (copy enclosed) are in conformity with the law laid down by the Apex Court. The grant of sanction is an administrative act and the purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise and the sanctioning authority has only to see whether the facts would prima facie constitute the offence.

4. In view of the above, the Commission would reiterate its guidelines dated 12.05.2005 and also advise all concerned Competent Authorities that while processing requests of sanction for prosecution under Section 19 of PC Act, 1988, the time limits laid down by the Apex Court are adhered to in letter and spirit.


(Anil K. Sinha)
Additional Secretary

Encl: as above.

To

- (i) All the Secretaries of Ministries/Departments
- (ii) All CMDs of Public Sector Undertaking/Public Sector Banks/Insurance Companies/Organisations/Societies and Local authorities etc.
- (iii) All Chief Vigilance Officers of Ministries/Departments/Public Sector Undertaking/Public Sector Banks/Insurance Companies/Organisations/ Societies and Local authorities etc.
- (iv) Department of Personnel and Training [Joint Secretary (S&V)]
- (v) CBI [Joint Director (Policy)]

No.007/VG/052
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA,
New Delhi - 110023
Dated: 11/03/2011

Circular No. 03/03//11

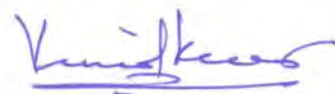
Subject:- Expeditious disposal of cases involving public servants due to retire shortly.

Attention is invited on Commission's circular of even No dated 27.09.2007 wherein all Ministries/ Departments/ Organisations were impressed on the need for expeditious completion of disciplinary proceedings/ action, particularly against officials likely to retire. Commission has of late, observed that some Departments/ Organisations have a marked tendency to refer the vigilance cases to the Commission seeking its advice at the last moment and sometimes even a few days before retirement of officers.

2. The Commission has taken a serious note of such lax attitude on the part of CVO's/ DAs in making such references which leaves no option for the Commission, except to examine the case in a hurry. Such delayed references ultimately result in situations which either serve to the advantage of the suspect public servants/ charged officers (SPS/COs) or initiation of disciplinary proceeding at the fag end of service of an officer.

3. While reiterating its earlier instructions in this regard, the Commission emphasises that the vigilance functionaries as well as administrative authorities concerned should prioritise their activities of conducting investigation and disciplinary action so as to avoid such late references to the Commission. Undue delays on part of administrative authorities, in dealing with vigilance matters/ disciplinary cases, will henceforth be viewed seriously by the Commission and it would be constrained to take an adverse view of CVOs/Administrative authorities for such avoidable delays.

4. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.



(J. Vinod Kumar)
Officer on Special Duty

All Secretaries/Heads/CMDs of Ministries/Departments/PSU's/Banks/Autonomous organisations etc.

All Chief Vigilance Officers of Ministries/Departments/PSU's/Banks/Autonomous organisations etc.

No.010/CRD/003 /103208
Central Vigilance Commission

Satarkta Bhawan, GPO Complex,
INA, New Delhi
Dated 28th September, 2010

Circular No. 33/09/10

Sub: Guidelines for checking delay in grant of sanction for prosecution – reg.

Attention is invited to Department of Personnel & Training's Office Memorandum No.399/33/2006-AVD-III dated 06/11/2006 and dated 20/12/2006 and Commission's Circular No.22/06/10 dated 23/06/2010 regarding guidelines for checking delay in grant of sanction for prosecution. It has been prescribed that Ministries/Deppts./Orgns. are required to formulate their tentative views within **three weeks** of receipt of CBI's requests seeking sanction for prosecution and seek the advice of the Commission.

2. It has come to the notice of the Commission that the provisions of the DoPT circular referred above, are not strictly adhered to. It is, therefore, decided that in case the Commission does not receive communication/comments on CBI report from the competent authority within 3 weeks, the Commission would suo moto tender its advice. Any communication/comments received from competent authority after three weeks but before 31 days will be entertained by the Commission as a reconsideration request and CVC within a fortnight, after consulting experts, will tender its advice. Any communication/comments received from the competent authority after 31 days of receipt of CBI's report will not be entertained by the Commission and will be sent to DoPT for a final decision.



(Vineet Mathur)
Director

To

1. All Secretaries of all Ministries/Departments of Govt. of India
2. All CMDs/CEOs of all PSEs/PSBs/Financial Institutions/ Autonomous Orgs.
3. All CVOs
4. CBI.

Circular No. 22/06/10

Sub: Guidelines for checking delay in grant of sanction for prosecution on CBI Reports –reg.

In terms of the Hon'ble Supreme Court's judgment in Vineet Narain's case, the competent authorities are required to take a decision on CBI applications for the grant of sanction for prosecution within a period of three months. Further, additional time of one month is allowed in respect of cases warranting prior consultation with the Attorney General or any other law officer in the AG's Office. The Hon'ble Supreme Court had also directed that the Commission shall review the progress of cases moved by CBI for sanction of prosecution, especially those in which sanctions have been delayed. Even CVC Act, 2003, under Section 8(1) (f) relating to functions and powers of the Commission, stipulates review of the progress of the applications pending for sanction for prosecution under the PC Act, 1988. The Commission while discharging its functions has observed that the competent administrative authorities concerned are taking too long time in conveying their views on the cases recommended for sanction of prosecution.

2. As prescribed in DOPT's OM dated 6th November 2006, the Ministries/Departments are required to formulate their tentative views within three weeks of receipt of CBI's request seeking sanction for prosecution and seek the advice of the Central Vigilance Commission. The aforesaid time limit is not being adhered to by the Ministries/Departments. The responsibility for processing cases for sanction for prosecution within the time-limit vests with the Administrative Ministries/Departments/Organization.

3. It has been brought to the notice of the Commission by the CBI that in some cases, the administrative authorities concerned seek clarification on the CBI reports. This also is a contributory factor for delays. It is, therefore, reiterated that, including the seeking and obtaining of such clarification and time taken for the same, time limit prescribed by the Apex Court should be strictly maintained.


23/6/2010
(Shalini Darbari)
Director

To

All Secretaries of all Ministries/Departments
All CMDs/CEOs of all PSEs/PSBs/Financial Institutions/Autonomous Orgs.
All CVOs
CBI

Satarkta Bhawan, Block-A,
2nd Floor, GPO Complex,
INA, New Delhi-110023

Dated: 2nd June, 2010

Circular No. 21/05/10

Subject: Delay in initiating Disciplinary Proceedings.

During Intensive Examination of contracts/complaints by CTEO/CVC or CVOs of various organizations excess payments to the contractors have been observed which may be either due to ambiguity in the contract or misinterpretation of various clauses of the contract. In some of the cases variations in the contract clauses or specifications are allowed without financial adjustments, thus, giving undue benefit to the contractors.

2. In such cases, two-fold action is normally recommended by CVC-
 - (i) for identifying the officials responsible for making excess payments involving vigilance angle.
 - (ii) to recover such excess payments from the contractors.

In number of cases contractors invoke arbitration to avoid such recoveries and in addition submit huge claims to deter the authorities from making recoveries. CVOs in such cases delay the process of identifying the officials citing reference to arbitration as an excuse and the organization also fails to affect the recoveries citing reference to arbitration by the contractor.

3. In view of above, following directions are hereby issued:

- (a) Whenever, any excess payment is detected, it should be recovered from the contractor from the available amount at the first opportunity following due procedure prescribed in the contract, unless any stay has been granted by any Court.
- (b) Reference to arbitration should not be linked with investigation and for identifying the officials responsible for lapses/excess payment involving mala-fide intentions/vigilance angle. CVOs should immediately investigate the case to identify the officials for lapses attributable to them and should approach the Commission for first stage advice without any delay.



(V.K. Gupta) 2/6/10
Chief Technical Examiner

No. 009/VGL/067
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110023
Dated the 9th March 2010

Office Order No.13/03/10

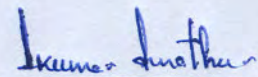
Sub: Timely completion of Departmental Inquiries - Improving Vigilance Administration.

- Ref:**
- (i) Commission's Instruction No. 8(1)(g)/99(2) dated 19/02/1999**
 - (ii) Commission's Instruction No. 8(1)(g)/99(3) dated 03/03/1999**
 - (iii) Commission's Circular No. 3(v)/99/7 dated 06/09/1999**
 - (iv) Commission's Circular No. NZ/PRC/1 dated 26/02/2004**
 - (v) Commission's Office Order No. 30/4/04 dated 26/04/2004**
 - (vi) Commission's Circular No. 3/1/06 dated 18/01/2006**

Natural justice demands that disciplinary proceedings are finalised in an expeditious manner. The delay in completion of proceedings works against the institutional incentive built to fight corruption. It may either cause undue harassment and demoralization of innocent employees, who at the end of the proceedings are exonerated of the charges framed against them; or it enables the guilty officers to evade punitive action for longer periods of time. In the former, it is not fair to the official concerned. In the latter, it provides perverse incentive for the corrupt. The delay in handling disciplinary cases has, on several occasions, been viewed adversely by the courts also. There have in fact been instances where the proceedings initiated against the delinquent employees were quashed solely on the ground that there were inordinate delays in handling the disciplinary cases. It is important that the formal proceedings, once instituted, are completed within the time frame laid down by the Government so that timely action can be taken against the delinquent employees.

2. An Inquiry Officer (IO) appointed by the Disciplinary Authority to conduct departmental inquiry in a particular case cannot start the inquiry unless related documents, viz., a copy of the charge sheet, reply of the Charged Officer, order of appointment of the Presenting Officer (PO) and the listed documents/witnesses, are furnished to the Inquiry Officer.

3. The Commission observes that non-availability of documents relevant to the departmental inquiry proceedings and undue delays in providing such documents is a major factor contributing to delay in timely finalisation of the inquiry. Another factor is delay in issue of appointment orders of IO by the disciplinary authorities. The Commission in the past vide its various circulars referred above, prescribed certain specific steps to be adopted for eliminating such avoidable delays like appointment of IO/PO immediately on denial of charges by CO, making legible certified photocopies of documents in cases where the originals are seized by CBI/filed in Courts, providing custody of all listed documents alongwith appointment orders to Presenting Officers etc. The Commission while reiterating its earlier instructions would emphasise that all pending cases of departmental inquiries need to be reviewed at regular intervals by the CVO and the Disciplinary Authority concerned in each Ministry/Department/Organisation to ensure that the proceedings are completed/finalised expeditiously.



(Vineet Mathur)
Director

To

- (i) All Ministries/Departments of Gol
- (ii) All Chief Executives of CPSUs/Public Sector Banks/Insurance Companies/Autonomous Bodies.
- (iii) All Chief Vigilance Officers

No. 99/DSP/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA,
New Delhi- 110023
Dated the 3rd March 2010

Office Order No. 11/03/10

Subject: Definition of term stiff/severe penalty- reg.

Reference: (i) Commission's circular No. 99/DSP/1 dated 05.02.1999
(ii) Commission's circular No. 99/DSP/1 dated 20.06.2003

The Commission has reviewed its earlier instructions referred above on the term stiff/severe minor/major penalty and has decided to withdraw the same. Accordingly, circulars dated 05.02.1999 and 20.06.2003 are hereby withdrawn/cancelled with immediate effect.

Vineet Mathur

3/3/2010

(Vineet Mathur)
Director

To

All Chief Vigilance Officers.

No.007/VGL/010
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A
GPO complex, INA,
New Delhi-110023
Dated the 12th February, 2010

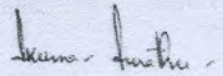
Circular No. 06/02/10

Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.

Please refer to Commission's Circular No.30/10/09 dated 29th October, 2009 on the subject mentioned above.

2. Para 5 of the Commission's Circular has been amended and would read as under:-

Para 5 'Depending upon the nature of the case, a committee consisting of three members including the Chairperson shall examine the CBI recommendation and the tentative view of the Ministry/Department concerned in greater detail. The Committee shall consist of two members drawn from the panel of experts and one of the Vigilance Commissioners in the Commission would chair the meeting. **In case the Vigilance Commissioners are unable to chair the meeting owing to posts being vacant or due to absence on leave or otherwise, the Secretary, CVC will be the Chairperson of the Expert Committee.** In the light of the expert Committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the Committee.



12/2/2010 (Vineet Mathur)
Director

To,

1. Members of the Committee of Experts
2. Shri Shantanu Consul, Secretary, DOPT, North Block, New Delhi
3. Shri, Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers

Office Order No.03/01/10

Sub: Clarification regarding making reference to the Commission for advice on complaints and second stage advice cases.

**Ref: (i) Commission's circular No.002/VGL/61 dated 23-9-2003 and 1-4-2004.
(ii) Commission's Circular No. 000/VGL/187 dated 3-8-2001.**

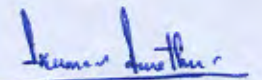
1. Complaints:

In case of a complaint referred by the Commission to the CVO for investigation and report, if after investigation it is found that the officials involved in the case do not fall under the jurisdiction of the CVC, the case need not be referred to the Commission and may be dealt with by the CVO. However, the action taken by the CVO on the CVC referred complaint may be intimated to the Commission in order to monitor compliance.

The above dispensation does not apply to complaints received by the Commission under PIDPI Resolution and which are referred to the CVO for investigation and report. In other words all complaints falling under PIDPI referred to the CVO by the Commission for investigation and report should necessarily be referred to the Commission for its advice.

2. Vigilance Cases:

In respect of composite cases wherein the Commission had tendered its first stage advice for all categories of officers involved, second stage advice of the Commission should be sought only in case of officers falling within the jurisdiction of the Commission. With respect to officers not falling under the jurisdiction of the Commission, the case should be dealt at the level of the CVO, and referred to the Commission for second stage advice only if the DA's opinion is at variance with the Commission's advice. This procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the CVC wherein the Commission had rendered its advice (cases where there were differences between the CBI and the DA and which were referred to the CVC for advice).


(Vineet Mathur)
Director

To

- (1) The Secretaries of all Ministries/Departments of Government of India.
- (2) The Chief Secretaries of all Union Territories.
- (3) The CMDs of all CPSUs/Public Sector Banks/Insurance Companies / Autonomous Bodies / Societies.
- (4) Chief Vigilance Officers of Ministries / Departments / Organisations /CPSUs / Public Sector Banks / Insurance Companies / Autonomous Bodies / Societies.

No. 007/VGL/010
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA,
New Delhi- 110023
Dated the 29th October, 2009

Circular No. 30/10/09

Subject: Constitution of Committee of Experts for scrutiny of prosecution sanctions.

Central Vigilance Commission, in accordance with the power conferred upon it vide section 8(1) (f) and (h) of CVC Act, 2003, tenders advice in respect of officers coming under its jurisdiction against whom the Central Bureau of Investigation, after investigating the case, has recommended sanction for prosecution.

2. On a few occasions, where the Commission has, in agreement with the CBI's recommendations, advised sanction for prosecution against a public servant, the disciplinary authority, in disagreement with the CBI's recommendations, approaches the Commission for reconsideration of its advice.

3. In accordance with the guidelines issued by the Ministry of Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No. 399/33/2006-AVD-III dated 6/11/2006, a committee of experts is to be set-up by the Central Vigilance Commission (with experts drawn from civil services, public sector undertakings and banks) to examine such reconsideration proposals received from various ministries/departments/organizations.

4. Accordingly, the Commission had initially constituted a panel of experts of six eminent persons, for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants vide its circular no 17/5/07 dt. 13th June 2007. The tenure of the said Committee of experts which was for a period of two years was last extended vide Commission's circular no 25/8/09 dt 28th August, 2009 upto 31/10/2009. The Commission has decided to reconstitute the panel of experts with effect from 01/11/2009 with the following persons:-

1. Shri M.M.K. Sardana, IAS (Retd.).
2. Shri Naresh Narad, IAS (Retd.).
3. Shri R.C. Aggarwal, IPS (Retd.) DG, ITBP.
4. Shri A.P. Bhatnagar, IPS (Retd.).
5. Shri S.R. Mehra, IPS (Retd.)
6. Shri J.S. Juneja, (Retd.) Chairman, NSIC.
7. Shri Rohit M. Desai, (Retd.), ED, Indian Overseas Bank.
8. Shri Gautam Kanjilal, (Retd) Chief General Manager, SBI.

5. Depending upon the nature of the case, a committee consisting of three members including the Chairperson shall examine the CBI recommendation and the tentative view of the Ministry/Department concerned in greater detail. The committee shall consist of two members drawn from the panel of experts and one of the Vigilance Commissioners in the Commission would chair the meeting. In the light of the expert committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the committee.

6. The tenure of panel of experts would be for a period of two years. The terms and conditions would be as indicated in the annexure.

7. The meetings of the committee would be held in Delhi. Central Vigilance Commission would provide the required secretarial services alongwith the necessary funds to meet the expenditure to be incurred regarding the meetings of the committee.

K S Ramasubban 29.10.09
(K S Ramasubban)
Secretary

To

1. Members of the Committee of Experts.
2. Shri Shantanu Counsel, Secretary, DoPT, North Block, New Delhi
3. Shri Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers

Terms of appointment of the Committee of Experts:-

1. Period

The term will be for a period of two years.

2. Honorarium

An honorarium of Rs. 3000/- (Three thousand only) per day would be paid to the members.

3. Secretarial Assistance

Secretarial assistance would be provided by the Commission as per requirements.

4. Fare, Transport & Accommodation

The fare, transport and accommodation would be provided by the Commission as per entitlement of the members.

No.007/VGL/010
Government of India
Central Vigilance Commission

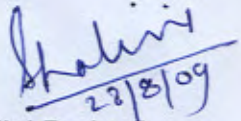
Satarkta Bhawan, Block-A
GPO complex, INA,
New Delhi-110023
Dated the 28th August, 2009

Circular No. 25/8/09

Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.

The Commission, in accordance with the guidelines issued by M/o Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No.399/33/2006-AVD-III dated 6.11.2006, had, vide circular No.17/5/07 dated 13.6.2007 and No.11/3/08 dated 24.3.2008 constituted a committee chaired by a Vigilance Commissioner for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants.

2. The tenure of the said Committee of experts was for a period of two years which was expired on 13.6.2009 which has been extended till 31.8.09 vide circular No. 24/8/09 dated 20.8.09. It has further been decided to extend the tenure of the Committee till 31/10/09.
3. Terms and conditions of the Expert Committee would remain unchanged.


28/8/09
(Shalini Darbari)
Director

To,

1. Members of the Committee of Experts
2. Shri Rahul Sarin, Secretary, DOPT, North Block, New Delhi
3. Shri Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers

No.007/VGL/010/53089
Government of India
Central Vigilance Commission

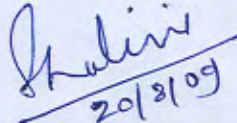
Satarkta Bhawan, Block-A
GPO complex, INA,
New Delhi-110023
Dated the 20th August, 2009

Circular No. 24/8/09

Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.

The Commission, in accordance with the guidelines issued by M/o Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No.399/33/2006-AVD-III dated 6.11.2006, had, vide circular No.17/5/07 dated 13.6.2007 and No.11/3/08 dated 24.3.2008 constituted a committee chaired by a Vigilance Commissioner for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants.

2. The tenure of the said Committee of experts was for a period of two years which has expired on 13.6.2009. Now, the Commission has decided to extend the tenure of the Committee till 31/8/2009.
3. Terms and conditions of the Expert Committee would remain unchanged.


20/8/09
(Shalini Darbari)
Director

To,

1. Members of the Committee of Experts
2. Shri Rahul Sarin, Secretary, DOPT, North Block, New Delhi
3. Shri Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers

No.006/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 6th August, 2009

Circular No.21/8/09

Subject: References to the Commission for first stage advice – procedure regarding.

**Reference: (i) Commission's circular No.NZ/PRC/1 dated 26.2.2004;
(ii) Commission's circular No.NZ/PRC/1 dated 9.5.2005;
(iii) Commission's circular No. 006/PRC/1 dated 13.3.2006; and
(iv) Commission's circular No.006/PRC/1 dated 1.12.2008**

The Commission receives preliminary inquiry reports from the Chief Vigilance Officers (CVOs) of Departments/Organisations, seeking the first stage advice. Reports for similar action also emanate from the CVOs in response to the Commission's directions for investigation issued u/s 8(1)(d) of the CVC Act, 2003. However, these reports are often found lacking in cogent analysis of misconduct or allegations, evidence on record and the recommendation of line of action. The supporting documents catered are also very often disjointed, casually arranged or unduly bulky, making the examination cumbersome and leading to protracted correspondence and delays.

2. With a view to improving the quality and focus of these investigation reports, the Commission has devised a new reporting format. Accordingly, it is directed that henceforth, a vigilance report should broadly conform to the parameters specified in Annexure A. Further, as the Commission lays utmost emphasis on facts, evidence and recommendations made by the CVOs, an investigation report should invariably be accompanied by an Assurance Memorandum (Annexure B) signed by the CVO, taking due responsibility and giving assurance of a comprehensive application of mind while submitting the report.

3. In supercession, therefore, of earlier instructions of the Commission on submission of investigation reports, the following instructions should be followed scrupulously while seeking the first stage advice:

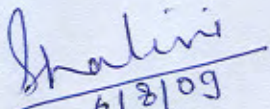
- (i) All vigilance reports of the CVOs should conform to the parameters prescribed in **Annexure-A**.
- (ii) They would be accompanied by an Assurance Memo, in the form of **Annexure-B**.

Contd...2/-

- (iii) Bio-data of suspect officials, figuring in the investigation reports, should be enclosed as per the format provided at **Annexure-C**.
- (iv) Tabular statements, as prescribed vide the Commission's circular dated 1.12.2008, shall continue and be kept objective and precise.
- (v) Draft charge-sheets and imputation of charge in respect of suspect officials where disciplinary action, such as major penalty or minor penalty proceedings, is proposed, would accompany the investigation reports.

4. The CVOs would ensure that all documents/exhibits, constituting the basic evidence for the charge, are systematically identified and arranged. Superfluous and voluminous documents, with little or no relevance to the misconduct under examination, should be retained at the CVOs' end. In case any additional material or evidence is required, it can always be recalled by the Commission before an advice is tendered.

5. The aforesaid reporting procedure would become operative with immediate effect.


6/8/09
(Shalini Darbari)
Director

All Chief Vigilance Officers

Encl: As proposed.

Vigilance Report

Title of the report

1. Source

- Background of the report – whether based on source information, complaint referred to by the CVC, CTE/CTE type inspection or direct enquiry.

2. Gist of allegations

3. Facts

- The relevant facts relating to the issue under examination should be presented in chronological or activity-wise sequence.
- Each fact should be supported by documentary evidence (other forms of evidence may also be presented) denoted as E1, E2, and E3 etc. Since the facts occur in chronological order, the evidence E1, E2, E3, etc., should necessarily be arranged under the report in the same order, thus making it easier for reference.
- While annexing the evidence, the relevant portion of the document should be highlighted and annexed. For example, the evidence for educational qualifications for promotion should consist of the Xerox copy of only the clause prescribing the qualifications and not the whole 20 pages of the promotion policy.
- There may be several issues in a report which may be conveniently arranged as different paras viz. 2.1, 2.2 etc.
- All relevant facts needed to support the observations/conclusion should be gathered and presented. Irrelevant facts, bearing no consequence on the issues under inquiry should be avoided.
- Evidence presented should be credible and adequate.

4. Observations

- Ordinarily, observations are logical deductions arrived at through a set of facts. They are in the nature of objections or anomalies observed with reference to the gathered facts. There may be several observations arising out of the analysis of facts.

- Observations are also arrived at by evaluating the facts against certain criteria viz. rules, regulations, policies, procedures, norms, good practices or normative principles. Evidence of these criteria (extracts of rules, procedures, etc.) should also be presented as E1, E2, etc.

5. Response of the officials concerned

- It is necessary to elicit the reasons and clarifications of the management or the officers concerned for the anomalies pointed out in the observations. Every deviation from rules or procedure cannot be attributed to a malafide/corrupt intent. There may be situations where it may be difficult to achieve the objectives of a task by strictly abiding by the rules. Rules may be circumvented, while expediting the work or in the larger interest of the work, with good intentions. It is, therefore, essential for Vigilance to distinguish between acts of omission and acts of commission. Therefore, obtaining the response of the officers concerned is essential in order to arrive at an objective conclusion.
- Response of the management is also necessary in order to clarify differences in interpretation or an understanding of the issues between vigilance and the management.

6. Counter to the response

- In order to sustain the observations made by Vigilance, it is necessary to counter the defence given by the management/officers concerned with facts and supporting evidence. It should be clearly and convincingly brought out why the explanation given by the management is not tenable.

7. Conclusion

- Conclusion is the logical summation of the observations. The observations denoting various counts of irregularity, lapses or impropriety should finally lead to a logical conclusion on whether the case involves commission of irregularity/impropriety with the intention of corruption.
- Undue favour given to a party or obtained for self and its adverse impact on the government or the citizens in terms of

additional cost, poor quality or delayed service should be clearly highlighted.

8. Responsibility of officials

- Having determined the vigilance angle in the case, the next step is to fix the accountability of the individuals involved in the misconduct. Name of officers should be clearly stated in this para.
- The role of each officer should be judged with reference to his prescribed charter of duties. In case the tender committee is responsible for the misconduct then, as far as possible, all members should be equally and collectively held responsible.
- Comments of Disciplinary Authority should invariably be included.

9. Recommendation for action

- Recommendation for closure of the case in case there is no discernable vigilance angle or criminal misconduct, should be clearly spelt out.
- Bio-data of the officials reported against in the investigation report should be included in the given format.

10. Recommendation for systemic improvement

- Punitive action on detection of corruption does not by itself lead to a logical conclusion unless it is able to prevent recurrence of the lapse. Any fraud, corruption, irregularity or impropriety indicates a failure of control mechanism or gaps in systems and procedures. Therefore, each case throws up an opportunity to identify these control failures and suggest ways of plugging them to prevent recurrence of the lapse. Therefore, at the end of the report the CVO should also try to recommend systemic improvements in order to prevent the risk of a recurrence of the lapse/misconduct.

ASSURANCE MEMO

This is to provide reasonable assurance to the Commission:

- (a) That all necessary facts and relevant evidence have been gathered.
- (b) That all facts and supporting evidence have been duly verified.
- (c) That contested evidence, if any, have been conclusively handled with reference to the facts at the disposal of Vigilance.

Chief Vigilance Officer

Format of Bio-Data of officer(s) against whom Commission's advice is sought

(To be incorporated in the Vigilance Report of the CVO)

1. Name of the officer :
2. Designation
(a) At present :
(b) At the time of alleged misconduct :
3. Service to which belongs :
(Cadre and year of allotment in case of officers of the organized/All India Services)
4. Date of birth :
5. Date of superannuation :
6. Level/group of the present post and pay scale :
7. Date of suspension [if under suspension] :
8. Disciplinary Rules applicable to the officer :

No.009/VGL/028
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 24th July 2009

Circular No.18/7/09

Subject: Authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence.

Sir,

A copy of the DOPT's OM No.219/12/2009-AVD-II dated 13.5.2009 on the subject mentioned above is enclosed for information and necessary action.



(J. Vinod Kumar)
Under Secretary

All Chief Vigilance Officers

Encl: As above.

No.219/12/2009-AVD-II
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

...
New Delhi dated the 13th May, 2009.

OFFICE MEMORANDUM

Subject: - Authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence.

...
The undersigned is directed to say that for attachment and forfeiture of illegally acquired property of public servants, the CBI/Prosecution Agency is presently invoking the provisions of the Criminal Law (Amendment) Ordinance, 1944 (Ordinance No. 38 of 1944).

2. It has been observed that although, "Central Government" has not been defined in the said Ordinance, the Central Bureau of Investigation (CBI) has been requesting the Department of Personnel & Training seeking authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence, in the cases investigated by the CBI. It has now been decided to issue these instructions to clarify and settle the definition of Central Government for the purpose of the Prevention of Corruption Act, 1988 and Criminal Law (Amendment) Ordinance, 1944.

3 Under Section 5(6) of the Prevention of Corruption Act, 1988, a Special Judge while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law (Amendment) Ordinance, 1944 (Ordinance 38

of 1944). As per Section 19 of the P.C. Act, 1988 previous sanction is necessary -

(1) No court shall take cognizance of an offence punishable under section 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,-

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.


(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

4. Under Section 3 of the Criminal Law (Amendment) Ordinance, 1944, if the State Government or the Central Government, as the case may be, has reason to believe that any person has committed (whether after commencement of this ordinance or not) any scheduled offence, the State Government or the Central Government, as the case may be, may whether or not any court has taken cognizance of the offence, authorize for making of an application to the District Judge within the local limits of whose jurisdiction the said person ordinarily resides or carries on business, for the attachment under this ordinance of the money or other property which the State Government or the Central Government believes the said person to have procured by means, of the offence, or if such money or property cannot for any reason, be attached or other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.

5. The matter has been considered in consultation with the Ministry of Law and Justice, as to which Ministry/Department/Authority may be considered the "Central Government" for the purpose of Section 3 of Criminal Law (Amendment) Ordinance, 1944. In the light of the said provisions of the PC Act, 1988, admittedly the sanction for prosecution in respect of a public servant under PC Act has to be given by such Government or authority which would be competent to remove the

public servant from his office. Since the properties referred to in Section 3 would have a correlation with the offence committed under the PC Act, the obvious conclusion would be that the authorization u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 (Ordinance No. 38 of 1944) would also have to be given by such authority who would be competent to accord sanction u/s 19 of PC Act, in a given case.

6. In accordance with the above, it has been decided that henceforth, all references seeking authorization of Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence by the person, who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, shall be addressed to the competent authority who accorded sanction of prosecution under section 19(1) of the PC Act, 1988.


12.5.2009

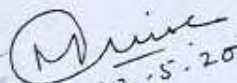
(Manisha Saxena)

Deputy Secretary to the Govt. of India

Tele:23094319

To

1. All Ministries/Departments of the Government of India.
2. Director, CBI, CGO Complex, New Delhi.
3. Joint Director (Policy), CBI, Room No.27, North Block, New Delhi.
4. All Directors/Deputy Secretaries/Under Secretaries/Section Officers of the Vigilance Division, Deptt. of Personnel & Training, New Delhi.
- ✓ 5. Director, NIC, North Block, New Delhi with the request to put the OM on the website of DOPT under "Circulars" head of the Vigilance Division.
6. 100 Spare copies.


12.5.2009

(Manisha Saxena)

Deputy Secretary to the Govt. of India

No.009/VGL/018
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 1st April 2009

Circular No.8/4/09

Subject: Preparation of charge-sheets for RDA in CBI cases.

Consequent upon discontinuation of the longstanding practice of appending drafts of charge-sheets/imputations to the SP's reports in those cases where RDA is recommended by the CBI, a number of references have been received by the Commission from various CVOs soliciting intervention for the re-introduction of the earlier practice.

2. While the Commission has taken up the issue, separately, with the CBI (for getting the earlier practice revived), it is for the information of all concerned that as on date, CBI's decision to discontinue the earlier practice stands. That would mean that it is for the organisations/disciplinary authorities concerned to prepare the charge-sheets/imputations (as also the lists of exhibits and prosecution witnesses) in those cases where the CBI recommended departmental proceedings and where CBI's recommendation is accepted by the disciplinary authority.

3. Since the SP's reports are, generally speaking, exhaustive and self-contained, preparation of the charge-sheets/imputations should not ordinarily be a problem, per se, for the internal Vigilance Departments/functionaries. In fact, all that is required here is a careful application of mind. When charge-sheets are prepared by the vigilance functionaries themselves in departmentally-investigated cases, one finds no reason why this cannot be done in respect of the cases investigated by the CBI where, as mentioned above, the reports are well-structured and well made out. Nonetheless, if the organisation concerned faces a real/genuine problem or difficulty in preparing charge-sheets in a particular case, the same can be taken up with the CBI appropriately. Needless to say that such instances/exceptions should be a few and far between i.e. exceptions only.

4. CBI had also since dispensed with the practice of sparing their officials for appointment as Presenting Officers in departmental proceedings. Here also, one finds no reason why a departmental (i.e. Vigilance) functionary cannot present a case before an Inquiry Officer in a CBI-investigated case when it is the organisation's own official who is appointed as Presenting Officer in a departmentally investigated case.

5. In short, thus, as of today, it is the responsibility of the individual organisations concerned to prepare charge-sheets/imputations and lists of exhibits

and witnesses in CBI-investigated cases where disciplinary action (as distinct from criminal prosecution) has been agreed upon. Similarly, it is for the organisation concerned to appoint, in such cases, an officer from within as the Presenting Officer. Organisations can also arrange for imparting (if need be) some training to their personnel in these areas. Officers of the Commission and/or the CBI can also be associated with such training programmes/workshops as faculty members, if the organisation so desires. It also needs to be ensured that follow up actions on CBI reports are not delayed or held up on account of either non-availability of 'draft' charge-sheets or because the CBI is in no position to spare its official for appointment as Presenting Officer.

6. All CVOs are requested to make note of the above for compliance/necessary action.

SD/-
(Shalini Darbari)
Director

To

All Chief Vigilance Officers

Copy to The Director, CBI, North Block, New Delhi

No.006/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated: 18th February, 2009

Circular No.03/02/09

Subject: Reference to the Commission for advice – information to be enclosed along with organisations' recommendations.

In order to streamline the process of assessment and proper examination of the cases, being referred for the advice of the Commission, a proforma for submission of the details pertaining to the officials involved in tabular statement was circulated vide Commission's circular No. 32/12/08 dated 01.12.08. The said circular is also available on the Commission's website www.cvc.nic.in.

2. It has been observed that a large number of organizations are still not following the aforementioned instructions and the required information is still not being provided in the said tabular statement. The Commission has taken a serious note of non observance of its guidelines and has decided that henceforth, the references for first /second stage advice received without information in the requisite tabular form will be returned to the departments/organizations concerned. CVOs of the concerned departments/organizations will also be held responsible for the same.

3. All CVOs may note the Commission's above directions for strict compliance.


(Shalini Darbari)
Director

All Chief Vigilance Officers

No. 003/DSP/3/31364
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA,
New Delhi- 110023
Dated the 15/01/09

Circular No. 02/01/09

Subject: Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.

Attention is invited to the Commission's Office Order No. 51/9/03 dated 15.09.2003 and Office Order No. 14/2/04 dated 26.2.2004 wherein, it was clarified that disciplinary authorities (DAs) should issue a self-contained, speaking and reasoned order which must indicate, inter-alia, due application of mind by the authority issuing the order.

2. As regards, making available a copy of CVC's first and second stage advises to the employees concerned, the Commission vide its circular No. 99/VGL/66 dated 28.09.2000, had prescribed that the same should be supplied to the employees by the Disciplinary Authorities. It was precisely stated, therein that a copy of CVC's 2nd state advice should be supplied to the employee concerned alongwith the IOs report, in order to give him an opportunity to make a representation against IO's findings and CVC's advice.

3. Instances have, however, come to the notice of the Commission in which the final orders passed in disciplinary cases by the competent disciplinary authorities did not indicate proper application of mind, but a mere endorsement of the Commission's recommendations which leads to an unwarranted presumption that the DA has taken the decision under the influence of the Commission's advice. Further, it is also observed that the DA's in the Departments/Organisations, in practice, do not provide a copy of Commission's advice to the employees concerned. The cases where the final orders do not indicate proper application of mind by the DA and or non supply of Commission's advises, are liable to be quashed by the courts.

4. The Commission would, therefore, again reiterate that the CVC's views/advises in disciplinary cases are advisory in nature and it is for the DA concerned to take a reasoned decision by applying its own mind. The DA while passing the final order, has to state that the Commission has been consulted and after due application of mind, the final orders have been passed. Further, in the speaking order of DA, the Commission's advice should not be quoted verbatim.

5. CVOs should ensure that the DAs in their respective Departments/Organisations strictly follow the above guidelines/procedures while processing the disciplinary cases.


[Shalini Darbari]
Director

All Chief Vigilance Officers

No.006/PRC/1/27483
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 1st December 2008

Circular No.32/12/08

Subject: Reference to the Commission for advice – information to be enclosed along with organisations' recommendations.

The Commission, in order to ensure correct assessment and speedy examination of the cases, being forwarded to it for obtaining its advice, has been emphasizing on the need for sending complete details/records pertaining to such case(s). However, it is noted that despite the Commission's circular No.14/3/06 dated 13.3.2006 on the aforementioned subject, there is no uniformity regarding the manner of sending information to it in cases where Commission's advice is being sought. The Commission, with a view to further streamline the procedure and to avoid delay on account of incomplete information, has decided that, along with other records/documents, the following tabular statement should accompany the organisations' recommendations:-

S. No.	Name & Designation of the suspected officer	Allegations in brief	Findings of the investigation /inquiry on each allegation	Defence of the suspected officer	Comments/ Recommendation of the DA	Comments/ Recommendation of the CVO

2. The information in the tabular statement should accompany the organisations' recommendations in both first/second stage advice cases. This may be noted for strict compliance.


(Shalini Darbari)
Director

No.008/VGL/027
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110023.

Dated, the 24th April, 2008

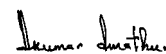
Circular NO.15/4/08

Sub:-Reference to the Commission for reconsideration of its advice - regarding

The Commission has expressed serious concern about receiving repeated requests for the reconsideration of its advice that give the impression of being routine in nature. The present instructions contained in para 5.16, Chapter I of Vigilance Manual, Vol. I provide that where the department propose to take a lenient view or stricter view than that recommended by the Commission, consultation with the CVC is necessary. The departments, therefore, are required to approach the Commission for advice in such cases before a final decision is taken. It has also been stated that the reference for reconsideration of the Commission's advice should be made only once. Subsequently it was instructed vide letter No.000/DSP/1 dated 6.3.2000 that reconsideration proposals should be sent within a period of two months from the date of receipt of the Commission's advice. It has been observed that the proposals for reconsideration of the Commission's advice are not sent within the stipulated time. Further, justification warranting reconsideration is also not given.

2. In view of the position stated above, the Commission has reviewed its instructions in the matter. The Commission's advice is based on the inputs received from the organization and where the Commission has taken a view different from the one proposed by the organization, it is on account of the Commission's perception of the seriousness of the lapses or otherwise. In such cases, there is no scope for reconsideration. The Commission has, therefore, decided that no proposal for reconsideration of the Commission's advice would be entertained unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations/charges leveled against an officer. Such new facts should be substantiated by adequate evidence and should also be explained as to why the evidence was not considered earlier, while approaching the Commission for its advice. The proposals for reconsideration of the advices, if warranted, should be submitted at the earliest but within two months of receipt of the Commission's advice. The proposals should be submitted by the disciplinary authority or it should clearly indicate that the proposal has the approval of the disciplinary authority.

3. The above instructions may be noted for strict compliance.



(Vineet Mathur)
Deputy Secretary

All Chief Vigilance Officers

F.No.007/MISC/Legal/04(Pt.)
Government of India
Central Vigilance Commission

Satarkata Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110 023
Dated: 1st November, 2007

Circular No.39 /11/07

Subject: Criteria to be followed while examining the lapses of authorities exercising quasi-judicial powers in accordance with the criteria laid down by the Hon'ble Supreme Court.

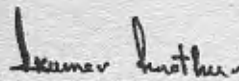
The Commission has observed that certain departments, while approaching the Commission for advice in respect of alleged/perceived lapses of the officials exercising quasi-judicial powers, do not follow a uniform approach in examining such lapses. In certain cases, it is routinely defended that the official had exercised his quasi-judicial powers and no disciplinary proceedings were warranted. In certain other cases, for similar lapses, disciplinary proceedings were proposed alleging that the official had shown recklessness or acted negligently and lacked devotion to duty. The Commission is of the view that there should be a uniform approach in examining such cases and it is important not to create an impression that the department was following a policy in targeting only a few officials exercising such powers.

It is observed that the Hon'ble Supreme Court had laid down the criteria in K.K.Dhawan's case which, however, were being ignored and the officials were being defended on the basis of a subsequent Supreme Court judgement in the case of Z.B. Nagarkar Vs. Union of India. The Hon'ble Supreme Court in its judgment in the case of Union of India Vs. Duli Chand has held that the decision in the Z.B. Nagarkar's case did not represent the law correctly and decided that the decision in the K.K. Dhawan's case (decided earlier by a larger bench of the Supreme Court) would prevail. The judgment in K.K. Dhawan's case, had laid down the following criteria:

- (i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.
- (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;

- (iii) If he has acted in a manner which is unbecoming of a Government Servant;
- (iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- (v) If he had acted in order to unduly favour a party;
- (vi) If he had actuated by corrupt motive, however, small the bribe may be because Lork Coke said long ago "though the bribe may be small, yet the fault is great".

The Commission has therefore, decided that the CVOs, while sending the case to the Commission for advice against the lapses of officials exercising quasi-judicial powers, should examine critically whether any of the above criteria listed, was attracted or not. In either case, detailed justification should be given in arriving at the conclusion as to how none of the criteria was attracted, or how any of them was attracted.



(Vineet Mathur)
Deputy Secretary

To

All Chief Vigilance Officers

No.006/VGL/11
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A
GPO Complex, INA,
New Delhi-110023
Dated the 18th October 2007

Office Order No.37/10/07

Subject: Jurisdiction of CVC over employees of PSUs, Insurance companies, RBI, NABARD, SIDBI, societies and other local authorities.

DOPT, in accordance with Section 8 (2) (b) of the CVC Act 2003, has notified the level of officers of PSUs, Insurance companies, RBI, NABARD, SIDBI, societies and other local authorities who would be covered under the normal advisory jurisdiction of the Commission.

2. A copy of the gazette notification dated 12.9.2007 issued by DOPT on the subject cited above is enclosed. The levels specified in the DOPT's gazette notification may be kept in view while forwarding the cases to the Commission for seeking its advice.



(Rajiv Verma)
Under Secretary

All Chief Vigilance Officers



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1109]
No. 1109]

नई दिल्ली, बृहस्पतिवार, सितम्बर 13, 2007/भाद्र 22, 1929
NEW DELHI, THURSDAY, SEPTEMBER 13, 2007/BHADRA 22, 1929

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

अधिसूचना

नई दिल्ली, 12 सितम्बर, 2007

का.आ. 1538(अ).—केन्द्र सरकार, केन्द्रीय सतर्कता आयोग अधिनियम, 2003 (2003 का 45) की धारा 8 की उप-धारा (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित सारणी के कॉलम (3) में उल्लिखित निम्नलिखित स्तर के अधिकारियों को, उपर्युक्त अधिनियम की धारा 8 की उप-धारा (1) के खण्ड (घ) के प्रयोजन से उक्त सारणी के कॉलम (2) में उल्लिखित, केन्द्र सरकार द्वारा अथवा किसी केन्द्रीय अधिनियम द्वारा स्थापित निगमों, केन्द्र सरकार के स्वामित्व वाली अथवा इसके द्वारा नियंत्रित सरकारी कम्पनियों, सोसाइटियों और अन्य स्थानीय प्राधिकरणों के लिए एतद्वारा विनिर्दिष्ट करती है :—

सारणी

क्रम.	निगमों/सरकारी कम्पनियों/सोसाइटियों और अन्य स्थानीय प्राधिकारियों का नाम और श्रेणी	अधिकारियों का स्तर
(1)	(2)	(3)
1.	सार्वजनिक क्षेत्र के अनुसूची 'क' और 'ख' के उपक्रम	बोर्ड के मुख्य कार्यकारी और कार्यकारी ई-8 और इससे ऊपर के स्तर के अन्य अधिकारी।
2.	सार्वजनिक क्षेत्र के अनुसूची 'ग' और 'घ' के उपक्रम	बोर्ड के मुख्य कार्यकारी और कार्यकारी ई-7 और इससे ऊपर के स्तर के अन्य अधिकारी।
3.	भारतीय रिजर्व बैंक, नाबार्ड और एस.आई.डी.बी.आई.	ग्रेड 'जी' और इससे ऊपर के स्तर के अधिकारी।
4.	सामान्य बीमा कम्पनियाँ	प्रबंधक और इससे ऊपर के स्तर के।
5.	जीवन बीमा निगम	वरिष्ठ प्रभागीय प्रबंधक और इससे ऊपर के स्तर के।
6.	सोसाइटियाँ और अन्य स्थानीय प्राधिकरण	अधिसूचना की तारीख को और समय-समय पर संशोधित किए जा सकने वाले, केन्द्रीय सरकार की वेतनवृद्धि पैटर्न के आधार पर 8700/- रुपये प्रति माह और इससे अधिक वेतन प्राप्त करने वाले अधिकारी।

[सं. 418/2/2004-ए.वी.डी.-IV]

पी. के. त्रिपाठी, संयुक्त सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 12th September, 2007

S.O. 1538(E).—In exercise of the powers conferred by clause (b) of sub-section (2) of section 8 of the Central Vigilance Commission Act, 2003 (45 of 2003), the Central Government hereby specifies the following level of officers mentioned in column (3) of the table below of the corporations established by or under any Central Act, the Government companies, societies and other local authorities owned or controlled by the Central Government mentioned in column (2) of the said Table for the purpose of clause (d) of sub-section (1) of section 8 of the said Act :—

TABLE

Sl. No.	Name and categories of corporation/ Government companies/societies and other local authorities	Level of officers
(1)	(2)	(3)
1.	Schedule 'A' and 'B' Public Sector Undertakings	Chief Executive and Executives on the Board and other officers of E-8 and above.
2.	Schedule 'C' and 'D' Public Sector Undertakings	Chief Executive and Executives on the Board and other officers of E-7 and above.
3.	Reserve Bank of India, NABARD and SIDBI	Officers in Grade 'D' and above.
4.	General Insurance Companies	Managers and above.
5.	Life Insurance Corporations	Senior Divisional Managers and above.
6.	Societies and other Local Authorities	Officers drawing salary of Rs. 8700/- p.m. and above on Central Government D.A. pattern, as on the date of the notification and as may be revised from time to time.

[No. 418/2/2004—A.V.D.IV]

P. K. TRIPATHI, Jt. Secy.

No.007/VGL/052
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 27th September 2007

Office Order No.34/9/07

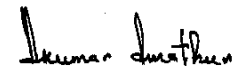
Subject: Expeditious disposal of cases involving public servants due to retire shortly.

The Commission had, vide its letter No.DO/DSP/15 dated 26.2.1981 and 6.5.1981 directed expeditious completion of disciplinary action, particularly against the officials likely to retire soon. Later, vide Commission's circular No.14/3/06 dated 13.3.2006, detailed instructions were issued on the pre-requisites for seeking first/second stage advice. In this circular a specific mention had been made about the requirement of bio-data, which inter-alia contains the date of superannuation of the SPS/CO.

2. The ready availability of date of superannuation of the SPS/CO is meant to serve as a guide to the CVO/DA to handle the case at a pace that should complete the action well in time. It has, however, come to repeated notice of the Commission that the CVOs/DAs often tend to lose sight of the superannuation dates, thereby creating situations which serve to the advantage of the SPS/COs. The entire effort is rendered all the more infructuous in organizations where the Conduct Rules do not provide for continuance of disciplinary action after retirement.

3. The Commission has, therefore, emphasized once again that all vigilance/administrative functionaries in an organization must invariably keep in mind the date of superannuation of the SPS/CO while handling disciplinary cases and anyone found to have consciously ignored the fact should be held accountable for the delay that may lead to the eventual dropping of the proceedings.

4. All CVOs should ensure strict compliance to the above instructions.



(Vineet Mathur)
Deputy Secretary

All Chief Vigilance Officers

No. 007/VGL/010
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A
INA, GPO complex,
New Delhi-110023
Dated, the 13th June, 2007

Circular No. 17/5/07

Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.

Central Vigilance Commission, in accordance with the power conferred upon it vide section 8 (1)(f) and (h) of CVC Act, 2003, tenders advice in respect of officers coming under its jurisdiction against whom the Central Bureau of Investigation, after investigating the case, has recommended sanction for prosecution.

2. On a few occasions, where the Commission has, in agreement with the CBI's recommendations, advised sanction for prosecution against a public servant, the disciplinary authority, in disagreement with the CBI's recommendations, approaches the Commission for reconsideration of its advice.

3. In accordance with the guidelines issued by M/o Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No. 399/33/2006-AVD-III dated 6/11/2006, a committee of experts is to be set-up by the Central Vigilance Commission (with experts drawn from civil services, public sector undertakings and banks) to examine such reconsideration proposals received from various ministries/departments/organizations.

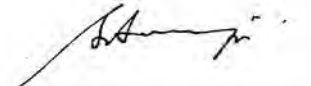
4. It has, therefore, been decided to constitute a panel of experts of six eminent persons, for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants. Depending upon the nature of the case, a committee of 3 members from amongst the panel of six experts would be drawn, who shall examine the CBI recommendation and the tentative view of the Ministry/Department concerned in greater detail and, based on the experts committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the committee. The three-member committee would be chaired by one of the Vigilance Commissioners in the Commission.

5. The following persons would form the panel of experts:-

1. Shri B.S. Minhas, IAS (Retd.)
2. Shri J.S. Juneja, Chairman (Retd), NSIC
3. Shri S.N. Menon, IAS (Retd) Ex-commerce Secretary
4. Shri R.C. Aggarwal, IPS (Retd. DG, ITBP)
5. Shri Himanshu Kumar, IPS (Retd DG, SSB)
6. Shri A.K. Purwar, Ex CMD, SBI

6. The tenure of panel of experts would be for a period of two years. The terms and conditions would be as indicated in the annexure.

7. The meetings of the committee would be held in Delhi. Central Vigilance Commission would provide the required secretarial services alongwith the necessary funds to meet the expenditure to be incurred regarding the meetings of the committee. The Commission would tender advice within 15 days of the meeting of the experts committee.



(SUJIT BANERJEE)
SECRETARY

To,

1. Members of the Committee of Experts.
2. Shri Satyananda Mishra, Secretary, DOPT, North Block, New Delhi.
3. Shri Vijay Shanker, Director, CBI, North Block, New Delhi.
4. All Chief Vigilance Officers.

Terms of appointment of the Committee of Experts’:-

1. Period

The term will be for a period of two years from date of issue of orders.

2. Honorarium

An honorarium of Rs. 3000/- (Three thousand only) per day would be paid to the members.

3. Secretarial Assistance

Secretarial assistance would be provided by the Commission as per requirements.

4. Fare, Transport & Accommodation

The fare, transport and accommodation would be provided by the Commission as per entitlement of the members.

No.006/VGL/ 098
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block –A,
GPO Complex,
INA, NEW DELHI-110 023.
New Delhi, the 10th October, 2006

Circular No.39/10/06

Subject: Difference of opinion with CVC's advice regarding quantum of penalty, etc.

Reference is invited to the Department of Personnel & Training O.M. No. 134/2/95-AVD-I dated 13.6.1995 and the earlier instructions contained in Department of Personnel & Administrative Reforms O.M. No.118/2/78-AVD-I dated 28.9.78 on the above subject.

The Commission has observed that in a number of cases of disagreement with the Commission's advice, the Commission has not been informed about the reasons for disagreement or whether a reference to the DOPT, as required under the above instructions, was made. The CVOs are, therefore, directed to ensure that before it is finally decided to disagree with the Commission's advice on further action on a complaint or on an investigation report, or in a vigilance case, reference is made to the Department of Personnel in respect of all such cases, where the appointing authority is the President or the disagreement is due to UPSC's advice.

The CVOs may please note these instructions for strict compliance. They should also ensure that wherever it has been finally decided to disagree with the Commission's advice, reasons for the same are communicated to the Commission along with a final order in the case, to enable the Commission to decide about inclusion of the case in its Annual Report.

SD/-
(V.KANNAN)
DIRECTOR

All Chief Vigilance Officers

No.006/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 21st September, 2006

Circular No. 34 /09/06

Subject:- Delay in completion of departmental proceedings - reg.

Reference: Circular No.14/3/06 - F.No. 006/PRC/001 dt. 13.3.06

The Commission has been emphasising the need for completing the departmental inquiry proceedings expeditiously so that errant officials are punished at the earliest. It has been observed that one of the major causes for delay lies in making the listed documents available for the inquiry. Sometimes, poor drafting of the charge sheet also creates confusion about the documents relied upon. The Commission has also noted with serious concern, that while advice of the Commission is sought on the basis of indicated lapses/irregularities and the suspected public servants' role, the charge-sheets are not drafted properly to reflect the seriousness of the lapses. The lapses are not covered precisely in the articles of charge and certain lapses, on the basis of which advice is obtained, are not included in the charge-sheets, thereby limiting the areas of operation/effectiveness of the Inquiry Officer. There are also cases where there was no credible evidence to back the charge, as a result of which, the said charge could not be proved during the inquiry. This not only results in errant officials escaping punishment, but also causes avoidable embarrassment to the Vigilance Administration and the Commission.

2. It is with a view to checking such occurrences that the Commission has been emphasising that while seeking Commission's advice, wherever disciplinary proceedings are proposed, references, complete in all respects, including the draft charge-sheets with supporting evidence, should be made to the Commission. While this was not to be construed as vetting of the charge-sheets by the Commission, it was intended to ensure that the specific lapses were duly reflected in the charge-sheet before it was decided to proceed against an officer. It may be pointed out that in Para 2.14.1(v) of Chapter II of the Vigilance Manual (Vol.I), it has been clearly stipulated that the CVO is required **"to ensure that the charge-sheets to the concerned employees are drafted properly"**. It is needless to say that this includes the different aspects of the charge-sheet mentioned in the aforesaid para. Accordingly, the CVOs are directed to carefully scrutinise the draft charge-sheets before sending their proposals, suggesting departmental proceedings and seeking Commission's advice on the same. **The Commission may take an adverse view on a CVO, who sends incomplete references, besides being constrained to return such proposals.**

3. Another cause for concern is the transfer of officials appointed as P.Os., while the inquiry is in progress, and appointment of new P.Os. in their place. In certain cases, it has been observed that the P.Os. were changed a number of times, leading to avoidable delay. Appointment of very junior official as P.O. also defeats the purpose of the inquiry against a senior officer, as such a P.O. is not able to present the case confidently.

4. After due consideration, the Commission has directed that the Disciplinary Authority should consider all relevant aspects about the official to be appointed as I.O./P.O. in a particular case, with particular reference to his/her continued availability to complete the inquiry proceedings. It should be ensured that only such officials, who are not likely to be transferred during the pendency of the inquiry proceedings, are appointed as P.Os./I.Os. In extreme cases where the transfers are unavoidable, it should be ensured that the I.Os./P.Os. complete the inquiry proceedings as expeditiously as possible, before they are relieved or at the earliest after their relief. It should also be kept in view, that to the extent possible, an official of appropriate seniority, with reference to the status of the charged official, is appointed as the P.O.

5. The CVOs may also apprise the competent authority of these instructions in their respective organisations.



(V. Kannan)
Director

To

All Secretaries of Ministries/Departments in GOI.
All Chief Vigilance Officers
All CEOs/CMDs of PSUs/PSBs

No.006/VGL/025
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, INA,
New Delhi-110023.
Dated the 21st July, 2006

Circular No. 28/7/06

Subject:- Adherence to time limit in processing of disciplinary cases.

Attention is invited to the Commission's Office Order No. 50/05/04 issued vide No. 000/VGL/18 dated 9/8/04 on the above mentioned subject.

2. The Commission has noted with concern that the observance of time schedule in conducting investigations and departmental inquiries, as laid down in its letter no. 000/VGL/18 dated 23/5/2000, is often lax and there are similar delays noticed on part of the decision making authorities, leading to the disciplinary proceedings getting indefinitely prolonged.

3. The Commission has also noticed that sometimes the disciplinary authorities misinterpret the Supreme Court judgment in the case of K.V.Jankiraman etc. vs Union of India, regarding adopting sealed cover procedure on the recommendations of departmental promotion committee for certain categories of officials. In this regard, DOPT has already issued instructions/clarifications vide letter no. 22011/4/91-Estt(A) dated 14/9/92 clearly stating that in accordance with the Supreme Court ruling in the K.V. Jankiraman etc. vs Union of India case, the findings of the departmental promotion committee in respect of the following categories of officials would be kept in a **sealed cover**:-

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a charge-sheet has been issued and disciplinary proceedings are pending; and
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

4. The above instructions also provide that a Government servant who is recommended for promotion by the DPC but in whose case any of the above circumstances arise after the date of receipt of recommendation of the DPC but before he is actually promoted, would be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him.

5. All administrative authorities may be suitably advised to take note of, and strictly adhere to the prescribed time schedule in dealing with the disciplinary cases. Further, it is also necessary to correctly interpret/apply the Supreme Court judgment in Jankiraman case on 'sealed cover' in the light of instructions issued by the DOPT.

6. Undue delays on part of administrative authorities, in dealing with disciplinary cases, will be viewed seriously by the Commission and it would be constrained to advise penal action against those found responsible.


(V. Kannan)
Director

All Secretaries to Govt. of India
All CEOs/Head of Organisations
All Chief Vigilance Officers

No.006/DSP/002
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, INA,
New Delhi-110023
Dated the 23rd June, 2006

Office Order No.23/6/06

Subject:- Difference of opinion between State Anti Corruption Bureaus and Central Government authorities regarding sanction of prosecution of Central Government officials – reg.

The Commission has noted certain instances where the competent authority in the concerned Central Government organisation has declined the request of the State ACB for sanction of prosecution against certain central government officials in cases investigated by the concerned State ACB. The Commission has felt that there is a need to establish a mechanism to resolve such differences of opinion between the State ACBs and the Central Government Authorities.

2. In this connection, it may be mentioned that such a mechanism is provided in para 11.2 of Chapter VII of Vigilance Manual (Vol. I) in respect of cases investigated by the Central Bureau of Investigation. The relevant provisions are extracted below:

(a) In the case of government servants, the competent authority may refer the case to its Administrative Ministry/Department which may after considering the matter, either direct that prosecution should be sanctioned by the competent authority or by an authority higher to the competent authority, or in support of the view of the competent authority, forward the case to the Central Vigilance Commission along with its own comments and all relevant material for resolving the difference of opinion between the competent authority and the CBI. If the Commission advice grant of sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice, the case should be referred to DOPT for a final decision.

(b) In the case of public servants other than government servants (i.e. employees of local bodies, autonomous bodies, public sector organisations, nationalised banks, insurance companies etc.) the competent authority may communicate its views to the Chief Executive of the Organisation who may either direct that sanction for prosecution should be given, or in support of the views of the competent authority have the case forwarded to the Central Vigilance Commission for resolving the difference of opinion between the competent authority and the CBI.

: 2 :

3. The Commission has, decided that the same procedure be followed in respect of difference of opinion on action to be taken on the recommendations of the State Anti Corruption Bureaus also, in respect of cases investigated by them. Such cases should be dealt with as provided above, and if the difference of opinion persists, the case should be referred to the Commission, irrespective of the level of the official involved whether he is under the normal advisory jurisdiction of the Commission or not.

4. All CVOs may note for strict compliance.

(V. Kannan)
Director

Chief Secretaries of all States
All Chief Vigilance Officers
D/o Personnel & Training, North Block, New Delhi
All State Vigilance Commissioners

No.006/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 13th March 2006

Circular No. 14/3/06

Subject:- Reference to the Commission for its advice – Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice reg.

Reference:- (i) No. NZ/PRC/1 dated 9.5.2005
(ii) No. NZ/PRC/1 dated 26.2.2004

The Commission has been repeatedly emphasizing the need for sending complete information to the Commission along with the relevant documents while seeking its advice. In particular, it was emphasized that while seeking first stage advice, the draft charge sheet should be enclosed. It is a matter of serious concern that these instructions are not being strictly complied with.

2. In supersession of all earlier instructions it is reiterated that following material should be furnished to the Commission while seeking its advice:-

- (a) A self contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self contained note is meant to supplement and not to substitute the sending of files and records.
- (b) The bio-data of the officer concerned in the enclosed format (Annexure-I).
- (c) Other documents required to be sent for first stage advice:
 - (i) A copy of the complaint/source information received and investigated by the CVOs;
 - (ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;
 - (iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/acceptable, and the conclusions of the investigating officer;
 - (iv) Statements of witnesses and copies of the documents seized by the investigating officer;

: 2 :

- (v) Comments of the Chief Vigilance Officer and the disciplinary authority on the investigation report {including investigation done by the CBI and their recommendation}
 - (vi) A copy of the draft charge sheet against the SPS alongwith the list of documents and witnesses through which it is intended to prove the charges.
- (d) Other documents required for second stage advice:
- (i) A Copy of the charge sheet issued to the public servant;
 - (ii) A copy of the inquiry report submitted by the inquiring authority {along with a spare copy for the Commission's records};
 - (iii) The entire case records of the inquiry, viz copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;
 - (iv) Comments of the CVO and the disciplinary authority on the assessment of evidence done by the inquiring authority and also on further course of action to be taken on the inquiry report.

This is brought to the notice of all CVOs for strict compliance.


(V. Kannan)
Director

To

All Chief Vigilance Officers

Bio-Data of the officer against whom Commission's advice is sought

1. Name of the officer :
2. Designation
(a) At Present :
(b) When the alleged misconduct was committed :
2. Service to which belongs :
(Also please mention the cadre and year of allotment
in case of officers of the organized/All India Services)
3. Date of Birth :
4. Date of Superannuation :
5. Level/Group of the present post and pay scale :
6. Date of suspension [If under suspension] :
7. Disciplinary Rules applicable to concerned public servant
8. Nature of misconduct, in brief [Like false TA claims, :
Exceeding delegated powers, supervisory lapses etc.]
9. Allegations/charges in details [which were investigated/
Inquired] and results thereof
10. Version of public servant on established allegations/:
Charges [Separately for each allegation/charge]
12. Reasons why version of public servant is not acceptable
13. Misconduct imputed [Whether lack of integrity and/or:
devotion to duty] with relevant clauses of CDA Rules
14. Recommendation of CVO and disciplinary authority:
on the findings of investigating/inquiring authority
15. Involvement of officer in previous complaints, if any,
and results of investigations/inquiries authority
16. Brief particulars of similar cases, if any, in the organization
in which same or other officer might have been indulged; and
action taken in the matter

Signature of C.V.O. _____
Date _____
Tel. No. _____

F.No. 006/VGL/5
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, INA,
New Delhi-110023.
Dated, the 18/01/2006.

Circular No. 3/1/06

Subject:- Reducing delay in departmental proceedings- ensuring availability of documents-regarding.

The Commission has observed that non-availability of documents relevant to the departmental inquiry proceedings continues to be a major problem contributing to the delay in the finalisation of the inquiry. Commission would reiterate its instructions under circular no. NZ/PRC/1 dt. 26.2.2004 circulated vide Office Order No. 12/02/2004 in which the Disciplinary Authority is required to ensure that the P.O. is given custody of all the listed documents in original and certified copies thereof. It would also reiterate its instructions vide order No. 3(v)/99/7 dated the 6th September, 1999 wherein it has been decided that in respect of the CBI cases, the CBI should make available to the organization, legible certified photocopies of all documents seized by them. It is, therefore, reiterated that CBI/CVO of the concerned organization should ensure that legible certified copies of the documents taken over by CBI are made available to the organization to pursue the departmental proceedings.

The above instructions may be noted for strict compliance.

Sd/-
(V.KANNAN)
DIRECTOR

All Chief Vigilance Officers/CBI

No. 000/VGL/154
Government of India
Central Vigilance Commission

Satarkta Bhawan, 'A' Block,
GPO Complex, INA,
New Delhi – 110 023
Dated: 15th December, 2005

Office Order No. 73/12/2005

Sub: Action against public servants, serving as witnesses, but turning hostile in trap and other cases of CBI.

You are aware that CBI often requisitions the services of Government servants from various organisations in order to utilise them as witnesses in cases of search, trap, etc. The underlying objective behind such practice is to have reliable independent witnesses, who withstand the scrutiny during court trials. However, CBI has brought to the notice of the Commission that in large number of cases, Government servants, who are engaged as such witnesses, are found resiling their original statements during trials, on pleas that they had signed the memoranda without reading the contents or they had not witnessed the real proceedings.

2. It is obvious that these public servants, whose services are thus utilised by the CBI, are turning hostile for ulterior reasons. It is surely not expected that educated and responsible public servants should resort to such devious behaviour, which undermines CBI cases and goes against public interest.

3. Rule 16, Chapter XIII of Vigilance Manual Vol. I, provides that if a Government servant, who had made a statement in course of a preliminary enquiry, changes his stand during evidence in the enquiry, and if such action on his part is without justification or with the objective of favouring one or the other party, his conduct would constitute violation of Rule 3 of the Conduct Rules, rendering him liable for disciplinary action. Such misconduct in the context of criminal cases becomes all the more grave.

4. The Commission is of the view that this unhealthy tendency on part of public servants needs to be curbed effectively. The Commission, therefore, desires that such misconduct, whenever reported by the CBI, should be viewed with utmost seriousness and necessary disciplinary action initiated promptly.

Sd/-
(Balwinder Singh)
Additional Secretary

All Chief Vigilance Officers

Copy to:
Director, CBI, New Delhi

No.003/VGL/28
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110 023
Dated the 28.11.2005

Office Order No. 72/12/05

Sub: Vigilance Manual –Sixth Edition-2004 - Clarification regarding.

The Vigilance Manuals issued by the Commission are ready reference books for use by all officers involved in vigilance administration. It is not a substitute for reference to the concerned rules and orders issued by the Commission/Government. The Vigilance Manual comprises of three volumes as under:-

(i) **Vigilance Manual Volume-I:** It is a subject-wise write up on all matters pertaining to the Commission's role and functions including role and functions of the CVOs' handling and investigation of complaints; penalties under the CDA Rules and the procedure for its imposition; the provisions for appeal, revision and review; consultation with UPSC etc. It also contains writes-up on general issues like assistance to the CBI, suspension of public servants and payment of subsistence allowance etc; important penal provisions under the PC Act; and the Constitutional provisions relating to disciplinary matters against the civil servants.

(ii)(a) **Vigilance Manual Volume II (Part-I):** It contains verbatim reproduction of conduct, discipline and appeal rules pertaining to various categories of Government servants, like CCS(CCA) Rules, CCS(Conduct) Rules, AIS(D&A) Rules, Railway Servants (D&A) Rules, etc. It also contains extract from various Acts and Rules, and standard forms. (Last updated in 20.9.1981).

(b) **Vigilance Manual Volume II (Part II):** This volume is divided into three parts and contains verbatim reproduction of instructions issued by the Ministry of Home Affairs/DOPT, the Central Vigilance Commission and the Ministry of Finance respectively, arranged in order of dates of issue of the circulars. (Last update 31.12.1982. A supplement by DOPT on 29.7.1987).

(iii) **Vigilance Manual Volume III (Digest of Case Laws):** This contained summary of case laws having bearing on disciplinary proceedings. It was brought out on 11.2.1970 as a consequence of a suggestion made at the meeting of Chief Vigilance Officers held in 1966. This volume was not updated thereafter. However, in eighties and early nineties, the Commission had been bringing out quarterly bulletins in which summaries of important case laws were being included.

2. The latest update of Vigilance Manual Volume-I dated 2004 covers only the following chapters:

contd.....p/2

Chapter-I	Organisaiton.
Chapter-II	CVO-Appointment, Role and Functions.
Chapter-III	Complaints.
Chapter-IV	Preliminary Inquiry/Investigation.
Chapter-V	Facilities and Co-operation to be extended by Administrative Authority to the CBI during Investigation of cases.
Chapter-VI	Suspension.

3. The other chapters of earlier edition i.e. Vigilance Manual Vol.I, 1991 viz

Chapter-VI	Penal provisions pertaining to bribery and corruption among public servants.
Chapter-VII	Prosecution.
Chapter-VIII	Action against temporary Government servant by the appointing authority.
Chapter-IX	Constitutional provisions.
Chapter-X	Disciplinary Proceedings I (Initial Action).
Chapter-XI	Disciplinary Proceedings II (Oral Inquiry)
Chapter-XII	(Disciplinary Proceedings III (Action on the report of the inquiring Authority).
Chapter-XIII	Disciplinary Proceedings IV (Miscellaneous)
Chapter-XIV	Action after reinstatement.
Chapter-XV	Action against pensioners.
Chapter-XVI	Consultation with Union Public Service Commission in disciplinary matters.
Chapter-XVII	Appeals, Revision, Review, petitions and Memorials.

are yet to be updated and hence Vol.I edited in 1991 may be referred with respect to these chapters alongwith circulars issued by DOPT/CVC from time to time. These will be updated in due course and released as Vigilance Manual Volume I (Part-II). The Vigilance Manual Volume I edition 2004, referred in para 2 above, will hence be referred as Vigilance Manual Volume I (Part-I) edition 2004.

4. It is also brought to the notice that till the finalisation of CVC Regulations all the procedures for references to CVC are as per the circulars printed in Vigilance Manual Volume –II, Part –II (third edition), supplement to Volume–II, Part-II and circulars issued by DOPT, CVC from time to time. Special attention is drawn to letter No.9/1/64- DP dated 13th April, 1964 and subsequent amendments/clarifications of CVC/DOPT in these matters.

Sd/-
(Anjana Dube)
Deputy Secretary

Copy to:-

All Chief Vigilance Officers

No. 004/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110023
Dated the 2nd June, 2005

Office Order No.32/6/05

Subject: Commission's advice in LTC, TA, etc. fraud cases - reference to the Commission - regarding.

In certain cases of the nature of LTC fraud, TA fraud etc., the Commission has been advising the organizations to take such action as deemed fit. This did not mean that no action is to be taken. A need has been felt to clarify the Commission's intention. The Commission has already clarified "vigilance angle" in its Office Order No. 23/4/04 dated 13.4.04 and **any lapse including the lapses of the above nature which reflect adversely on the integrity of the officer would be a matter of vigilance case.** The Commission's intention was only that while such lapses are definitely to be considered as serious misconduct and the CVO/DA need to take action in these cases, **only they need not be referred to the Commission** for second stage advice.

CVOs may bring this to the notice of the all concerned.

Sd/-
(Anjana Dube)
Deputy Secretary

All Chief Vigilance Officers.

No.NZ/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 9th May,2005

Office Order No. 30/5/05

Subject:- Reference to the Commission for its advice.

Reference:- (i) No. 1/14/73-R dated 24.7.1973
(ii) No. DO PRC 4 dated 11.8.1986
(iii) No. NZ PRC 1 dated 7.12.1995
(iv) No. NZ PRC 1 dated 9.8.1996
(v) No. NZ PRC 1 dated 16.3.2000
(vi) No. NZ PRC 1 dated 12.5.2003
(vii) No. NZ PRC 1 dated 10.9.2003
(viii) No. NZ PRC 1 dated 26.3.2004

The Commission has issued instructions regarding the manner in which the references to the Commission for first stage and second stage advice are required to be made. Although these instructions have been reiterated by the Commission several times, the complete information is not being sent by all the CVOs. The Commission has noted this lapse with concern and desires that the cases received with incomplete information will not be entertained in future and returned to the concerned departments/Organisation.

2. In supersession of all earlier instructions it is reiterated that following material should be furnished to the Commission while seeking its advice:-

- (a) A self contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self contained note is meant to supplement and not to substitute the sending of files and records.
- (b) The bio-data of the officer concerned in the enclosed format (Annexure-I).
- (c) Other documents required to be sent for first stage advice:
 - (i) A copy of the complaint/source information received and investigated by the CVOs;
 - (ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;
 - (iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/acceptable, and the conclusions of the investigating officer;

- (iv) Statements of witnesses and copies of the documents seized by the investigating officer;
 - (v) Comments of the Chief Vigilance Officer and the disciplinary authority on the investigation report {including investigation done by the CBI and their recommendation}
- (d) Other documents required for second stage advice:
- (i) A Copy of the charge sheet issued to the public servant;
 - (ii) A copy of the inquiry report submitted by the inquiring authority {along with a spare copy for the Commission's records};
 - (iii) The entire case records of the inquiry, viz copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;
 - (iv) Comments of the CVO and the disciplinary authority on the assessment of evidence done by the inquiring authority and also on further course of action to be taken on the inquiry report.

This is brought to the notice of all CVOs for strict compliance.

(Anjana Dube)
Deputy Secretary

To

All Chief Vigilance Officers

Bio-Data of the officer against whom Commission's advice is sought

1. Name of the officer :
2. Designation :
(a) At Present :
(b) When the alleged misconduct was committed :
2. Service to which belongs :
(Also please mention the cadre and year of allotment
in case of officers of the organized/All India Services)
3. Date of Birth :
4. Date of Superannuation :
5. Level/Group of the present post and pay scale :
6. Date of suspension [If under suspension] :
7. Disciplinary Rules applicable to concerned public servant
8. Nature of misconduct, in brief [Like false TA claims, :
Exceeding delegated powers, supervisory lapses etc.]
9. Allegations/charges in details [which were investigated/
Inquired] and results thereof
10. Version of public servant on established allegations/
Charges [Separately for each allegation/charge]
12. Reasons why version of public servant is not acceptable
13. Misconduct imputed [Whether lack of integrity and/or:
devotion to duty] with relevant clauses of CDA Rules
14. Recommendation of CVO and disciplinary authority:
on the findings of investigating/inquiring authority
15. Involvement of officer in previous complaints, if any,
and results of investigations/inquiries authority
16. Brief particulars of similar cases, if any, in the organization
in which same or other officer might have been indulged; and
action taken in the matter

Signature of C.V.O. _____

Date _____

Tel. No. _____

No.002/VGL/61
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110 023
Dated the 16th March 2005

Office Order No.12/3/05

Subject: Action taken on Advices tendered/Complaints referred by the Commission.

The Commission has observed that some of the Govt. Departments were not following the prescribed guidelines as regards action taken on Commission's Ist/Ind stage advices. **It is also seen that some of the departments are closing the complaints on their own which were forwarded by the Commission for investigation and report.**

2. Para 22 of Chapter X of Vigilance Manual provides that all cases pertaining to Gazetted Officers (may be read as Group A Officers after passing of CVC Act-2003), in respect of whom the Central Vigilance Commission is required to be consulted, will be referred to the Commission for advice (first/second stage advice). The major penalty cases pertaining to such officers envisage consultation with the Commission at two stages. The first stage of consultation arises while initiating disciplinary proceedings, while second stage consultation is required before a final decision is taken at the conclusion of the proceedings. It follows that the **CVC should also be consulted** in cases where the disciplinary authority have initiated action for major/minor penalty proceedings and **propose to close the case** on receipt of Statement of defence.

3. As regards the complaints, para 4.1 of Chapter II of CVC Manual envisages that the complaints forwarded for inquiry to the administrative Ministries/ Departments, the CVO concerned will make an inquiry or have an inquiry made into the complaints to verify the allegations and will submit his report together with the relevant records to the Central Vigilance commission. **The reports of investigation should normally be sent to the Commission within three months from the date of receipt of the reference from the Commission. In cases where the CVO need more time, an interim reply should be sent to the Commission. It is reiterated that no complaint is to be closed by the department on its own without consulting the Commission, in case the same has been forwarded by the Commission for a report.**

The above may be noted for strict compliance by the Ministries/ Departments.

Sd/-
(Anjana Dube)
Deputy Secretary

To

All CVOs of Ministries/Departments

No. 005/VGL/11
Central Vigilance Commission
Coordination I

Satarkta Bhawan, Block 'A'
INA, New Delhi-110023
The, 12th May, 2005.

OFFICE ORDER NO. 31/5/05

Sub:- Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act.

.....

The Commission has been concerned that there have been serious delays in according sanction for prosecution under section 19 of the PC Act and u/s 197 of CrPC by the competent authorities. The time limit prescribed by the Hon'ble Supreme Court for this is 3 months generally speaking. The Commission feels this delay could be partly due to the lack of appreciation of what the competent authority is expected to do while processing such requests.

There have been a number of decisions of the Supreme Court in which the law has been clearly laid down on this issue:-

1. Jagjit Singh Vs. State of Punjab, 1996 Cr.L.J. 2962.
2. State of Bihar Vs. P.P. Sharma, AIR 1991 SC 1260.
3. Superintendent of Police (CBI) Vs. Deepak Chowdhary, AIR 1996 SC 186.
4. Vineet Narain Vs. Union of India, AIR 1998 SC 889.

2. The guidelines to be followed by the sanctioning authority, as declared by the Supreme Court are summarized hereunder:-

- i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. **The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitutes the offence.**
- ii) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his department.
- iii) When an offence alleged to have been committed under the P.C. Act has been investigated by the SPE, the report of the IO is invariably scrutinized by

the DIG, IG and thereafter by DG (CBI). Then the matter is further scrutinized by the concerned Law Officers in CBI.

- iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinized so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.
- v) **The accused person has the liberty to file representations when the matter is pending investigation.** When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.
- vi) **A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.**
- vii) However, if in any case, the Sanctioning Authority after consideration of the entire material placed before it, entertains any doubt on any point the competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind proper, and not for the purpose of considering the representations of the accused which may be filed while the matter is pending sanction.
- viii) If the Sanctioning Authority seeks the comments of the IO while the matter is pending before it for sanction, it will almost be impossible for the Sanctioning Authority to adhere to the time limit allowed by the Supreme Court in Vineet Narain's case.

The Commission has directed that these guidelines as at para 2(i)-(vii) should be noted by all concerned authorities for their guidance and strict compliance.

Sd/-
(Sujit Banerjee)
Secretary

To

Secretaries of All Ministries/Departments
CMDs/CEOs of all PSEs/PSUs/PSBs/Financial Institutions
Autonomous Organisations
All CVOs

No.004/VGL/63
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 18th November 2004

Office Order No.70/11/04

To

All Chief Vigilance Officers

Subject: Appointment of retired officers as Inquiring Authority.

The Commission vide its Office Order No. 34/7/2003 dated 1.8.2003 had directed for suitable amendment in the provisions for appointment of retired officers as Inquiring Authorities by PSEs.

2. In recent case (Ravi Malik Vs. National Film Development Corporation Ltd.-Civil Appeal No. 4481 of 2004), the Supreme Court in their judgement delivered on 23.7.2004 have inter-alia held that "the words 'public servants' used in Rule 23 (b) of the NFDC Service Rules and Regulations, 1982 mean exactly what they say, namely, that the person appointed as an Inquiring Officer must be a servant of the public and not a person who was a servant of the public. Therefore, a retired officer would not come within the definition of 'public servant' for the purpose of Rule 23(b)".

3. Rule 14(2) of the CCS (CCA) Rules, 1965 provides that "Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof".

4. CVOs of organisations (other than those, which follow CCS (CCA) Rules, 1965) may review the service rules and regulations of their organisations and take necessary measures to amend the provisions relating to appointment of Inquiring Authorities, if they are inconsistent with the provisions under Rule 14(2) of the CCS (CCA) Rules, 1965. If any Service/Departmental Rules are in conflict with appointment of retired persons as Inquiring Authorities, they should be suitably amended before any such appointments are made.

Sd/-
(Anjana Dube)
Deputy Secretary

No.004/VGL/79
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-1100 23
Dated the 4th October 2004

Office Order No. 62/9/04

Subject: Reporting in ACRs by the officers under investigation of the officers conducting vigilance investigation.

The Commission vide its letter No.4/53/73-R, dated 31st Oct.1973 had reiterated the instructions of Min. of Home Affairs issued vide its OM No.43/107/64-AVD dated 23.10.1964 that those posted to the vigilance organisations should not have the fear of returning to their parent cadre after a short period with the possibilities of facing displeasure of those against whom they had made enquiries.

2. The Commission reiterates the above instruction. Further, it may be ensured that no officer should be asked to undertake investigation against an officer under whom he/she is posted. If any such occasion arises wherein an officer had inquired against an officer who is his controlling officer or is likely to assess his performance for the past period, it should be ensured that the ACR may be written by the next reporting level, to prevent undue penalisation. Thus those officials who are/were under investigation should not be allowed to write the ACRs of the officers who conducted vigilance investigation, against them.

(Anjana Dube)
Deputy Secretary

To

The Secretaries of all Ministries/Departments of Government of India
Chief Executives of PSUs/Banks/Organisations
All Chief Vigilance Officers

No. 000/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, INA,
New Delhi-110023
Date the 10th August, 2004

Office Order No.51/08/2004

Subject:- Adherence to time-limits in processing of disciplinary cases.

It has been observed that the schedule of time limits in conducting investigations and departmental inquiries laid down in Commission's letter of even number dated the 23rd May 2000 are not being strictly adhered to. In this context, attention is invited to Department of personnel & Training O.M. No. 11013/2/2004-Estt.(A) dated the 16th February 2004 regarding accountability for delay in decision making (copy enclose for ready reference).

2. Delay in decision-making by authorities in processing of vigilance cases would also be construed as misconduct under the relevant Conduct Rules and would be liable to attract penal action. All administrative authorities are requested to take not and strictly adhere to the prescribed schedule of time-limits in dealing with disciplinary cases.

sd/-
(Anjana Dube)
Deputy Secretary

Encl:- As above

To,
All Secretaries to the Government of India,
All Chief Vigilance Officers of Ministries/Departments of Government of India.

Copy to:-

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Bureau of Investigation, New Delhi.
4. All Union Territory Administrations.
5. Lok Sabha/Rajya Sabha Secretariat.

No. 000/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, INA,
New Delhi-110023
Date the 9th August, 2004

Office Order No.50/08/2004

Subject:- Adherence to time-limits in processing of disciplinary cases.

The Commission is concerned that the schedule of time limits in conducting investigations and departmental inquiries laid down in its letter of even number dated the 23rd May 2000 are not being strictly adhered to and more often than not, delays have been noticed on the part of decision-making authorities leading to disciplinary proceedings getting unduly prolonged. The Commission would tend to view such delays seriously, if willful, on the part of administrative authorities and would be constrained to advise penal action against the administrative authorities concerned.

2. All administrative authorities are therefore requested to take note and strictly adhere to the prescribed schedule of time-limits in dealing with disciplinary cases.

Sd/-
(Anjana Dube)
Deputy Secretary

To,

All CMDs of Public Sector Banks/ Insurance Companies/Public Sector Undertakings.

All CVOs of Public Sector Banks/ Insurance Companies/Public Sector Undertakings.

No. 99/VGL/3
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block "A", GPO
Complex, INA, New Delhi
Dated 26th April, 2004

Office Order No 30.4/04

To

All Chief Vigilance Officers

Subject:- Reducing Delays in Departmental Inquiries

The Commission had issued instruction on reducing delays in departmental inquiries vide No. 8(I)(g)/99(2) dated 19.02.1999. The Commission reiterates the instruction contained therein and direct that there should not be delay in appointing IO and PO. Generally it should not take more than 4 weeks time in appointing IO and PO since it is purely an administrative function.

Yours faithfully,

Sd/-

(Anjana Dube)
Deputy Secretary

No.98/VGL/15
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, I.N.A.,
New Delhi-110 023
Dated the 16/04/2004

Office Order No. 26/4/04

To

The Secretaries of All Ministries/Deptts. of Government of India
The Chief Secretaries to all Union Territories
The Comptroller & Auditor General of India
The Chairman, Union Public Service Commission
All Chief Vigilance Officers in the Ministries/Departments,
Autonomous Organisations/Societies etc.
President Secretariat/Vice-President's Secretariat/Lok Sabha
Secretariat /Rajya Sabha Secretariat/PMO

Subject: Jurisdiction of the Central Vigilance Commission in relation to the officers of the level of Group-B, Gazetted.

Attention is invited to para 5.4,Chapter.I of the Vigilance Manual, Volume-I on the above subject, requiring that vigilance cases of the Gazetted officers of the Central Government and its equivalent grade in other Government organisations might be referred to the Commission for advice.

2. Keeping in view the large increase in number of cases being referred to the Commission for advice, the Commission has decided that, henceforth, only cases of officers of the level of Group 'A' and above of the Central Govt. and Members of All India Services in connection with the affairs of the Union and Group 'A' officers of the Central Govt may be referred to the Commission for advice. It is, however, clarified that the Commission's advice would be necessary in respect of all officers of the Central Government irrespective of their level, if they are involved in the same matter in which an officer of the level of Group 'A' or above is involved. The Commission's advice would also be necessary in cases of difference of opinion between the disciplinary authority and the CVO with regard to the action to be taken against officers who are not within the jurisdiction of the Commission if these differences cannot be resolved with the intervention of the Secretary of the Ministry or Head of the Departments.

3. While delegating the powers to the concerned Ministries/Organisations with regard to gazetted officers below Group 'A' of Central Government, the Commission expects that (i) appropriate expertise would be available to the CVOs; (ii) the CVO would be in a position to exercise proper check and supervision over such cases and would ensure that the cases are disposed off expeditiously within the time norms stipulated by the Commission; and (iii) the punishment awarded to the concerned employee would commensurate with the gravity of the misconduct established on his/her part. In order to ensure that the Commission's expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits and also through the monthly information system (monthly reports etc.). If the Commission comes across any matter, which in its opinion has not been handled properly, it may recommend its review by the appropriate authority or may give such directions as it considers appropriate.

4. In respect of cases involving Gazetted officers below Group 'A' of the Central Government, in which the Commission has tendered its first stage advice before issue of these instructions, the matter need not be referred to the Commission for second stage advice if the disciplinary authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which coincides with the Commission's first stage advice, provided that none of the officers involved in that matter is an officer of All-India Service or Group A' officers. The case, however, may be referred to the Commission for its advice if the disciplinary authority proposes to take action, which does not coincides with the Commission's first stage advice, (or it differs with the recommendation of the CVO with regard to the quantum of punishment to be imposed).

Sd/-
(Anjana Dube)
Deputy Secretary

No. 000/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 27th February 2004

Office Order No. 13/02/04

To

All Chief Vigilance officers of Ministries / Departments / autonomous organisations and societies.

Sub: Delay in finalising of Vigilance cases.

Sir/Madam,

The Commission has observed that a large number of departmental inquiries remain pending with the disciplinary authorities for long periods. The Commission has laid down the time limits in conducting investigations and departmental inquiries vide instruction No. 000/VGL/18 dt. 23.5.2000 and dated 3.3.2003. However, it is seen that these time limits are not adhered to by various organisations and there is no mechanism to monitor the progress made in the inquiries.

2. It has come to notice of the Commission, that one of the PSUs has formed a vigilance committee consisting of Director (P), Director (OP) and CVO to monitor the progress of the departmental inquiries. This committee reviews the progress of the departmental inquiries quarterly.

3. The Commission suggests that similar type of system should be adopted in other organisations, suited to their requirement, to monitor the progress made in departmental inquiries and check delays in completion of inquiries.

4. Action taken in this regard may be intimated.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

No.003/DSP/3
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 26th February 2004

Office Order No.14/02/04

To

All Secretaries to the Government of India
All Chief Vigilance Officers
Deputy Secretary (AVD III), DOPT

Subject:- Role of Disciplinary Authority in decision taken.

Sir/Madam,

The Commission vide its Office Order No. 51/9/03 dated 15.9.2003 stressed the need for self-contained speaking and reasoned orders to be issued by the authorities exercising disciplinary powers. The Commission has however, noticed that at the time of issuing final orders imposing a penalty on the charged officer on the advice of the Commission and/or at the time of deposing affidavits in the courts, some Disciplinary Authorities (DA) mention the Commission's reference. The Commission has observed that this leads to an unwarranted presumption that the DA has acted under the influence/pressure of the Commission.

2. The DAs are again informed that, their orders in the matter of disciplinary cases or affidavits to the courts, should in no case imply that any decision has been taken under the influence of the Commission; as the Commission is only an Advisory Body and it is for the Disciplinary Authority to apply its mind subsequent to obtaining the Commission's advice and take reasoned decisions on each occasion. The Disciplinary Authorities are required to strictly follow the above guidelines of the Commission at all stages.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

No.NZ/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 26th February 2004

Office Order No.12/02/04

To

All Secretaries to the GOI/ CEOs of PSEs/PSBs
All Chief Vigilance Officers

Sub: Procedure for making reference to the Commission for its first stage advice – regarding.

Reference is invited to the Commission's circular of even number dated 12.05.2003 on the above subject. It has been observed that after the Commission tenders its first stage advice in cases of major penalty, the vigilance cases get unnecessarily delayed or result in exoneration due to non-availability of proper documents. The Commissioners for Departmental Inquiries (CDIs) have also pointed out that in many cases the Presenting Officers find problems even in the production of prosecution/management documents. This results in undue delay in finalisation of the inquiries.

2. The Commission is, therefore, of the view that the Disciplinary Authority should go through all the documents/evidences carefully at the initial stage itself before deciding whether the case(s) against the SPS(s) warrants major penalty or not. Once a decision is taken by the DA and the case is referred to the Commission for its first stage advice with the recommendation of major penalty proceedings against the SPS(s), the Disciplinary Authority should enclose a copy of draft charge-sheet alongwith the list of documents and witnesses through which the department intends to prove the charges besides the completed 'proforma for seeking advice'.

3. Disciplinary Authority should also ensure that the Presenting Officer(s) is/are given the custody of all the listed documents in original or certified copies thereof alongwith his appointment order so that the delay in disciplinary proceedings are reduced.

Sd/-
(Anjana Dube)
Deputy Secretary

No.004/VGL/3
GOVERNMENT OF INDIA
CENTRAL VIGILANCE COMMISSION

Satarkata Bhawan, A, Block,
GPO Complex, INA,
New Delhi-1100 23.
Dtd:19th February, 2004

Office Order No.11/02/04

To,

- (1) All Secretaries to the GOI.
- (2) Chief Executives of all PSUs/Banks/Orgn.
- (3) All CVOs
- (4) Dy. Secy.(AVD.III), DOPT

SUB: Commission's advice in cases not having vigilance angle.

Sir,

The Commission has observed that the Deptts./Ministries are not properly interpreting and appreciating the advice of the Commission that "there is no vigilance angle to the alleged lapses and the Department may take appropriate action in the matter".

2. The Cases where the lapses are not having vigilance angle, it does not automatically mean that no disciplinary proceedings have to be taken. In such cases the disciplinary authority may take appropriate action under the Conduct and Disciplinary Rules and the matter need not be referred to the Commission again for consultation.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

No.11013/2/2004-Estt.(A)
Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

New Delhi, dated the 16th February, 2004

OFFICE MEMORANDUM

Sub:- Accountability for delay in decision making.

A Core Group on Administrative Reforms (CGAR) has been constituted under the chairmanship of Cabinet Secretary in February, 2003 to formulate specific changes in the systems and procedures in consultation with the ministries/departments concerned and to advise strategies for changing attitudes. The Core Group has decided that the existing provisions about accountability mechanism should be reiterated with a view to bring to everyone's notice that these provisions are adequate for initiating disciplinary proceedings when an officer adopts a dilatory attitude leading to delay in decision-making and/or harassment of the public.

2. In view of the above, the following provisions of CCS (Conduct) Rules, 1964 are brought to the notice of all Ministries/Departments for information and necessary action:-

Rule 3. General

- (1) Every Government servant shall at all times:-
- (i) maintain absolute integrity;
 - (ii) maintain devotion to duty; and
 - (iii) do nothing which is unbecoming of a Government servant.
- (2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority;
- (ii) No Government servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior;

Explanation 1:- A Government servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of clause(ii) of sub-rule (1).

Explanation II:- Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government servant to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such

instructions are not necessary under the scheme of distribution of powers and responsibilities.

Rule 3A. Promptness and Courtesy

No Government servant shall

- (a) in the performance of his official duties, act in a discourteous manner;
- (b) in his official dealings with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him.

3. Rule 11 of the CCS (CCA) Rules, 1965 provides that the penalties (ranging from 'censure' to 'dismissal') mentioned therein may be imposed on a Government servant 'for good and sufficient reasons'. Thus any Government servants violating the provisions of Conduct Rules can be proceeded against as it will form 'good and sufficient reasons' for imposing the penalties prescribed in Rule 11. In other words, disciplinary proceedings could be initiated if an officer adopts a dilatory attitude, leading to delay in decisions making and/or harassment of the public.

4. Ministries/Departments are also requested to bring the above cited provisions of the Conduct Rules and CCA Rules to the notice of all the officers and officials in the Ministries/Departments (proper) and in the organizations/offices under their administrative control to clarify that if they are found responsible for willful delay in disposal of the various types of cases dealt with them, finally leading to delay in decisions making, they shall be liable for disciplinary action in terms of the relevant provisions referred to in para 2 and 3 of this OM.

Sd-
(Mrs. Pratibha Mohan)
Director

To

All Ministries/Departments of the Government of India.

Copy to:

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.
4. Central Bureau of Investigation, New Delhi.
5. All Union Territory Administrations.
6. Lok Sabha/Rajya Sabha Secretariat.
7. All attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.
8. All officers and sections in the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.

Sd-
(Smt. Pratibha Mohan)
Director(E-II)

No.000/VGL/187
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 8th January, 2004

Office Order No. 2/1/04

To

All CVOs of Public Sector Enterprises

Subject:- Obtaining Commission's advice in composite cases.

Sir,

Para 16.2 of Special Chapter on Vigilance Management in Public Sector Enterprises provides that if an employee of a PSU involved in a case, falls within the Commission's jurisdiction, latter's advice would be required and any decision of the disciplinary authority at this juncture may be treated as tentative. Such a reference would be required to be made even in respect of an officer/staff who are not within the Commission's jurisdiction if they are involved alongwith other officers who are within the jurisdiction of the Commission, as the case would than become a composite case and falls within the Commission's jurisdiction.

2. However, it has been observed by the Commission that a number of organisations are not following this procedure and de-linking the suspected employees in a composite case. This is not in consonance with the Commission's directives. The Commission again reiterates that a composite case should be processed as 'one' and action against every individual employee should be taken only on Commission's advice, even if there is only one official who comes within Commission's jurisdiction.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

Confidential

No.003/DSP/9
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 8th January, 2004

Office Order No. 1/1/04

To

All Chief Vigilance Officers

Subject: Difference of opinion between CBI and Administrative authorities.

Sir/Madam,

The Commission has decided that where there is difference of opinion between the Deptt./organisation and the CBI in cases where the latter have recommended prosecution under PC Act etc., the Commission would hold a joint meeting with the representatives of CBI and concerned Deptt./organisation. In such a meeting the CVO of the Deptt./organisation should take a brief from the disciplinary authority in this regard. However, if the DA wishes to attend the joint meeting, the Commission has no objection to it.

2. CVOs may bring this to the notice of all concerned Disciplinary Authorities.

Sd/-
(Anjana Dube)
Deputy Secretary

No.003/DSP/3
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi –110023
Dated 15th September 2003

Office Order No. 51/9/03

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Executives of All PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs./Public Sector Banks/Insurance companies/Autonomous Organisations/Societies
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

Subject:- Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.

Sir/Madam,

It was clarified in the Department of Personnel & Administrative Reforms' OM No. 134/11/81/AVD-I dated 13.07.1981 that the disciplinary proceedings against employees conducted under the provisions of CCS (CCA) Rules, 1965, or under any other corresponding rules, are quasi-judicial in nature and therefore, it is necessary that orders issued by such authorities should have the attributes of a judicial order. It was also clarified that the recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. Such orders passed by the competent disciplinary/appellate authority as do not contain the reasons on the basis whereof the decisions communicated by that order were reached, are liable to be held invalid if challenged in a court of law.

2. It is also a well-settled law that the disciplinary/appellate authority is required to apply its own mind to the facts and circumstances of the case and to come to its own conclusions, though it may consult an outside agency like the CVC. There have been some cases in which the orders passed by the competent authorities did not indicate application of mind, but a mere endorsement of the Commission's recommendations. In one case, the competent authority had merely

endorsed the Commission's recommendations for dropping the proposal for criminal proceedings against the employee. In other case, the disciplinary authority had imposed the penalty of removal from service on an employee, on the recommendations of the Commission, but had not discussed, in the order passed by it, the reasons for not accepting the representation of the concerned employee on the findings of the inquiring authority. Courts have quashed both the orders on the ground of non-application of kind by the concerned authorities.

3. It is once again brought to the notice of all disciplinary/appellate authorities that Disciplinary Authorities should issue a self-contained, speaking and reasoned orders conforming to the aforesaid legal requirements, which must indicate, inter-alia, the application of mind by the authority issuing the order.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

No.NZ/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 10th September, 2003

Office Order No. 47/9/03

To

All Chief Vigilance Officers

Subject: Procedure for making reference to the Commission for its second stage advice- regarding.

Sir/Madam,

The Commission has observed that Ministries/Departments/Organisations are not properly following the laid down procedure and also making incomplete reference to the Commission while seeking its second stage advice. This results in back references to the department and causes unnecessary delay in disciplinary proceedings. In order to obviate delays on this account, the Commission reiterates that the cases requiring the Commission's second stage advice may be referred to it along with the following documents:-

- (i) Copy of the Charge-sheet with all the annexures,**
- (ii) CO's statement of defence,**
- (iii) The IO's report and connected documents (including PO's brief and CO's brief),**
- (iv) Self-contained note on findings of the DA on each of article of charges along with tentative view of DA and CVO.**

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

No.98/DSP/9
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi-110023
Dated the 13th August, 2003

OFFICE ORDER NO. 36/7/03 dated 9.7.2003

Subject:- Clarifications on Commission's Directions

During the meeting of the Central Vigilance Commission with CMDs of Public Sector Banks at IBA, Mumbai on 25.02.2003, a number of issues were raised. The Commission clarified these issues as follows:

(i) Commission's directive dated 11.10.2002 on dealing with anonymous/pseudonymous complaints.

It was requested to reconsider the Commission's directive on dealing with anonymous/pseudonymous complaints modifying the earlier advice of not to take cognizance of such complaints. The Commission is of the view that such a verification cannot be done in a routine manner and in case any department/organization wanted to verify the facts, then a reference to the Commission is necessary. There is, therefore, no change in the Commission's earlier ruling on action on anonymous/pseudonymous complaints.

(ii) Commission's clarification dated 10.02.2003 on non-acceptance of the Commission's advice in the matter of appeals.

It was requested to reconsider the Commission's clarification dated 10.02.2003 on non-acceptance of the Commission's advice in the matter of appeals. It was clarified that the DA could differ with the Commission's 2nd stage advice for valid reasons and this applied to the Appellate Authority also. The right to the Appellate Authority to differ with the Commission, therefore, not interfered with. The Appellate Authority should satisfy himself that the DA has applied his mind and then take his own independent decision. The Commission, however, would take a view as to whether the 'deviation' in such cases is serious enough to warrant inclusion in its Annual Report.

(iii) Reference of cases to CBI

It was clarified that the institution, at the initial stage itself, depending on the facts of the case, should decide whether the case is to be entrusted to the local police or CBI.

(iv) Posting of officer in 'agreed list'

It was clarified that drawing up and revising the agreed list with the assistance of CVO is left to the CEOs and if it is desired that a person in the agreed list is to be posted in a particular position, the institution may take the decision for specific reasons.

Sd/-
(Anjana Dube)
Deputy Secretary

No.98/MS/23
Government of India
Central Vigilance Commission

Satarkata Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110 023
Dated the 1st August, 2003

OFFICE ORDER NO. 34/7/2003

To

All Chief Vigilance Officers

Subject: Utilising the services of outsiders including retired officers for conducting Departmental inquiries.

Sir/Madam,

Please refer to the Commission's letter of even number dated 25th March 2003 on the above subject.

2. The rules applicable to public sector enterprises generally provide that the disciplinary authority may itself inquire into the truth of any imputation of misconduct against an employee, or appoint any public servant (called as inquiring authority) to inquire into the truth thereof. The term "public servant" has been defined in the CDA rules, which means and includes a person as mentioned in section 21 of the IPC. The retired employees of the public sector undertakings do not fall within the definition of public servants as defined in 21 IPC and therefore cannot be appointed as inquiring authority unless the aforesaid provision is suitably amended. Such public sector undertakings as have not amended the aforesaid provision may take expeditious action to provide for appointment of retired public servants as inquiring authorities.

3. Further, the Commission has also decided that keeping Para 2 above in view **the departments/public sector undertakings/organisations depending upon their need, and if they so desire, may maintain a panel of retired officers from within or outside the department or organization for appointment as inquiring authorities, in consultation with the Chief Vigilance Officer. In case, there is difference of opinion between the Disciplinary Authority and the Chief Vigilance Officer about the inclusion of any name in the panel or appointment of any one out of the panel as IO in any case, the CVO may report the matter to the next higher authority, or the CMD for the resolution of the difference. If still unresolved, the CVO may refer the matter to the CVC. A case of difference of opinion between the CVO and the CMD, if acting as Disciplinary Authority, may be referred to the Commission for its advice.**

Contd./-

4. It however may be ensured that the officer appointed as inquiring authority has no bias or/ and had no occasion to express an opinion at any stage of the preliminary inquiry.

5. CVOs may bring this to the notice of all concerned.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

NO.99/DSP/1
GOVERNMENT OF INDIA
CENTRAL VIGILANCE COMMISSION

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi-110023
Dtd. The 20th June, 2003

To

All Chief Vigilance Officers.

Subject:- Definition of term stiff/severe minor penalty.

Sir/Madam,

The Commission had clarified the term "stiff/severe minor penalty" vide its circular of even No. dtd. 11.8.1999.

2. The Commission has received a number of references from various organizations and the Commission has again reviewed the issue. The Commission has decided that henceforth the Commission will advise two kinds of minor penalties (1) suitable minor penalty which would include 'censure' or (2) minor penalty other than 'censure'.

3. This supersedes the earlier circular of the Commission dated 11.8.1999.

Yours faithfully,

Sd/-
(Mange Lal)
Deputy Secretary
Telefax No.24651010

No.NZ/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 12th May 2003

To

All Chief Vigilance Officers

Subject: Procedure for making references to the Commission for seeking advice.

Sir/Madam,

Kind attention is invited to the Commission's circular letter of even number dated 16.3.2000 reiterating the Commission's instructions dated 7.12.1995 and dated 24.11.1997 on the procedure for making references to the Commission.

2. It has been observed that organisations are still making references with incomplete bio-data forms and insufficient justification to support recommendations. The Commission has, therefore, devised a format, a copy of which is enclosed alongwith instructions thereto. The CVOs are therefore, requested to ensure that bio-data forms are properly filled in and recommendation against allegations are given in the enclosed format.

3. Kindly acknowledge receipt.

Yours faithfully,

Sd/-
(Mange Lal)
Deputy Secretary
Tel.No. 24651010

Copy for internal distribution

PROFORMA FOR SEEKING FIRST STAGE ADVICE OF THE COMMISSION

- Name & Date of Birth :
Designation
(a) Present :
(b) At the material time :
1. Date of occurrence of the :
alleged misconduct
2. Source :
3. Nature of Lapse(s) :
4. Details of Allegation(s) :
5. Evidence(s) with type :
6. Explanation of SPS and :
reasons as to why the
same is acceptable or
not acceptable
7. Misconduct imputes, with :
relevant clause(s) of CDA
Rules
8. Recommendation of the :
CVO
9. Recommendation of the :
Disciplinary Authority

Chief Vigilance Officer

**Instructions to the departments on filling up the proforma
in reference(s) seeking first stage advice of the Commission**

1. A separate proforma should be used for allegation(s) in respect of each official.
2. It is mandatory to mention the date of birth. A proposal that does not contain date of birth will be returned back to the department.
3. In Column (3), the nature of allegation would mean a brief description, say false TA claim; Use of Excess Authority; Supervisory Lapse; etc.
4. Details of allegation(s) should be indicated in Column (4).
5. Evidences in support of each allegation should be indicated clearly in Column (5). Type of evidences should be indicated, using 'O' for Oral evidence and 'D' for Documents.
6. In Column (6), the department should specifically comment on explanation of the official and give reasons why it is not acceptable.
7. In Column (7), nature of misconduct, along with relevant clause(s) of CDA Rules, should necessarily be mentioned. For instance, it must be indicated whether the allegation/imputation reflects lack of devotion to duty or lack of integrity or it is a violation of some other CDA Rule.

No.000/DSP/1
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, INA
New Delhi -110023
Dated the 5th May, 2003

To

All Chief Vigilance Officers

Subject:- Non-Acceptance of the Commission's advice in the matter of appeals.

Sir/Madam,

The Commission has issued instructions vide circular No. 000/DSP/1 dated 10th February, 2003 on consideration of appeals preferred by the punished officers against the orders of punishment imposed on them. Accordingly, the relevant provision on appeal, in the Vigilance Manual, and Special Chapters on Vigilance Management in public sector banks/public sector enterprises/public sector insurance companies, would stand amended to that extent.

Yours faithfully,

Sd/-
(Mange Lal)
Deputy Secretary
Telefax-24651010

Copy for internal distribution

No.98/MSc/23
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi 110 023
Dated the 25th March 2003

To

All Chief Vigilance Officers

Subject:- Utilising the services of outsiders including retired officers for conducting Departmental Inquiries.

Sir/Madam,

Attention is hereby invited to the instructions contained in the Commission's circular letter No.98-MSc-23 dated 29th November, 2002 on the subject cited above.

2. The matter relating to appointment of outsiders including retired officer as Inquiry Officer has been considered further in the Commission and in supersession of all the instructions issued on the subject, it has now been decided that the disciplinary authority may appoint outsiders including retired officer as Inquiry Officer with the approval of the CVO. In case the CVO does not agree to his appointment as Inquiry officer and the DA/management insist on his appointment, only then the approval of the Commission should be sought.

3. However, before doing so, the organizations should lay down clear cut guidelines for appointment of Inquiry Officers.

4. In view of the aforesaid instructions, the Commission does not find the need to maintain a centralized panel.

Yours faithfully,

-sd-
(MANGE LAL)
Deputy Secretary
Telefax- 24651010

No.000/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi –110023
Dated the 3rd March 2003

To

- (1) The Secretaries of Ministries/Departments, autonomous organizations and Societies etc.
- (2) CMDs of all PSUs including PSBs.

Subject:- Delay in implementation of Commission's advice.

Reference: Commission's instructions vide Circular letter No. 000/VGL/18 dated 23.05.2000 and 003/MMT/02 dated 07.01.2003.

The Commission would like to invite the attention of disciplinary authorities to a large number of advices from it at both first and second stage pending implementation for long periods. It must be understood that a reasonable time limit for concluding and finalizing vigilance cases is already built in the procedure for disciplinary proceedings. Besides the responsibility for ensuring quick disposal of disciplinary proceedings rest with the administration and the vigilance department cannot be called in to share it at the advice implementation stage. Therefore administration must appreciate that it will be called upon to explain inordinate delay over the above the prescribed time limits for finalizing disciplinary cases. **Accordingly the Commission would like to direct that subsequent to its first and second stage advice the responsibility for finalization and award of punishment passes on from the vigilance to the personnel department.**

Administration may impress upon all concerned and especially the personnel departmental that in view of the shift in responsibility from the vigilance to the personnel, any delay over and above the prescribed time limits for finalization of disciplinary cases will be viewed as misconduct by the Commission and will render the concerned officials of the personnel department and others concerned liable for being proceeded from the vigilance angle with its attendant ramifications.

Kindly acknowledge receipt and confirm having taken steps for compliance of the above instructions. A copy of this letter is also being endorsed to the CVOs of the organizations for necessary followed up action.

Yours faithfully,

Sd/-
(R. Ashok)
Additional Secretary
Telefax: 24651017

No.002/MS/15
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 10th February 2003

To

All Chief Vigilance Officers

Subject: Entitlement of TA/DA to the private witnesses and the retired employees appearing before departmental inquiry.

Sir,

It has come to the notice of the Commission that some of the organisations are reluctant to pay TA/DA to their retired employees for appearance in departmental inquiries. It has also been noticed that some of the private persons, summoned to appear as witnesses, had made payment of advance TA/DA a pre-condition for appearance.

2. The position regarding the payment of TA/DA to private persons or retired employees appearing as defence witnesses has been provided in the Ministry of Finance U.O. Note 3221-E IV(B)/61 dated 20.11.1961 and O.M. No. F.5(15) F.IV (B)/68 dated 15.09.1969 which inter-alia lay down that the private persons or retired employees appearing as prosecution or defence witnesses in departmental inquiries including those conducted by the Commissioner of Departmental Inquiries should be paid TA/DA. The Commission reiterates these instructions and expects the organisations/departments to follow these scrupulously.

Yours faithfully,

Sd/-
(Mange Lal)
Deputy Secretary
Telefax- 24651010

No.000/DSP/1
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, INA,
New Delhi – 110023
Dated the 10th February 2003

To

All Chief Vigilance Officers.

Subject:- Non-acceptance of the Commission's advice in the matter of appeals.

The Commission tenders its second stage advice before the DA decides on the outcome of the inquiry in the case of major penalty or takes a view on the minor penalty proceedings after receipt of the explanation of the charged official. Sometimes after imposition of the punishment by the disciplinary authority, the charged official makes an appeal. The Appellate Authority is expected to keep the advice tendered by the Commission and decide on the appeal. In case the Appellate Authority decides to deviate from the advice given by the Commission on appeal, the CVO will report this to the Commission which will take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

2. The Commission further wishes to stress that reconsideration of advice will be only in exceptional cases at the specific request of the DA, before a decision is taken by it to impose the punishment or otherwise. After a decision has been taken by DA or the Appellate Authority the Commission will not entertain any reconsideration proposal. Such cases will be treated only as "deviation" from and non-acceptance of Commission's advice.

Yours faithfully,

Sd/-
(Mange Lal)
Deputy Secretary
Telefax : 24651010

No.98/MSc/23
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 29th November 2002

To

All Chief Vigilance Officers

Subject: Utilising the services of retired officers for conducting Departmental Inquiries.

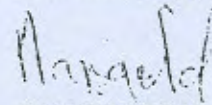
Sir,

Please refer to the Commission's circular of even number dated 16.09.1999 informing about the maintenance of a panel of retired officers by the Commission for appointment as inquiring authorities in the disciplinary proceedings and the terms and conditions for their appointments.

2. The issue of utilising the services of retired officers for conducting departmental inquiries has been reviewed in the Commission and it has been decided that the Commission would not involve itself in maintaining a panel of retired officers henceforth. However, in case any organisation requires the services of a retired/outside inquiry officers including these officers who are on the Commission's panel, they may do so after obtaining the prior concurrence of the Commission for that person.

3. This is for information and necessary action of all concerned.

Yours faithfully,



(Mange Lal)

Deputy Secretary
Tel.No. 4651010

Confidential

No.002/VGL/49
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block 'A',
GPO Complex, INA,
New Delhi-110023
Dated the 18th September 2002

To

All Chief Vigilance Officers.

Subject: Delay in implementation of CVC's advice.

Sir/Madam,

As per the information available on the CVC's web-site, updated on 20.08.2002, 3202 cases are pending with the disciplinary authorities for implementation of the Commission's first stage advice and 1473 cases for implementation of the Commission's second stage advice. This includes as many as 1947 cases (1st Stage) and 893 cases (2nd Stage) pending for more than a year.

2. The instructions issued by the Commission, vide letter No. 000/VGL/18 dated 23.05.2000 and the provisions made in the Special Chapters on Vigilance Management for Public Sector Undertakings/Banks/Insurance Companies provide for implementation of the CVC's first and second stage advice within a month of the receipt of Commission's advice. The Commission has, therefore, taken a serious note of delay in implementation of its advice. It desires that the Chief Vigilance Officers may pursue the matters vigorously with the concerned disciplinary authority to get the orders issued on such matters. In the Commission's view, the CVO's performance would need to be assessed, among others, on the basis of their effectiveness in expeditious decision in these cases.

Yours faithfully,

Sd/-
(K.L. Ahuja)
Officer on Special Duty

Immediate

No. 3S/DSP/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110023
Dated the 14th June 2002

To

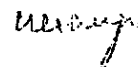
All Chief Vigilance Officers

Subject: Promotion of Govt. Servants against whom preliminary inquiries are pending – clarification regarding.

Sir/Madam,

The undersigned has been directed to refer to the Commission's letter of even number dated 28.03.2002, on the above subject, and to say that the instructions contained therein are hereby withdrawn. The Commission, however, desires that in the matter of promotion of public servants, the instructions contained in DOPT's O.M.No.22011/4/91-Estt.(A) dated 14.09.1992 may be followed strictly.

Yours faithfully,



(K.L. Ahuja)
Officer on Special Duty

No.000/VGL/70
Government of India
Central Vigilance Commission

Satarkata Bhavan, Block "A",
GPO Complex, I.N.A.,
New Delhi - 110 023.
Dated 25th September 2000

Subject: - Suspension of public servants involved in criminal/departmental proceedings.

Suspension is an effective tool for checking corruption. There have been many instances where senior officials, who had been trapped or were alleged to have disproportionate wealth or who were facing charge sheets on other serious charges, had not been suspended. It has also come to notice that officers charged of corruption, if not suspended, manage to get their inquiries delayed because delay in criminal/departmental proceedings enables them to continue in service even though the charges against them are grave enough to deserve the punishment of dismissal from service. Such officials can also use the opportunity of continuance in service for earning money through illegal/corrupt means. The Commission, therefore, is of the view that officers facing criminal/ departmental proceedings on serious charges of corruption should be placed under suspension as early as possible and their suspension should not be revoked in a routine manner.

2. It has been provided in para 2.4, Chapter V of the Vigilance Manual, Volume-I, that public interest should be the guiding factor in deciding whether, or not, a public servant should be placed under suspension; or whether such action should be taken even while the matter is under investigation and before a prima-facie case has been established. The instructions provide that it would be appropriate to place a person under suspension if: -

- (i) the continuance of the public servant in office is likely to prejudice investigation, trial or inquiry [apprehending tampering with documents or witness]; or
- (ii) where the continuance in office of the public servant is likely to seriously subvert discipline in the office in which he is working;
- (iii) where the continuance in office of the public servant will be against the wider public interest, e.g., if there is a public scandal and it is considered necessary to place the public servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;

- (iv) where the investigation has revealed a prima-facie case justifying criminal/departmental proceedings which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service; or
- (v) where the public servant is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

3. Para 2.5, Chapter V of the Vigilance Manual, Volume-I also lays down that it may be considered desirable to suspend a public servant for misdemeanor of the following types: -

- (i) an offence or conduct involving moral turpitude;
- (ii) corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gains;
- (iii) serious negligence and dereliction of duty resulting in considerable loss to Government;
- (iv) desertion of duty; and
- (v) refusal or deliberate failure to carry out written orders of superior officers.

[In case of types (iii), (iv) and (v) discretion should be exercised with care].

4. It has also been provided in para 17 of the "Directive on investigation of cases by the Special Police Establishment Division of the CBI" that the CBI would recommend suspension of the concerned employees in appropriate cases.

5. The Central Vigilance Commission has been empowered, vide para 3 (v) of the Government of India's Resolution No.371/20/99-AVD.III dated 4th April 1999, to exercise superintendence over the vigilance administration of various Ministries of the Central Government or Corporations established by or under any Central Act, Government Companies, Societies and local authorities, owned or controlled by that Government. Since the suspension of a public servant on serious charges, like corruption, is directly related to the vigilance administration, the Commission hereby desires that all disciplinary authorities should follow the instructions enumerated in paras 2, 3 and 4 supra strictly. It also desires that if the CBI recommends suspension of a public servant and the competent authority does not propose to accept the CBI's recommendation in that regard, it may be treated as a case of difference of opinion between the CBI and the administrative authority and the matter may be referred to the Commission for its advice. It also directs that if a

person had been suspended on the recommendations of the CBI, the CBI may be consulted if the administrative authority proposes to revoke the suspension order.

6. These instructions are available on the CVC's web-site <http://cvc.nic.in>



(N. VITTAL) 25.9.2000
CENTRAL VIGILANCE COMMISSIONER

To

1. The Secretaries of all Ministries/Departments of Government of India.
2. The Chief Secretaries to All Union Territories.
3. The Comptroller & Auditor General of India.
4. The Chairman, Union Public Service Commission.
5. The Chief Executives of All PSEs/Public Sector Banks/ Insurance Companies/Autonomous Organisations/ Societies.
6. The Chief Vigilance Officers in the Ministries/ Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
7. President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.
8. Director, CBI.
9. Department of Personnel & Training, North Block, New Delhi.

No.001/VGL/82
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110023.
Dated: 11th February 2002

To

All Chief Vigilance Officers

Sub: Video taping of evidence.

Sir,

It has been brought to the notice of the Commission that in Indian Airlines, departmental proceedings have been initiated and brought to successful completion in a case which emanated from a complaint that an official had demanded illicit gratification from a user. The crucial witness in the proceedings was the complainant who could not be personally present; a videotape of the complaint was utilised in the proceedings and it was considered sufficient to establish the case though preponderance of probability.

2. This is being brought to the notice of all concerned for similar action in such situations.

Yours faithfully,

Sd/-

(C.J. Mathew)
Deputy Secretary

No.: 001/DSP/6
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110023.
Dated the 2nd November, 2001.

To

The All Chief Vigilance Officers

Sub: Ensuring attendance by private witnesses in Departmental Inquiries.

Sir,

It has been observed that in many cases warranting initiation of major penalty proceedings, the main impediment is the distinct possibility that private witnesses, who are required to provide crucial evidence, are likely to evade appearance before the Inquiry Authority.

2. The provisions of Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act, 1972 can be taken recourse to in such cases. This Act is applicable to all inquiry proceedings where lack of integrity is a charge or part of a charge. The inquiry authority authorised under the Act is conferred with the powers of a trial court to summon witnesses/documents and such summons shall be served through a District Judge. The authorisation to summon under the Act can be issued only by the Central Govt. Therefore, wherever lack of integrity is a charge and witnesses have to be compelled to attend, a proposal will have to be made to the Central Govt. by the concerned inquiry authority for issue of a notification conferring the power under the Act.

3. This may be resorted to when considered necessary.

4. This issues with the approval of the Commission.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

No. 98/MSC/23
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block "A",
GPO Complex, INA,
New Delhi.
Dated: 10th September 2001.

To

All Chief Vigilance Officer,
Public Sector Undertakings/Public Sector Banks.

Subject: Utilising the services of Retired Government Officer as Inquiry Officer in the disciplinary proceedings against the employees of Banks/PSUs.

Sir,

This has reference to the CVC's instructions vide No. 8(1)(h)/98(1) dated 18.11.98 regarding review of the cases pending for departmental inquiries and utilizing the services of retired Government officers as Inquiry Officer for completing the inquiry in time.

2. The Commission is reviewing the position. The following information is required in this regard:-

- (i) Whether PSUs/Banks have taken steps to amend the Conduct, Discipline and Appeal Rules, so as to provide for appointment of retired officers as Inquiry Officers.
- (ii) If the answer to (i) above is in the affirmative whether they have operated the panel prepared by the CVC.

3. It is requested the above mentioned information may be furnished to the Commission on priority basis.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

000/VGL/187
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 3rd August 2001

To

- (i) The Secretaries of All Ministries/ Departments of Government of India**
- (ii) All Chief Vigilance Officers of Ministries/Departments/Banks/PSUs/UTs/ Autonomous Bodies/ Insurance Sectors.**

Subject: References to the Commission seeking second stage advice.

The Central Vigilance Commission is empowered to exercise superintendence over the vigilance administration of the various Ministries of the Central Government or Corporations established under any Central Act, Government Companies, Societies and local authorities owned or controlled by that Government in terms of para 3(V) of the Ministry of Personnel, Public Grievances & Pensions, DOPT Resolution No. 371/20/99-AVD.III dated 4th April 1999.

2. Though there is no categorisation of public servants for determining the Commission's jurisdiction, in view of the magnitude of the total employee strength the Commission had delineated certain levels for making references to the Commission for advice, both first and second stage. It was also directed that this delineation would not operate in composite cases cutting across levels.

3. The Commission observes that, after seeking the Commission's first stage advice in composite cases, the concerned departments/organisations fail to seek second stage advice in the cases of all covered by the first stage advice ostensibly on the ground that certain employees do not come within the purview of the Commission.

4. In view of the comprehensive jurisdiction of the Commission and instructions regarding handling of composite cases, it is hereby clarified that, irrespective of level of the public servant, Commission's second stage advice should be sought in the case of all employees where first stage advice has been rendered by the Commission.

5. This issues with the approval of the Commission.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

No.3(v)/99/14
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, I.N.A.,
New Delhi- 110 023
Dated the 16th May 2001

Subject: System improvement to fight corruption through better synergy between CAG and CVC.

Under the powers vested in the DOPT Resolution No.371/20/99-AVD.III dated 4th April 1999, para 3(v), the following instructions are issued:

The audit reports of the Comptroller & Auditor General many a time reveal not only administrative and financial irregularities but also actual cases of corruption. The CAG reports are generally well documented and would be useful in bringing the corrupt public servants to book.

2. There is a need for introducing a system for prompt follow up action in the cases of corruption brought out by the CAG in its audit reports. The Public Accounts Committee and the Committee on Public Undertakings which scrutinise the CAG reports may not have the time to scrutinise all the reports and all the paragraphs. At the same time, the valuable information available through the CAG audit reports in the form of documented cases of corruption call for prompt action on the part of the disciplinary authorities.

3. It is, therefore, decided that with immediate effect the CVOs in all the organisations must scrutinise the CAG audit reports issued after the date of this circular to check whether any cases of corruption are revealed in them. In all such cases immediate action must be initiated against the public servants concerned through the standard practice of referring vigilance cases to CVC.

4. The Commission had also been in correspondence with the CAG on this subject. It has been agreed that all serious cases of malpractices reported by CAG which are perceived to have a vigilance angle would also be sent to the Commission for examination and follow up action. On receiving such references from CAG, the CVC would take follow up action with the disciplinary authorities. In this way, it will be ensured that the cases of corruption and issues having a vigilance angle are not lost sight of and there is effective synergy between CAG and CVC to Strengthen the system to fight corruption.

5. This instruction is also available on the CVC web site at <http://cvc/nic.in>.



(N. VITTAL)

CENTRAL VIGILANCE COMMISSIONER

To

1. The Secretaries of all Ministries/Departments of Government of India
2. The Chief Secretaries to all Union Territories
3. The Comptroller & Auditor General of India
4. The Chairman, Union Public Service Commission
5. The Chief Executives of all PSEs/Public Sector Banks/ Insurance Companies/Autonomous Organisations/ Societies
6. The Chief Vigilance Officers in the Ministries/Departments/PSEs/ Public Sector Banks/Insurance Companies/Autonomous Organisations /Societies
7. President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO
8. Director, CBI
9. Department of Personnel & Training, North Block, New Delhi

001/VGL/5
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 25th April 2001

To

- (i) Secretaries of all Ministries/Departments of Government of India.
- (ii) Chief Executives of all PSEs/Public Sector Banks/Insurance Companies/
Autonomous Organisations/Societies.
- (iii) CVOs of all Ministries/ Departments / Public Sector Undertakings/
Organisations.

Subject: Tackling corruption through a proper follow up of audit reports.

Sir,

Audit is an important tool available for proper control of organisations and the office of the Comptroller and Auditor General (CAG) has been envisaged as the body established for carrying out the necessary checks and reporting of irregularities. It has, however, been observed by the Commission that in response to CAG reports, apart from replying to the office of CAG and to the Public Accounts Committee, no serious effort is undertaken to identify the officials responsible and to initiate disciplinary proceedings, where warranted. As a result, the audit exercise remains an unfulfilled one and irregularities continue to be repeated.

2. The Commission has been in correspondence with CAG on this subject and it has been decided that all serious cases of malpractices reported by the CAG which have a perceived vigilance angle would be sent to the Commission for examination and follow up action.

3. However, this does not absolve the Ministries, Departments and other organisations of their administrative responsibility. It has, therefore, been decided that, in future, all audit reports should be examined by the administrative head to identify the officials responsible for the lapses. Initiation of disciplinary action should be the objective of this examination and the matter is to be referred thereafter to the CVO for complying with the procedure stipulated. Any audit report on which it has been decided that no action is to be initiated is to be furnished, within three months of receipt, to the CVO for a further examination. The CVO is to furnish quarterly data to the Commission about such cases.

This is issued for strict compliance by all concerned.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

No.000/VGL/166
Government of India
Central Vigilance Commission

Satarkata Bhavan, Block "A"
GPO Complelx, I.N.A.,
New Delhi-110023
Dated the 16th January 2001

To

All CVOs of Ministries/Departments of Govt. of India/Nationalised Banks/
PSUs/Autonomous Bodies etc.

Subject: Advance copy of CVO investigation report to CVC.

Please refer to instructions issued under the Commission's Circular of even number dated 9/11/2000 regarding advance copy of CVO investigation report to CVC. Consequent upon the issue of the instructions, certain clarifications have been sought by some Departments/Organisations on the issue. The matter has been considered in the Commission and it is clarified as under:

- i) The Commission's circular dated 9.11.2000 refers to investigations carried out by the Vigilance Wing of the concerned Ministries/Departments/Organisations into acts of omission and commission on the part of officers coming within the purview of the Commission's jurisdiction.
- ii) It is reiterated that notwithstanding the submission of advance copy by the CVO, a separate reference in accordance with the usual procedure needs to be made to the Commission to enable tendering of advice.
- iii) CVOs are to furnish advance copies to the Secretary, Central Vigilance Commission and not to the undersigned.

This issues with the approval of the Commission.

Yours faithfully,

Sd/-
(C.J.Mathew)
Deputy Secretary

000/VGL/166
Government of India
Central Vigilance Commission

**Satarkta Bhawan, Block 'A',
GPO Complex, INA
New Delhi-110013.**

Dated the 9th November, 2000

To

All Chief Vigilance Officers of Ministries/ Departments of Government of India/ Nationalised Banks/ PSU's Autonomous Bodies, Societies etc.

Subject: Advance copy of CVO investigation reports to CVC.

The Commission finds that there is a disturbing trend noticed in certain organisations under its purview to shield corrupt public servants especially at the senior levels. The modus operandi is not to respond to the CVC's communications and delay the report as far as possible. Secondly when the CVOs report is submitted, attempts are made to dilute the gravity of offence before reference is made to CVC, if it all made.

2. In order to reduce such in-built safety nets for the corrupt public servants, it has been decided that with immediate effect all CVOs, when they complete their investigation in vigilance cases, will endorse an advance copy of their report to the CVC while submitting their reports/ comments to the superiors in the organisations. The CVC in turn would analyse the reports/ comments and keep the course of action ready. As soon as the reference is received from the appropriate disciplinary authority, could be taken for giving the advice after taking into account the specific advice of the disciplinary authorities. If attempts have been made to dilute the CVOs report and shield the corrupt, this would also become clear.

3. After the CVO gives the investigation report generally the appropriate authorities must be able to send the report to the CVC within one month of the submission of the report. It is quite possible that a series of queries can be raised by way of scrutiny of the CVOs report which can sometimes be a deliberate attempt to shield the corrupt. In such cases, the CVC will be constrained to draw appropriate conclusion about the action being taken by the CVO.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

No.99/VGL/66
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A",
GPO Complex, I.N.A.,
New Delhi-110023
Dated the 28th September 2000

To

All Chief Vigilance Officers of Ministries / Departments of Government of India/ Nationalised Banks / PSUs / Autonomous Bodies, Societies etc.

Subject: - Consultation with the CVC - Making available a copy of the CVC's advice to the concerned employee.

Sir,

Para 3.6 (iii), chapter XI and para 8.6, Chapter XII of the Vigilance Manual, Vol. I, provide that the advice tendered by the Central Vigilance Commission is of a confidential nature meant to assist the disciplinary authority and should not be shown to the concerned employee. It also mentions that the Central Vigilance Commission tenders its advice in confidence and its advice is a privileged communication and, therefore, no reference to the advice tendered by the Commission should be made in any formal order.

2. The Commission has reviewed the above instructions in view of its policy that there should be transparency in all matters, as far as possible. The Commission has observed that the Hon'ble Supreme Court had held a view in the case - State Bank of India Vs. D.C. Aggarwal and another [Date of Judgement: 13.10.1992] - that non-supply of CVC's instructions, which was prepared behind the back of respondent without his participation, and one does not know on what material, which was not only sent to the disciplinary authority but was examined and relied, was certainly violative of procedural safeguard and contrary to fair and just inquiry. Further, the Hon'ble High Court of Karnataka at Bangalore, in writ Petition No. 6558/93, has also observed that if a copy of the report (CVC's advice) was furnished to the delinquent officer, he would have been in a position to demonstrate before the disciplinary authority either to drop the proceedings or to impose lesser punishment instead of following blindly the directions in the CVC's report.

3. The Commission, at present, is being consulted at two stages in disciplinary proceedings, i.e. first stage advice is obtained on the investigation report before issue of the charge sheet, and second stage advice is obtained either on receipt of reply to the charge sheet or on receipt of inquiry report. It, however, does not seem necessary to call for the representation of the concerned employee on the first stage advice as the concerned employee, in any case, gets an opportunity to represent against the proposal for initiation of departmental proceedings against him. Therefore, a copy of the Commission's first stage advice may be made available to the concerned employee along with a copy of the charge


sheet served upon him, for his information. However, when the CVC's second stage advice is obtained, a copy thereof may be made available to the concerned employee, along with the IO's report, to give him an opportunity to make representation against IO's findings and the CVC's advice, if he desires to do so.

4. In view of the position stated above, para 3.6 (iii), Chapter XI and para 8.6, Chapter XII of the Vigilance manual, Vol. I, and also para 2 of the Commission's letter No. 6/3/73-R dated 20.08.1973 may be treated as deleted.

5. Para 12.4.4 of Special Chapter on Vigilance Management in Public Sector Banks and para 22.6.4 of the Special Chapter on Vigilance Management in Public Sector Enterprises envisage that the inquiring authorities, including the CDIs borne on the strength of the Commission, would submit their reports to the disciplinary authority who would then forward the IO's reports, along with its own tentative views to the Commission for its second stage advice. The existing procedure in this regard may broadly continue. The disciplinary authority may, after examination of the inquiry report, communicate its tentative views to the Commission. The Commission would thereafter communicate its advice. This, along with the disciplinary authority's views, may be made available to the concerned employee. On receiving his representation, if any, the disciplinary authority may impose a penalty in accordance with the Commission's advice or if it feels that the employee's representation warrants consideration, forward the same, along with the records of the case, to the Commission for its reconsideration.

6. Thus, if on the receipt of the employee's representation, the concerned administrative authority proposes to accept the CVC's advice, it may issue the orders accordingly. But if the administrative authority comes to the conclusion that the representation of the concerned employee necessitates reconsideration of the Commission's advice, the matter would be referred to the Commission.

Yours faithfully,


(K.L. Ahuja)
Officer on Special Duty

No.000/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 23rd May 2000

To

The CVOs of Ministries/Departments, autonomous organisations and Societies etc.

Subject: Schedule of time limits in conducting investigations and departmental inquiries.

Sir,

Delays in disposal of disciplinary cases are a matter of serious concern to the Commission. Such delays also affect the morale of the suspected/charged employees and others in the organisation. The Commission has issued instructions, vide its communication No. 8(1)(g)/99(3) dated 03.03.1999, that departmental inquiries should be completed within a period of six months from the date of appointment of Inquiry Officers. Regarding other stages of investigation/inquiry, the time-schedule, as under, has been laid down in the Special Chapters on Vigilance Management in Public Sector Banks/Enterprises, which are applicable to the employees of public sector banks / enterprises. The Commission desires that these time-limits should also be adhered to by the Ministry/Departments of Government of India, autonomous organisations and other Cooperative Societies, in respect of their employees, so as to ensure that the disciplinary cases are disposed of quickly.

S.No	State of Investigation or inquiry	Time Limit
1.	Decision as to whether the complaint involves a vigilance angle.	One month from receipt of the complaint.
2.	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.	-do-
3.	Conducting investigation and submission of report.	Three months.
4.	Department's comments on the CBI reports in cases requiring Commission's advice.	One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority.
5.	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.
6.	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.

7.	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report
8.	Time for submission of defence statement.	Ordinarily ten days or as specified in CDA Rules.
9.	Consideration of defence statement.	15 (Fifteen) days.
10.	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11.	Appointment of IO/PO in major penalty cases.	Immediately after receipt and consideration of defence statement.
12.	Conducting departmental inquiry and submission of report.	Six months from the date of appointment of IO/PO.
13.	Sending a copy of the IO's report to the Charged Officer for his representation.	i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved; ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated
14.	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.
15.	Issuance of orders on the Inquiry report.	i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.

Yours faithfully,

Sd/-

(K.L. Ahuja)
Officer on Special Duty

No.3M-VGL-3
Government of India
Central Vigilance Commission

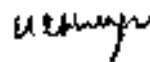
Satarkata Bhawan,
GPO Complex,
Block-A, INA,
New Delhi - 23.
Dated 7th April 2000

OFFICE MEMORANDUM

Subject:- Powers and functions of the Central vigilance Commission in relation to autonomous bodies 'other than the public sector undertakings' under various Ministries/Departments.

The Commission, vide its OM No. DM-VGL-10 dated 18.10.1984, had advised all Ministries/Departments of Government of India that the vigilance cases against those officials of autonomous bodies, which did not fall in the category of public sector undertakings or local bodies and also whose employees could not be considered to be Government servants, drawing basic pay of Rs.1000/- per month and above might be referred to the Commission for advice. Such bodies included those set up by Acts of Parliament, or registered under the Societies Act, or those set up in some other manner such as a Resolution of the Government.

2. The above pay limit of Rs.1000/- was based on the pay pattern recommended by the Third Pay Commission. The aforesaid pay limit for reference to the Commission was revised to Rs.2825/- for those organisations, who had revised their pay-scale on the pattern of the recommendations of Fourth Pay Commission [para 5.4 of Chapter I of the Vigilance Manual, Volume-I refers]. Consequent upon the implementation of the recommendations of Fifth Pay Commission, the Commission has reviewed the aforesaid pay limit and has decided that the cases against those officials of autonomous bodies/cooperative societies etc., who are in receipt of basic pay of Rs.8700/- per month and above may be referred to the Commission for advice.



(K.L. Ahuja)
Officer on Special Duty

To

- (1) The Secretaries of all Ministries/Departments of Government of India.
- (2) The CVOs of all autonomous organisations/cooperative societies within the purview of the Commission.

No.99/VGL/62
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi-110023
Dated the 29th November 99

To

All Chief Vigilance Officers.

Subject:- Amendment of Para 11.4, Chapter X of Vigilance Manual Vol. I.

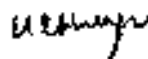
Sir,

Para 11.4, Chapter X of the Vigilance Manual Volume I refers to the illustrative types of vigilance cases in which it might be desirable to initiate proceedings for imposing a major penalty. Sub-para (iii) thereof refers to the "Gross irregularity or negligence in the discharge of official duties with a dishonest motive". It has been observed that some of the disciplinary authorities did not initiate departmental proceedings for imposition of a major penalty in the cases involving gross negligence/flagrant violation of systems and procedures on the consideration that there was no material to prove the element of "dishonest motive". The cases involving gross negligence/flagrant violation of systems and procedures do involve a vigilance angle and the involvement of "malafides" are to be inferred or presumed from the actions of the concerned employee depending upon the facts and circumstances of the case. However, with a view to remove the ambiguity, the Commission has decided to amend para 11.4 (iii) **ibid** as under:-

"The case involving any of the lapses such as gross or wilful negligence, recklessness, exercise of discretion without or in excess of powers/jurisdiction, causing undue loss to the organisation or a concomitant gain to an individual, and flagrant violation of systems and procedures".

2. This is brought to the notice of all concerned for appropriate action.

Yours faithfully,



(K.L.Ahuja)
Officer on Special Duty

Copy forwarded for information and necessary action to:-

1. The Department of Personnel & Training (Shri I.S.Chaturvedi, Deputy Secretary (Vig.), North Block, New Delhi.
2. The Central Bureau of Investigation (Shri N.K.Balachandran, JD (Policy), CGO Complex, New Delhi.

No.3(v)/99/8
CENTRAL VIGILANCE COMMISSION

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi-110023
Dated the 5th October,1999.

Subject:- Drafting of charge- sheet.

Inadequate skill in drafting the charge-sheet is one of the reasons which help the charged officials to get away with lapses/misconduct committed by them. Many cases fail before the Courts of Law just because of the defective framing of charge-sheets. It has been observed by the Commission that the chargesheets are sometimes framed in a very general way and the existing practice with regard to framing of charges and imputations vary widely. Sometimes the charge itself is framed in a very general way, only pointing out that the official concerned has acted in an unbecoming manner or has shown lack of devotion to duty or has acted without integrity. The real issues, in such circumstances, are to be found in the statement of imputations. It has also been observed by the Commission that the organisations/Ministries etc. while framing the charge sheets list serious irregularities/charges in the imputations but do not mention the same in the articles of charge. Many a times the charges are not framed in accordance with the advice given by the Commission, thereby diluting the central issues.

2. Rule 14(3)(i) of the CCS (CCA) Rules stipulates that "the substance of the imputations of misconduct or misbehaviour into distinct articles of charge" should be drawn up by the Disciplinary Authority whenever it is proposed to hold an enquiry against a Government servant. This would mean that no charge can be proper or complete without including therein elements of the main content of the allegations/imputations. Therefore, the spirit of all Conduct, Discipline & Appeal Rules imply that there should be a specific finding on each allegation made against the officer. At the end, the IO must then apply his mind to come to a conclusion as to whether the charge as a whole has been proved wholly, partially or not at all.

3. It has to be understood that the statement of imputations/allegations annexed are supplementary/supportive material to the charge sheet; they are details of facts/evidence to support the charges made, and should contain names of witnesses/documents in support of the charges. That is, the statement of imputations is to make the basis of the charge, allegation-wise, precise and specific and should include details of what exactly each witness/document is going to prove regarding every charge. Each charge should also have a separate statement of imputations of

Page 1 of 3

misbehaviour/misconduct. The common failing of listing out one long statement of misconduct/misbehaviour ought to be avoided.

4. The Commission has also issued instructions earlier which are reproduced in Para 14.1 to 14.3 of Chapter X of Vigilance Manual Part I stipulating that the articles of charge should be framed with great care. Broad guidelines as to how the articles of charge should be framed have also been indicated therein. Similarly, the common mistakes which have been noticed by the Commission in framing the chargesheet have also been incorporated in Para 12.1.3 of the special Chapter on Vigilance Management in Banks and Para 20.1.3 in the Special Chapter in PSEs. These are reproduced below:-

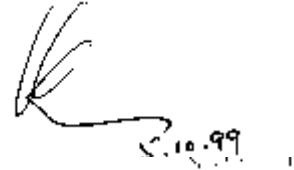
"Special care has to be taken while drafting a chargesheet. A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarised in the Articles of charge. It should be remembered that ultimately the IO would be required to give his specific findings only on the Articles as they appear in the chargesheet. The Courts have struck down chargesheets on account of the charges framed being general or vague (S.K. Raheman Vs. State of Orissa 60 CLT 419.) If the charge is that the employee acted out of an ulterior motive that motive must be specified (Uttar Pradesh Vs. Salig Ram AIR 1960 All 543). Equally importantly, while drawing a charge sheet, special care should be taken in the use of language to ensure that the guilt of the charged official is not pre-judged or pronounced upon in categorical terms in advance (Meena Jahan Vs. Deputy Director, Tourism 1974 2SLR 466 Cal). However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge, will not vitiate the charge sheet (Dinabandhu Rath Vs. State of Orissa AIR 1960 Orissa 26 cf. Also Powari Tea Estate Vs. Barkataki (M.K.) 1965 Lab LJ 102)".

5. Notwithstanding the extant instructions/guidelines many organisations continue to make avoidable mistakes while framing the charge sheets. Therefore, it is reiterated that the extant instructions on the subject as stated in the aforesaid paras may be followed carefully while drafting the charge sheet, in order to avoid subsequent difficulties. The CVOs of the organisations/Ministries etc. should ensure that these instructions are implemented scrupulously.

6. In addition as already summarised above, an IO is required to give his finding in respect of each article of charge and reasons thereof. As the articles of charge are definite and distinct substance of the statement of imputations of misconduct or misbehaviour, the findings on each articles of charge have to be inter-alia based on statement of imputations. Therefore, the Inquiry Officers are required to record their findings in respect of each allegation framed in support of an article of charge in order to ensure that inquiry reports do not suffer due to deficiencies.

7. All CVOs may ensure strict compliance of the above instructions. CVOs are also instructed to carry out an exercise on their own in respect of cases where the Commission has tendered its first stage advice to ensure that the articles of charge and statement of imputations are in conformity with the advice. The CVOs of Ministries can also check charge sheets in a random manner during their visits/inspections.

8. This instruction is available in the website of CVC at <http://cvc.nic.in>.



(N.VITTAL)

CENTRAL VIGILANCE COMMISSIONER

TO

- (i) The Secretaries of All Ministries/Departments of Government of India.
- (ii) The Chief Secretaries to All Union Territories.
- (iii) The Comptroller & Auditor General of India.
- (iv) The Chairman, Union Public Service Commission.
- (v) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (vi) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.
- (vii) The Director/CBI, New Delhi.

Immediate

**No.98/MSc/23
Government of India
Central Vigilance Commission**

**Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi - 110 023
Dated the 16th September, 1999**

To

All Chief Vigilance Officers

Subject: Utilising the services of retired officers for conducting Departmental Inquiries.

Sir,

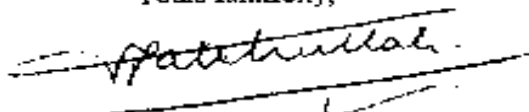
As you are aware the Commission, in order to ensure that the departmental inquiries are completed in time, had advised all Departments/Organisations vide its instruction No. 8(1)(h)/98(1) dated 18.11.98 to immediately review all pending cases and appoint IOs from among retired Government Officers. In the said instruction, the Commission had interalia stated that it would build a panel of officers for this purpose.

2. Accordingly, after verifying the antecedents of Retired Officers, the Commission has built a database. The details of retired officers who have been empanelled by the Commission as on date is enclosed. The terms and conditions formulated by the Commission for appointing these officers is also enclosed.

3. This is brought to the notice of all concerned in order to utilise the services of the empanelled retired officers of IOs.

4. This instruction as well as the panel of retired officers and the terms and conditions are available on the web site of CVC as <http://cvc.nic.in>. The panel will be updated from time to time in the web site, which can be downloaded. Those Departments/Organisations who do not have Internet facility may approach the Commission for the updated panel.

Yours faithfully,



**(P.S. Fatehullah)
Director**

TERMS AND CONDITIONS FOR APPOINTING RETIRED OFFICERS AS INQUIRY OFFICERS

The Retired Government Officer, hereinafter, referred to as Inquiry Officer (IO):

1. should not be more than 70 years of age as on the 1st July of the year of his empanelment;
2. should be in sound health, physically and mentally;
3. shall not engage himself/herself in any other professional work or service, which is likely to interfere with the performance of his/her duties as Inquiry Officer;
4. shall be appointed as IOs by the Disciplinary authority of the Charged Officer whose case is entrusted to him/her;
5. will be entrusted with the Inquiries on 'Case-to-case' basis, by the Disciplinary authority;
6. shall maintain strict secrecy in relation to the documents he/she receives or information/data collected by him/her in connection with the Inquiry and utilise the same only for the purpose of Inquiry in the case entrusted to him/her. No such documents/information or data are to be divulged to any one during the Inquiry or after presentation of the Inquiry Report. The I.O. entrusted with the Inquiries will be required to furnish an undertaking to maintain strict secrecy and confidentiality of all records/documents/ proceedings etc. All the records, reports etc. available with the I.O. shall be duly returned to the authority which appointed him/her as such, at the time of presentation of the Inquiry Report;
7. shall be paid a lumpsum remuneration of Rs.5000/- (Rupees Five thousand only), per Departmental Inquiry Report, in a case, by the Department/Organisation to which the charged officer belongs;
8. shall be paid, in addition to the remuneration of Rs.5000/-, an amount of Rs.1000/- (Rupees One thousand only) per Departmental Inquiry Report, for clerical and Stenographic work, which the IO has to arrange by himself/herself.

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9. will be entitled, besides the above, reimbursement of Rs.500/- (Rupees five hundred only) as Conveyance Charges, per Departmental Inquiry Report (applicable only if the place of Inquiry is a 'A' or 'B-1" class cities);
 10. shall conduct the inquiry proceedings only in the office premises of the Department/Organisation, which engages him/her.
 11. the inquiry proceedings are to be conducted at the headquarters of the Departments/Organisations or at the place of concentration of the charged officer(s), witnesses etc. In unavoidable circumstances where the Inquiry Officer has to undertake travel for conducting inquiry, the rate of TA/DA in such cases may be permissible to the rate applicable to the serving officers of equivalent rank;
 12. shall be provided with a room with furniture and lockable almirahs by the concerned Department/Organisation, which engages him/her on the days of Inquiry;
 13. shall be provided with the stationery/postage by the Department/Organisation, which engages him/her;
 14. shall be terminated from the services of an IO at any time by the Appointing Authority, without notice and without assigning any reasons. However, the concerned authority has to intimate the Central Vigilance Commission the reasons for doing so that the Commission can take in to account those things while reviewing the panel; and
 15. shall submit the inquiry report after completing the inquiry within six months from the date of his appointment as Inquiry Officer to become eligible for payment of remuneration as indicated at item No. 7 to 9.

NO.3(v)/99/7
Central Vigilance Commission

Satarkta Bhavan, Block "A
GPO Complex, I.N.A.
New Delhi -110023
Dated the 6th September 1999

Subject:- Improving vigilance administration- Reducing delays in Departmental Inquiries.

Prolonged departmental inquiries not only delay justice to the honest persons but also help the guilty to breath freely. The Central Vigilance Commission issued an instruction in this regard vide No.8 (1)(g)/99(3) dated the 3rd March, 1999 thereby stipulating a model time schedule for conducting departmental inquiries. In order to eliminate the delays in the departmental inquiries, by virtue of the powers vested in the CVC under para 3(v) of the Ministry of Personnel, Public Grievances & Pension, Department of Personnel and Training Resolution No.371/20/99-AVD.III dated the 4th April, 1999, the Commission issues the following guidelines after having identified some of the reasons for delay in the departmental inquiries:-

1.1 **Certified photocopies of documents**

As per the extant instructions, while the CBI can pursue the prosecution cases in the Courts, simultaneously departmental inquiries can also be held. In order to ensure that the critical documents needed in the departmental inquiries are made available, the responsibility has been put on the CBI to make photocopies of seized documents within four days so that the departmental proceedings can be proceeded with. A large number of cases are pending for more than two years because of non-availability of documents for inspection, which are already before the Court.

It has therefore, been decided with immediate effect that the CBI should make legible certified photocopies of all the documents, which they seize, for launching the prosecution against the charged officer to concerned departments. It is also the responsibility of the CVOs to ensure that these certified legible photocopies of documents are made available when the CBI seizes the documents in any Government organisation. This is applicable to all Government organisations Public Sector Undertakings and Banks.

1.2 **Availability of documents to CDIs/IOs**

In many cases the concerned departments do not make the documents available during the departmental inquiries conducted by the Commissioner for Departmental

Inquiries (CDIs). This may be either due to inefficiency or collusion. There have been a lot of cases where important/critical files have disappeared. As failure to safeguard documents is an offence it has been decided that henceforth the following practice will be adopted by all concerned:-

The inquiry officer/CDI will ask the concerned departments to produce the documents within a time limit fixed by the IO/CDI. While doing so it will be indicated that if within the stipulated time frame the concerned department is not able to produce the documents the disciplinary authority will fix responsibility for the loss of the documents and compliance reported to the Commission within a period of 3 months.

These documents would cover not only those listed in the charge-sheet but also additional documents as sought out by the charged officer and permitted by the Inquiring Authority.

2. All CVOs must ensure that strict compliance of the above guidelines of the Commission.
3. This order is also available on web site of the CVC at <http://cvc.nic.in>


(N.VITTAL)

CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Chief Executives of PSUs/Banks/Organisations
- (iv) The Comptroller & Auditor General of India
- (v) The Chairman, Union Public Service Commission.
- (v) The Director, CBI
- (vii) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (viii) President's Secretariat/Vic-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.

Page 2 of 2

Immediate

No.99/DSP/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 11th August 1999

To

All Chief Vigilance Officers

Subject: Definition of the term Stiff/Severe minor penalty.

Sir,

The Central Vigilance Commission has clarified the term "stiff/severe major penalty" vide its circular of even number dated the 5th February 1999.

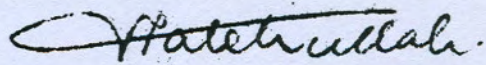
2. In order to standardise the interpretation of the term stiff/severe minor penalty, it is hereby clarified that "Stiff/Severe minor penalty" means:

- (a) reduction to a lower stage in the time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his pension.
- (b) withholding of increments of pay.

No other interpretation of the given term is intended by the Commission. The Ministries/Departments/Organisations may, therefore, adhere to the said interpretation strictly and bring this to the notice of all concerned.

3. This issues with the approval of the Central Vigilance Commissioner.

Yours faithfully,



(P.S. Fatehullah)

Director

Stands withdrawn vide Office Order No.11/03/10 03rd March, 2010

NO.8(1)(g)/99(3)
CENTRAL VIGILANCE COMMISSION

**Satarkta Bhawan,
Block "A", GPO Complex,
I.N.A., New Delhi-110 023
Dated the 3rd March 1999**

Subject:- Improving vigilance administration

In exercise of powers under Section 8(1)(g) of CVC Ordinance 1999 the Central Vigilance Commission issues the following instructions and stipulates a model time schedule for conducting Departmental Inquiries:

2. Model Time Limit for Departmental Inquiries

2.1 Fixing date of preliminary hearing and inspection of listed documents, submission of list of Defence documents/witnesses and nomination of a Defence Assistant(DA) (if not already nominated).	Within four weeks
2.2 Inspection of relied upon document/submission of list of DWs/Defence document/Examination of relevancy of DDs/DWs, procuring the additional document and submission of certificates confirming inspection of additional documents by CO/DA.	3 months.
2.3 Issue of summons to the witnesses, fixing the date of Regular Hearing and arrangement for participation of witnesses in the Regular Hearing	
2.4 Regular hearing , on Day to Day basis.	
2.5 Submission of Written Brief by PO to CO/IO.	15 days
2.6 Submission of Written Brief by CO to IO	15 days
2.7 Submission of Inquiry Report from the date of receipt of written Brief by PO/CO	30 days

If the above schedule is not inconsistent/conflict with the existing rules on the subject, the outer time limit of six months for completing the Departmental Inquiries should be adhered to.

3. **Non Production of Documents**

One of the causes for delay in departmental enquiries is due to non production of documents cited by the CO a defence document during the course of enquiry. In order to ensure that the departmental enquiries are completed in time, th document asked for by the CO would be produced by its custodian through PO or if there is no PO by its representative within time limit fixed by IO failing which adverse note would be taken against the concerned officer .(custodian of the documents). I should also be ensured that in one case involving more than one officer, only one PO should be appointed by all the DAs.

4. **Disposal of allegation of Bias**

The other cause of delay in completing departmental enquiries within time limit is taking unreasonable time by th DAs/Appellate authority in disposing the representation of the CO alleging bias against the IO. The DAs/Appellate authority should, therefore, decide the representation of the CO within fifteen days after receipt of the representation the CO failing whic an adverse view will be taken against the concerned authority.


(N.VITTAL) 23 89.

CENTRAL VIGILANCE COMMISSIONER

To


- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman Union Public Service Commission
- (v) Chief Executives of All PSUs/Banks/Organisations
- (vi) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vii) President Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Ra.iya Sabha Secretariat/PMO

No-8(1)(g)/99(2)
CENTRAL. VIGILANCE COMMISSION

SATARKTA BHAWAN
GPO COMPLEX, BLOCK-"A"
INA,NEW DELHI-110023
DATED 19TH FEBRUARY,1999.

Subject:- Reducing Delays in Departmental Inquiries.

One of the causes for delay in departmental inquiries is appointment of Presenting Officer. To avoid such delays, the Commission, in exercise of its powers conferred on it under Section 8(1)(g) of the CVC Ordinance 1999, directs all Departments/Organisations within its jurisdiction to indicate, henceforth, the names of the Presenting Officer to be appointed while referring the cases to the Commission for 1st Stage advice and where the Disciplinary Authority proposes to initiate major penalty action. After the Commission endorses the proposed action, the Departments/ Organisations will ensure that the Inquiry Officer and Presenting Officer are appointed simultaneously after service of charge-sheet and immediately on denial of charges by the Charged Officer. The Departments/organisations should also indicate appropriate disciplinary authority in each case while referring the case to the Commission for first stage advice. The Commission in turn will communicate its advice to the Disciplinary Authority/Secretary of the Ministries with a copy to the CVO for follow up action.


(N.VITTAL) 5/2/99
CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Executives of PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies

- (vi) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vii) President Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

IMMEDIATE

No.8(1)(h)/98(3)

CENTRAL VIGILANCE COMMISSION

Jaisalmer House, Man Singh Road
New Delhi – 110 011

Dated the 27th November 98.

Sub: Sanction of Prosecution

The Central Vigilance Commission, while reviewing the overall functioning of the vigilance administration of the Departments/Organisations has observed that one of the methods of improving the vigilance functions is to give prompt clearance for sanction for Prosecution under the Prevention of Corruption Act. The Supreme Court has also in the case of Vineet Narain and others Vs. Government of India directed that **a time limit of 3 months in grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General or any other Law Officer in the AG's Office.** Subsequently, the Commission had also issued instructions vide its letter No.98/VGL/7 dated the 12th March,1998,directing all Ministries/Departments / Organisations to furnish their comments on CBI reports within 30 days of the receipt of CBI reports in respect of prosecution and disciplinary cases. Notwithstanding these directions/instructions, delays on the part of the disciplinary/administrative authorities in the cases of sanction of prosecution continue to exist.

2. The Central Vigilance Commission Ordinance 1998 under Section 8(1)(f) directs that the power and function of the CVC will be:

“to review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988”

3. Therefore, in exercise of powers conferred on CVC under Section 8(1)(f) in conjunction with Section 8(1)(h) of the CVC Ordinance 1998, it is hereby directed that:


Page 1 of 2

(i) In respect of CBI reports/cases in which the Commission's advice is not necessary, the competent authorities may exercise their mind and give or refuse sanction for prosecution under the PC Act, within the time limit of 30 days from the date of receipt of request from CBI; and

(ii) In respect of the cases of Presidential appointees, in which the Commission's advice is required, the competent authorities may furnish their comments within 30 days to the Commission and give the sanction of prosecution or otherwise, within a period of 60 days from the date of receipt of request from CBI.

4. If at the end of the above said time limits no decision had been given by the competent authorities, then the CVC will take an adverse view and deem it as a case of misconduct on the part of the competent authority.

5. This comes into force with immediate effect.



27.11.98

(N.VITTAL)

CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretaries of All Ministries/Depts. of Government of India.
- (ii) The Chief Secretaries to all Union Territories.
- (iii) The Comptroller & Auditor General of India.
- (iv) The Chairman, Union Public Service Commission.
- (v) The Director, CBI
- (vi) All Chief Vigilance Officers in the Ministries/ Departments/PSEs/ Public Sector Banks/ Insurance Companies/ Autonomous Organisations/Societies.
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.

No.98/VGL/7
Government of India
Central Vigilance Commission

Bikaner House, 1st Floor,
New Delhi, dtd.12/3/98

To

All Chief Vigilance Officers

Sub: Action on CBI reports – Revised time limit for furnishing comments to the Commission.

Ref: 1) Commission's letter No.4/62/70-R-dated 3rd November, 1973
2) Commission's letter No.4/62/70-R-dated 8th February, 1974

Sir,

As per existing instructions, the Ministries/Departments etc. are required to furnish their comments on CBI reports within a period of two months from the receipt of the CBI's report to the Commission. The Department of Personnel and Training vide their OM No.142/10/97-AVD I dated 14th January, 1998 advised all Ministries/Departments to strictly adhere to a time limit of three months for grant of sanction for prosecution of public servants.

2. The Commission in order to streamline the process and eliminate delays in the processing of prosecution as well as disciplinary cases has reviewed the time limits prescribed for consultation with it. It has, therefore been decided all Ministries/Departments/Organisation would furnish their comments on CBI reports within 30 days of the receipt of the CBI reports by them. It may therefore, be ensured in future that the comments are sent to the Commission within the specified period. If no comments are received within 30 days, it will be presumed that the Ministry/Department/Organisation has no comments to make and the Commission will thereafter, proceed with the examination of the case and tender advice without waiting further for the comments.

3. Commission's letter No.4/62/70-R dated 8th February, 1974 stands modified to the above extent.

4. All Ministries/Departments/Organisations may kindly note the above revised instructions for strict compliance.

Yours faithfully

Sd/-
(A.K.KADYAN)
DY.SECRETARY

Chapter-III

Circulars / Guidelines regarding ACTs/Resolution of CVC



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, बृहस्पतिवार, नवम्बर 8, 2007/कार्तिक 17, 1929

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NEW DELHI, THURSDAY, NOVEMBER 8, 2007/KARTIKA 17, 1929

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

अधिसूचना

नई दिल्ली, 8 नवम्बर, 2007

सा.का.नि. 698(अ).—केन्द्र सरकार, केन्द्रीय सतर्कता आयोग अधिनियम, 2003 (2003 का 45) की धारा 20 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और केन्द्रीय सतर्कता आयोग (कर्मचारी) नियम, 1964 के अधिक्रमण में एतद्वारा निम्नलिखित नियम बनाती है, अर्थात् :—

1. लघु शीर्ष और प्रारंभ.—(1) इन नियमों का नाम केन्द्रीय सतर्कता आयोग (कर्मचारी) नियम, 2007 है ।

(2) ये शासकीय राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे ।

2. परिभाषाएँ.—इन नियमों में, जब तक संदर्भ में अन्यथा अपेक्षित न हो,—

(क) “अधिनियम” से अभिप्राय केन्द्रीय सतर्कता आयोग अधिनियम, 2003 (2003 का 45) है;

(ख) “आयोग” से अभिप्राय केन्द्रीय सतर्कता आयोग है;

(ग) “आयोग के अन्य अधिकारियों और कर्मचारियों” से अभिप्राय आयोग के अधिकारी और कर्मचारी हैं और इसमें आयोग द्वारा, केन्द्र सरकार अथवा राज्य सरकार अथवा सार्वजनिक क्षेत्र के उपक्रमों के प्रतिनियुक्ति पर नियुक्त किए गए अधिकारी और कर्मचारी भी शामिल हैं;

(घ) “अनुसूची” से अभिप्राय इन नियमों के साथ संलग्न अनुसूची है;

(ङ) ऐसे शब्द और अधिव्यक्तियाँ जिनको यहाँ प्रयोग में लिया गया है किन्तु परिभाषित नहीं किया गया है अपितु अधिनियम में परिभाषित किया गया है, का वही अभिप्राय होगा जो उनके लिए अधिनियम में निर्धारित किया गया है ।

3. आयोग के अधिकारियों और कर्मचारियों की श्रेणियाँ और वेतनमान.—आयोग के अधिकारियों और कर्मचारियों का स्वरूप और श्रेणी और उनके वेतनमान वे होंगे जो अनुसूची में विनिर्दिष्ट हैं ।

4. विभिन्न पदों पर नियुक्ति.—(1)(क) सचिव, अपर सचिव, विभागीय जांच आयुक्तों तथा ब्रांच अधिकारी के पदों पर की जाने वाली सभी नियुक्तियाँ, समय-समय पर यथा संशोधित केन्द्रीय स्टाफिंग योजना की शर्तों के अनुसार केन्द्रीय सतर्कता आयोग की सहमति से की जाएंगी ।

(ख) केन्द्रीय स्टाफिंग योजना के अधिकार क्षेत्र से बाहर रखे गए पदों पर नियुक्तियाँ, संगत पद के अधिसूचित किए गए भर्ती नियमों के प्रावधानों के अनुसार की जाएंगी :

बशर्ते कि केन्द्रीय सतर्कता आयोग ऐसे पदों के संबंध में अधिकतम 12 माह तक की अवधि के लिए स्थानापन्न व्यवस्था करेगा जो मॉडल की नियुक्ति समिति के अधिकार क्षेत्र में नहीं आते हैं और जिन पर प्रशासनिक कारणों से नियमित नियुक्ति नहीं की जा सकती है ।

(2)(क) केन्द्रीय सतर्कता आयुक्त उसके द्वारा चुने गए व्यक्ति को अपना वरिष्ठ प्रधान निजी सचिव नियुक्त कर सकता है। ऐसे पद पर नियुक्त होने वाले कर्मचारी की कार्यावधि सतर्कता आयुक्त की कार्यावधि के साथ सहसमाप्य आधार पर की जाएगी :

(ख) सतर्कता आयुक्त, उसके द्वारा चुने गए व्यक्ति को प्रतिनियुक्ति के आधार पर अपना प्रधान निजी सचिव नियुक्त कर सकता है :

बशर्ते कि इस तरह की नियुक्तियाँ, केन्द्र सरकार के अंतर्गत आने वाले संगठनों की अनुमोदित और नियमित सेवा के कर्मचारियों से ही की जाएँ। ऐसे पद पर नियुक्त होने वाले कर्मचारी की कार्यावधि सतर्कता आयुक्त की कार्यावधि के साथ सहसमाप्य आधार पर की जाएगी।

5. सेवा की शर्तें.—सभी भत्तों, छुट्टी, कार्य ग्रहण अवधि, कार्य ग्रहण के समय वेतन, अधिवर्षिता की आयु और सेवा की अन्य शर्तों के मामलों में आयोग के सचिव, अन्य अधिकारियों और कर्मचारियों की सेवा शर्तें ऐसे नियमों और विनियमों के अनुसार विनियमित की जाएगी जो केन्द्र सरकार के तदनुसूची श्रेणी और वेतनमान वाले अधिकारियों और कर्मचारियों पर लागू हैं।

6. अधीक्षण, निर्देशन और प्रबंधन.—केन्द्रीय सतर्कता आयोग के कार्यों का सामान्य अधीक्षण, निर्देशन और प्रबंधन केन्द्रीय सतर्कता आयुक्त में निहित होगा जिनकी सहायता सतर्कता आयुक्त करेंगे और ऐसी सभी शक्तियों का प्रयोग करेंगे और ऐसे सभी कार्य करेंगे जो केन्द्रीय सतर्कता आयोग द्वारा किए जाएँगे।

अनुसूची

(नियम 3 देखें)

समूह	क्रम सं.	पद	स्वीकृत पद संख्या	वेतनमान
समूह "क"	1.	सचिव	1	22400-525-24500 रुपए
	2.	अपर सचिव	2	18400-500-22400 रुपए
	3.	मुख्य तकनीकी प्रशिक्षक	2	18400-500-22400 रुपए
	4.	सी.डी.आई. (निदेशक स्तर)	11	14300-450-22400 रुपए
	5.	शाखा अधिकारी (निदेशक स्तर)	4	14300-450-22400 रुपए
	6.	सी.डी.आई. (उपसचिव स्तर)	3	12000-375-16500 रुपए
	7.	शाखा अधिकारी (उपसचिव स्तर)	4	12000-375-16500 रुपए
	8.	विशेष कार्य अधिकारी	2	12000-375-16500 रुपए
	9.	वरिष्ठ प्रधान निजी सचिव	1	12000-375-16500 रुपए
	10.	अवर सचिव	4	10000-325-15200 रुपए
	11.	तकनीकी परीक्षक	8	10000-325-15200 रुपए
	12.	प्रधान निजी सचिव	2	10000-325-15200 रुपए
		कुल	44	
समूह "ख" राजपत्रित	1.	अनुभाग अधिकारी	14	6500-200-10500 रुपए
	2.	सहायक तकनीकी परीक्षक	6	6500-200-10500 रुपए
	3.	निजी सचिव	19	6500-200-10500 रुपए
	4.	अनुसंधान अधिकारी	1	6500-200-10500 रुपए
	5.	सहायक निदेशक (हिन्दी)	1	6500-200-10500 रुपए
		कुल	41	
समूह "ख" अराजपत्रित	1.	सहायक	28	5500-175-9000 रुपए
	2.	वैयक्तिक सहायक	17	5500-175-9000 रुपए
	3.	सांख्यिकी सहायक	1	5500-175-9000 रुपए
	4.	कनिष्ठ तकनीकी परीक्षक	5	5500-175-9000 रुपए
		कुल	51	

समूह	क्रम सं.	पद	स्वीकृत पद संख्या	वेतनमान
समूह "ग"	1.	हिन्दी अनुवादक	1	4500-125-7000 रुपए
	2.	पुस्तकालय और सूचना सहायक	1	5000-150-8000 रुपए
	3.	डेटा एन्ट्री ऑपरेटर	1	4500-125-7000 रुपए
	4.	उच्च श्रेणी लिपिक	20	4000-100-6000 रुपए
	5.	अवर श्रेणी लिपिक	28	3050-75-3950-80-4590 रुपए
	6.	आशुलिपिक	15	4000-100-6000 रुपए
	7.	स्टाफ कार ड्राइवर/जीप ड्राइवर	6	3050-75-4590 रुपए
	8.	डिस्पैच राइडर	1	3050-75-4590 रुपए
		कुल	73	
समूह "घ"	1.	गेस्टेटर ऑपरेटर	1	2650-65-3300-70-4000 रुपए
	2.	रिकॉर्ड कीपर	1	2650-65-3300-70-4000 रुपए
	3.	जीरोक्स ऑपरेटर	1	2650-65-3300-70-4000 रुपए
	4.	दफ्तरी	13	2610-60-3150-65-3540 रुपए
	5.	जमादार	2	2610-60-3150-65-3540 रुपए
	6.	फराशा	2	2550-55-2660-60-3200 रुपए
	7.	चपरासी	42	2550-55-2660-60-3200 रुपए
	8.	चौकीदार	4	2550-55-2660-60-3200 रुपए
	9.	स्वीपर	7	2550-55-2660-60-3200 रुपए
		कुल	73	

[फा. सं. 418/4/2003-ए.वी.डी.-IV]

पी. के. त्रिपाठी, संयुक्त सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 8th November, 2007

G.S.R. 698(E).—In exercise of the powers conferred by Section 20 of the Central Vigilance Commission Act, 2003 (45 of 2003) and in supersession of the Central Vigilance Commission (Staff) Rules, 1964, the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.—(1) These rules may be called the Central Vigilance Commission (Staff) Rules, 2007.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) "Act" means the Central Vigilance Commission Act, 2003 (45 of 2003);

(b) "Commission" means the Central Vigilance Commission;

(c) "Other officers and employees of the Commission" means the officers and employees of the Commission and includes those appointed on deputation by the Commission from the Central Government or State Government or Public Sector Undertakings;

(d) "Schedule" means Schedule annexed to these rules;

(e) Words and expressions used herein and not defined but defined in the Act shall have the meanings as assigned to them in the Act.

3. Categories of officers and employees of the Commission and pay scale.—The nature and category of officers

and employees of the Commission and the scale of pay thereof shall be as specified in the Schedule.

4. **Appointment to various posts.**—(1)(a) All appointments to posts of Secretary, Additional Secretary, Commissioner for Departmental Inquiries and Branch Officers shall be made in terms of the provisions of the Central Staffing Scheme, as amended from time to time, with the concurrence of the Central Vigilance Commissioner.

(b) The appointment to posts which are not included within the purview of the Central Staffing Scheme shall be made in accordance with the provisions of the notified recruitment rules of the relevant post:

Provided that the Central Vigilance Commissioner may make officiating arrangements for a period not exceeding twelve months, to such posts which do not fall under the purview of Appointments Committee of the Cabinet and on which regular appointment could not be made due to administrative reasons.

(2)(a) The Central Vigilance Commissioner may appoint as his Senior Principal Private Secretary, a person selected by him with a tenure which will be co-terminus with the tenure of Central Vigilance Commissioner;

(b) The Vigilance Commissioner may appoint on deputation basis as his Principal Private Secretary a person selected by him :

Provided that such appointments shall be made from amongst officials of approved or regular service of organizations under Central Government with a tenure which will be co-terminus with the tenure of the Vigilance Commissioner.

5. **Conditions of Service**—The conditions of service of the Secretary, other officers and employees of the Commission in the matter of all allowances, leave, joining time, joining time pay, age of superannuation and other conditions of service, shall be regulated in accordance with such rules and regulations as are applicable to officers and employees of the Central Government belonging to corresponding category and scale of pay.

6. **Superintendence, Direction and Management**—The general superintendence, direction and management of the affairs of the Central Vigilance Commission shall vest in the Central Vigilance Commissioner who shall be assisted by the Vigilance Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Vigilance Commission.

SCHEDULE

(see rule 3)

Group	S.No.	Post.	Sanctioned Strength	Scale of Pay
Group "A"	1.	Secretary	1	Rs. 22400-525-24500
	2.	Additional Secretary	2	Rs. 18400-500-22400
	3.	Chief Technical Examiner	2	Rs. 18400-500-22400
	4.	CDI (Director level)	11	Rs. 14300-450-22400
	5.	Branch Officer (Director level)	4	Rs. 14300-450-22400
	6.	CDI (Dy. Secy. level)	3	Rs. 12000-375-16500
	7.	Branch Officer (Dy. Secy. level)	4	Rs. 12000-375-16500
	8.	Officer on Special Duty	2	Rs. 12000-375-16500
	9.	Sr. Principal Private Secretary	1	Rs. 12000-375-16500
	10.	Under Secretary	4	Rs. 10000-325-15200
	11.	Technical Examiners	8	Rs. 10000-325-15200
	12.	Principal Private Secretary	2	Rs. 10000-325-15200
TOTAL			44	
Group "B" (Gazetted)	1.	Section Officer	14	Rs. 6500-200-10500
	2.	Assistant Technical Examiner	6	Rs. 6500-200-10500
	3.	Private Secretary	19	Rs. 6500-200-10500
	4.	Research Officer	1	Rs. 6500-200-10500
	5.	Assistant Director (Hindi)	1	Rs. 6500-200-10500
TOTAL			41	

Group	S. No.	Post	Sanctioned Strength	Scale of Pay
Group "B" Non-Gazetted)	1.	Assistant	28	Rs. 5500-175-9000
	2.	Personal Assistant	17	Rs. 5500-175-9000
	3.	Statistical Assistant	1	Rs. 5500-175-9000
	4.	Junior Technical Examiner	5	Rs. 5500-175-9000
TOTAL			51	
Group "C"	1.	Hindi Translator	1	Rs. 4500-125-7000
	2.	Library and Information Assistant	1	Rs. 5000-150-8000
	3.	Data-Entry-Operator	1	Rs. 4500-125-7000
	4.	Upper Division Clerk	20	Rs. 4000-100-6000
	5.	Lower Division Clerk	28	Rs. 3050-75-3950-80-4590
	6.	Stenographer	15	Rs. 4000-100-6000
	7.	Staff Car Driver/Jeep Driver	6	Rs. 3050-75-4590
	8.	Despatch Rider	1	Rs. 3050-75-4590
TOTAL			73	
Group "D"	1.	Gestetner Operator	1	Rs. 2650-65-3300-70-4000
	2.	Record Keeper	1	RS. 2650-65-3300-70-4000
	3.	Xerox Operator	1	Rs. 2650-65-3300-70-4000
	4.	Daftry	13	Rs. 2610-60-3150-65-3540
	5.	Jamadar	2	Rs. 2610-60-3150-65-3540
	6.	Farash	2	Rs. 2550-55-2660-60-3200
	7.	Peon	42	Rs. 2550-55-2660-60-3200
	8.	Chowkidar	4	Rs. 2550-55-2660-60-3200
	9.	Sweeper	7	Rs. 2550-55-2660-60-3200
TOTAL			73	

[F. No. 418/4/2003-AVD. IV]
P. K. TRIPATHI, Jt. Secy.



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITYसं. 1109]
No. 1109]नई दिल्ली, बृहस्पतिवार, सितम्बर 13, 2007/भाद्र 22, 1929
NEW DELHI, THURSDAY, SEPTEMBER 13, 2007/BHADRA 22, 1929

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

अधिसूचना

नई दिल्ली, 12 सितम्बर, 2007

का.आ. 1538(अ).—केन्द्र सरकार, केन्द्रीय सतर्कता आयोग अधिनियम, 2003 (2003 का 45) की धारा 8 की उप-धारा (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित सारणी के कॉलम (3) में उल्लिखित निम्नलिखित स्तर के अधिकारियों को, उपर्युक्त अधिनियम की धारा 8 की उप-धारा (1) के खण्ड (घ) के प्रयोजन से उक्त सारणी के कॉलम (2) में उल्लिखित, केन्द्र सरकार द्वारा अथवा किसी केन्द्रीय अधिनियम द्वारा स्थापित निगमों, केन्द्र सरकार के स्वामित्व वाली अथवा इसके द्वारा नियंत्रित सरकारी कम्पनियों, सोसाइटियों और अन्य स्थानीय प्राधिकरणों के लिए एतद्वारा विनिर्दिष्ट करती है :—

सारणी

क्रम.	निगमों/सरकारी कम्पनियों/सोसाइटियों और अन्य स्थानीय प्राधिकारियों का नाम और श्रेणी	अधिकारियों का स्तर
(1)	(2)	(3)
1.	सार्वजनिक क्षेत्र के अनुसूची 'क' और 'ख' के उपक्रम	बोर्ड के मुख्य कार्यकारी और कार्यकारी ई-8 और इससे ऊपर के स्तर के अन्य अधिकारी।
2.	सार्वजनिक क्षेत्र के अनुसूची 'ग' और 'घ' के उपक्रम	बोर्ड के मुख्य कार्यकारी और कार्यकारी ई-7 और इससे ऊपर के स्तर के अन्य अधिकारी।
3.	भारतीय रिजर्व बैंक, नाबार्ड और एस.आई.डी.बी.आई.	ग्रेड 'जी' और इससे ऊपर के स्तर के अधिकारी।
4.	सामान्य बीमा कम्पनियाँ	प्रबंधक और इससे ऊपर के स्तर के।
5.	जीवन बीमा निगम	वरिष्ठ प्रभागीय प्रबंधक और इससे ऊपर के स्तर के।
6.	सोसाइटियाँ और अन्य स्थानीय प्राधिकरण	अधिसूचना की तारीख को और समय-समय पर संशोधित किए जा सकने वाले, केन्द्रीय सरकार की वेतनवृद्धि पैटर्न के आधार पर 8700/- रुपये प्रति माह और इससे अधिक वेतन प्राप्त करने वाले अधिकारी।

[सं. 418/2/2004-ए.वी.डी.-IV]

पी. के. त्रिपाठी, संयुक्त सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 12th September, 2007

S.O. 1538(E).—In exercise of the powers conferred by clause (b) of sub-section (2) of section 8 of the Central Vigilance Commission Act, 2003 (45 of 2003), the Central Government hereby specifies the following level of officers mentioned in column (3) of the table below of the corporations established by or under any Central Act, the Government companies, societies and other local authorities owned or controlled by the Central Government mentioned in column (2) of the said Table for the purpose of clause (d) of sub-section (1) of section 8 of the said Act :—

TABLE

Sl. No.	Name and categories of corporation/ Government companies/societies and other local authorities	Level of officers
(1)	(2)	(3)
1.	Schedule 'A' and 'B' Public Sector Undertakings	Chief Executive and Executives on the Board and other officers of E-8 and above.
2.	Schedule 'C' and 'D' Public Sector Undertakings	Chief Executive and Executives on the Board and other officers of E-7 and above.
3.	Reserve Bank of India, NABARD and SIDBI	Officers in Grade 'D' and above.
4.	General Insurance Companies	Managers and above.
5.	Life Insurance Corporations	Senior Divisional Managers and above.
6.	Societies and other Local Authorities	Officers drawing salary of Rs. 8700/- p.m. and above on Central Government D.A. pattern, as on the date of the notification and as may be revised from time to time.

[No. 418/2/2004-A.V.D.IV]

P. K. TRIPATHI, Jt. Secy.



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
प्राधिकार से प्रकाशित
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सं. 432]
No. 432]

नई दिल्ली, शुक्रवार, अक्टूबर 1, 2004/आश्विन 9, 1926
NEW DELHI, FRIDAY, OCTOBER.1, 2004/ASVINA 9, 1926

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 28 सितम्बर, 2004

सा.का.नि. 654(अ).—केन्द्रीय सतर्कता आयोग अधिनियम, 2003 (2003 का 45) की धारा 23 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निम्नलिखित आदेश करती है, अर्थात् :—

- (1) इस आदेश का नाम केन्द्रीय सतर्कता आयोग (कठिनाईयां दूर करना) आदेश, 2004 है।
(2) यह सरकारी राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगा।
- केन्द्रीय सतर्कता आयोग अधिनियम, 2003 की धारा 11 में "धारा 8 की उपधारा (1) के खण्ड (ख) तथा (ग) में संदर्भित जांच" शब्दों, कोष्ठकों तथा अक्षरों के लिए "धारा 8 की उप-धारा (1) के खण्ड (ग) तथा (घ) में संदर्भित जांच" शब्दों, कोष्ठकों तथा अक्षरों को प्रतिस्थापित किया जाए।

[फा. सं. 418/3/2003-ए.वी.डी.-IV]

मंजुलिका गौतम, अपर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

ORDER

New Delhi, the 28th September, 2004

G.S.R. 654(E).—In exercise of the powers conferred by Sub-section (1) of Section 23 of the Central Vigilance Commission Act, 2003 (45 of 2003), the Central Government hereby makes the following Order, namely :—

- (1) This Order may be called the Central Vigilance Commission (Removal of Difficulties) Order, 2004.
(2) It shall come into force on the date of its publication in the Official Gazette.
- In Section 11 of the Central Vigilance Commission Act, 2003, for the words, brackets and letters "inquiry referred to in clauses (b) and (c) of Sub-section (1) of Section 8", the words, brackets and letters "inquiry referred to in clauses (c) and (d) of Sub-section (1) of Section 8" shall be substituted.

[F.No.418/3/2003-AVD. IV]

MANJULIKA GAUTAM, Addl. Secy.



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कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

संकल्प

नई दिल्ली, 21 अप्रैल, 2004

सं.-371/12/2002-ए.वी.डी.-III.—जबकि सर्वोच्च न्यायालय ने श्री सत्येन्द्र दुबे की हत्या के संबंध में रिट याचिका (सी.) संख्या-559/2003 की सुनवाई करते समय यह इच्छा व्यक्त की कि उपयुक्त विधान के बनाए जाने तक "पर्दाफाशों या भण्डाफोड़ों (विसल ब्लोअर्स)" से प्राप्त शिकायतों पर कार्रवाई किए जाने के लिए उपयुक्त तंत्र व्यवस्था तैयार की जाए।

और जबकि विधि आयोग द्वारा तैयार किए गए लोकहित प्रकटीकरण और मुखबिर संरक्षण विधेयक, 2002 की जांच-पड़ताल चल रही है।

अतः अब, केन्द्र सरकार एतद्वारा निम्नलिखित संकल्प लेती है :—

1. केन्द्रीय सतर्कता आयोग को केन्द्रीय सरकार अथवा किसी केन्द्रीय अधिनियम के द्वारा अथवा इसके अंतर्गत स्थापित किन्हीं निगमों, केन्द्र सरकार के स्वामित्व वाली अथवा इसके द्वारा नियंत्रित सरकारी कम्पनियों, सोसाइटियों अथवा स्थानीय प्राधिकरणों के किसी कर्मचारी पर भ्रष्टाचार के किसी आरोप अथवा पद के दुरुपयोग के सम्बन्ध में लिखित शिकायतें प्राप्त करने अथवा प्रकटीकरण सम्बन्धी दस्तावेज प्राप्त करने के लिए एतद्वारा मनोनीत अभिकरण के रूप में प्राधिकृत किया जाता है। प्रकटीकरण अथवा शिकायत में यथासंभव सभी विवरण होंगे और इसमें समर्थक दस्तावेज अथवा अन्य सामग्री शामिल होगी।

2. मनोनीत अभिकरण यदि ऐसा उचित समझे तो वह प्रकटीकरण करने वाले व्यक्तियों से और जानकारी अथवा विवरण मांगवा सकता है। यदि शिकायत बेनामी है तो मनोनीत अभिकरण इस मामले में कोई कार्रवाई नहीं करेगा।

3. शासकीय गुप्त अधिनियम, 1923 में विहित किसी बात के बावजूद भी संविधान के अनुच्छेद 33 के खण्ड (क) से (घ) में संदर्भित व्यक्तियों से भिन्न कोई लोक सेवक अथवा किसी गैर-सरकारी संगठन सहित कोई अन्य व्यक्ति मनोनीत अभिकरण को लिखित प्रकटीकरण भेज सकता है।

4. यदि शिकायत में शिकायतकर्ता का ब्यौर भी दिया गया है तो मनोनीत अभिकरण निम्नलिखित कदम उठाएगा :—

- मनोनीत अभिकरण शिकायतकर्ता से यह पता लगएगा कि क्या यह वही व्यक्ति है अथवा नहीं है जिसने शिकायत की है।
- शिकायतकर्ता की पहचान उद्घाटित नहीं की जाएगी जब तक कि शिकायतकर्ता ने स्वयं शिकायत का ब्यौर सार्वजनिक न कर दिया हो अथवा किसी अन्य कार्यालय अथवा प्राधिकारी को अपनी पहचान नहीं बता दी हो।

(iii) शिकायतकर्ता की पहचान गुप्त रखने के पश्चात् मनोनीत अभिकरण प्रथमतः यह पता लगाने के लिए विवेकपूर्ण जांच-पड़ताल करेगा कि क्या इस शिकायत पर आगे कार्रवाई करने का कोई आधार बनता है। इस प्रयोजन हेतु मनोनीत अभिकरण एक समुचित तंत्र बनाएगा।

(iv) शिकायत की विवेकपूर्ण जांच-पड़ताल करने के परिणामस्वरूप अथवा बिना जांच-पड़ताल के केवल शिकायत के आधार पर ही यदि मनोनीत अभिकरण का यह मत होता है कि मामले की और जांच-पड़ताल करवाई जानी अपेक्षित है तो मनोनीत अभिकरण सम्बन्धित संगठन अथवा कार्यालय के विभागाध्यक्ष से सरकारी तौर पर उनकी टिप्पणियां/अथवा उनके स्पष्टीकरण मांगेगा। ऐसा करते समय मनोनीत अभिकरण मुखबिर की पहचान प्रकट नहीं करेगा और सम्बन्धित संगठन के अध्यक्ष को यह भी अनुरोध करेगा कि यदि उन्हें किसी कारणवश मुखबिर की पहचान का पता चल जाता है तो वे मुखबिर की पहचान गुप्त रखेंगे।

(v) सम्बन्धित संगठन का उत्तर प्राप्त होने के बाद यदि मनोनीत अभिकरण का यह मत होता है कि अन्वेषण से पद के दुरुपयोग अथवा भ्रष्टाचार के पुख्ता आरोपों का पता चलता है तो मनोनीत अभिकरण सम्बन्धित सरकारी विभाग अथवा संगठन को उपयुक्त कार्रवाई करने की संस्तुति करेगा। इनमें अन्य बातों के साथ-साथ निम्नलिखित शामिल होगा :—

(क) सम्बन्धित सरकारी कर्मचारी के विरुद्ध उपयुक्त कार्यवाहियां शुरू किया जाना।

(ख) भ्रष्टकृत्य अथवा पद के दुरुपयोग जैसी भी स्थिति हो, के परिणामस्वरूप सरकार को हुई हानि का पूर्ति के लिए उपयुक्त प्रशासनिक कदम उठाना।

(ग) मामले के तथ्यों और परिस्थितियों को देखते हुए यदि ऐसा न्यायसंगत हो तो उपयुक्त मामलों में आपराधिक कार्यवाहियां शुरू किए जाने के बारे में उपयुक्त प्राधिकारी/अभिकरण को सिफारिश करना।

(घ) भविष्य में ऐसी घटनाओं की पुनरावृत्ति रोकने के लिए सुधारात्मक उपाय किए जाने की सिफारिश करना।

5. पूर्ण जांच-पड़ताल करने अथवा सम्बन्धित संगठन से जानकारी प्राप्त करने के प्रयोजन से मनोनीत अभिकरण को प्राप्त शिकायत के अनुक्रम में जांच-पड़ताल को पूरी करने में सभी प्रकार की सहायता प्रदान करने के लिए यथावश्यक समझे जाने वाले केंद्रीय अन्वेषण ब्यूरो अथवा पुलिस अधिकारियों को सहायता देने के लिए प्राधिकृत किया जाएगा।

6. यदि कोई व्यक्ति किसी कार्रवाई से इस आधार पर व्यथित होवे है कि उसे इस तथ्य के आधार पर पीड़ित किया जा रहा है कि उसने शिकायत दायर की है अथवा प्रकटीकरण किया है तो वह इस मामले के निवारण की प्रार्थना करते हुए मनोनीत अभिकरण के समक्ष एक आवेदन दायर कर सकता है जो यथावश्यक उपयुक्त समझी जाने वाली कार्रवाई करेगा। मनोनीत अभिकरण सम्बन्धित सरकारी सेवक अथवा सरकारी प्राधिकारी को जैसी भी स्थिति हो, उपयुक्त निर्देश दे दे।

7. शिकायतकर्ता के आवेदन पर अथवा एकत्रित की गई जानकारी के आधार पर यदि मनोनीत अभिकरण का यह मत होता है कि शिकायतकर्ता अथवा गवाहों को संरक्षण दिए जाने की आवश्यकता है तो मनोनीत अभिकरण सम्बन्धित सरकारी प्राधिकारियों को उपयुक्त निर्देश जारी करेगा।

8. इस कार्य में प्रयुक्त तंत्र, मौजूदा कार्य तंत्र के अतिरिक्त होगा। तथापि, यदि शिकायत इस तंत्र के अन्तर्गत प्राप्त होती है तो पहचान को गुप्त रखा जाएगा।

9. यदि मनोनीत अभिकरण शिकायत को अभिप्रेरित अथवा कष्टप्रद स्वरूप की पाता है तो मनोनीत अभिकरण उपयुक्त कदम उठाने के लिए स्वतंत्र है।

10. मनोनीत अभिकरण निम्नलिखित स्वरूप के प्रकटीकरण पर कार्रवाई अथवा उसकी जांच-पड़ताल नहीं करेगा :—

(क) ऐसे किसी मामले जिसमें लोक सेवक जांच अधिनियम, 1850 के अन्तर्गत एक औपचारिक और सार्वजनिक जांच का आदेश दे दिया गया हो; अथवा

(ख) ऐसा कोई मामला जिसे जांच आयोग अधिनियम, 1952 के तहत जांच के लिए भेजा गया है।

11. मनोनीत अभिकरण के निर्देशों के विपरीत मुखबिर की पहचान खुलासा हो जाने पर मनोनीत अभिकरण ऐसा प्रकटीकरण करने वाले किसी व्यक्ति अथवा अभिकरण के विरुद्ध मौजूदा विनियमों के अनुसार उपयुक्त कार्रवाई शुरू किए जाने के लिए प्राधिकृत है।

12. इस कार्य हेतु सृजित तंत्र, संसद द्वारा इस विषय में कानून बनाए जाने तक लागू रहेगा।

श्रीमती मंजुलिका गौतम, अपर सचिव

(Department of Personnel and Training)

RESOLUTION

New Delhi, the 21st April, 2004

No. 371/12/2002-AVD-III.—Whereas while hearing Writ Petition (C) No. 539/2003 regarding the murder of Shri Satyendra Dubey, the Supreme Court desired that pending enactment of a suitable legislation, suitable machinery should be put in place for acting on complaints from “whistle-blowers”.

And whereas the ‘The Public Interest Disclosure and Protection of Informers’ Bill, 2002, drafted by the Law Commission is under examination.

Now, therefore, the Central Government hereby resolves as under :

1. The Central Vigilance Commission (CVC) is hereby authorized, as the Designated Agency, to receive written complaints or disclosure on any allegation of corruption or of mis-use of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government. The disclosure or complaint shall contain as full particulars as possible and shall be accompanied by supporting documents or other material.
2. The designated agency may, if it deems fit call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter.
3. Notwithstanding anything contained in the Official Secrets Act, 1923, any public servant other than those referred to clauses (a) to (d) of Article 33 of the Constitution or any other person including any non-governmental organisation, may make a written disclosure to the designated agency.
4. If the complaint is accompanied by particulars of the person making the complaint, the designated agency shall take the following steps :
 - (i) The designated agency will ascertain from the complainant whether he was the person who made the complaint or not.
 - (ii) The identity of the complainant will not be revealed unless the complainant himself has made the details of the complaint either public or disclosed his identity to any other office or authority.
 - (iii) After concealing the identity of the complainant, the designated agency shall make, in the first instance, discreet inquiries to ascertain if there is any basis of proceeding further with the complaint. For this purpose, the designated agency shall devise an appropriate machinery.
 - (iv) Either as a result of the discreet inquiry, or on the basis of the complaint itself without any inquiry, if the designated agency is of the opinion that the matter requires to be investigated further, the designated agency shall officially seek comments/or explanation from the Head of the Department of the concerned organisation or office. While doing so, the designated agency shall not disclose the identity of the informant and also shall request the concerned Head of the organisation to keep the identity of the informant secret, if for any reason, the concerned Head comes to know the identity.
 - (v) After obtaining the response of the concerned organisation, if the designated agency is of the opinion that the investigations reveal either mis-use of office or substantiate allegations of corruption, the designated agency shall recommend appropriate action to the concerned Government Department or Organization. These shall, *inter alia*, include following :
 - (a) Appropriate proceedings to be initiated against the concerned Government servant.
 - (b) Appropriate administrative steps for redressing the loss caused to the Government as a result of the corrupt act or mis-use of office, as the case may be.
 - (c) Recommend to the appropriate authority/agency initiation of criminal proceedings in suitable cases, if warranted by the facts and circumstances of the case.
 - (d) Recommend taking of corrective measures to prevent recurrence of such events in future.

5. For the purpose of making discreet inquiry or obtaining information from the concerned organisation, the designated agency shall be authorized to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.
6. If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency seeking redress in the matter, who shall take such action, as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.
7. Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.
8. The machinery evolved herein shall be in addition to the existing mechanisms in place. However, secrecy of identity shall be observed, only if the complaint is received under this machinery.
9. In case the designated agency finds the complaint to be motivated or vexatious, the designated agency shall be at liberty to take appropriate steps.
10. The designated agency shall not entertain or inquire into any disclosure :
 - (a) in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850; or
 - (b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952.
11. In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorized to initiate appropriate action as per extant regulations against the person or agency making such disclosure.
12. The machinery created herein shall operate till Parliament passes a law on the subject.

SMT. MANJULIKA GAUTAM, Addl. Secy.



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कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

सूचिपत्र

नई दिल्ली, 29 अप्रैल, 2004

सं. 371/12/2002-ए.बी.डी.-III.—भारत के असाधारण राजपत्र भाग-I, खण्ड 1 में दिनांक 21 अप्रैल, 2004 को प्रकाशित भारत सरकार के संकल्प संख्या 89 का आंशिक संशोधन करते हुए, उक्त संकल्प के प्रारंभिक पैरा तथा पैरा-2 में निम्नलिखित संशोधन किए जाते हैं :

(i) संकल्प के प्रारंभिक पैरा को निम्न प्रकार से प्रतिस्थापित किया जाता है :

“जबकि श्री सत्येन्द्र दुबे की हत्या के सम्बन्ध में रिट चाचिका (सी.) संख्या 539/2003 की सुनवाई करते समय, ‘पर्दाफाशों या भण्डाफोड़ों (विसल ब्लोअर्स)’ से प्राप्त शिकायतों पर कार्रवाई किए जाने के लिए उपयुक्त तंत्र का प्रश्न उठा”।

(ii) संकल्प के अंग्रेजी पाठ के पैरा 2 में शब्द ‘designateed’ (डेजिगनेटीड) को शब्द ‘designated’ (डेजिगनेटिड) से प्रतिस्थापित किया जाता है।

श्रीमती मंजुलिका गौतम, अपर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

CORRIGENDUM

New Delhi, the 29th April, 2004

No. 371/12/2002-AVD.III.—In partial modification of the Government of India's Resolution No. 89, published in the Gazette of India Part I Section 1, Extraordinary dated 21st April, 2004, the following modifications are made in the opening para and para-2 of the said Resolution :

(i) The opening para of the Resolution is substituted as :

“Whereas while hearing Writ Petition (C) No. 539/2003 regarding the murder of Shri Satyendra Dubey, the question of a suitable machinery for acting on complaints from ‘whistle-blowers’ arose.”

(ii) In para 2 the word “designateed” is substituted as “designated”.

Smt. MANJULIKA GAUTAM, Addl. Secy.

1396 GI/2004

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भारत का राजपत्र

The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

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No. 280]

नई दिल्ली, बृहस्पतिवार, मार्च 18, 2004/फाल्गुन 28, 1925
NEW DELHI, THURSDAY, MARCH 18, 2004/PHALGUNA 28, 1925

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

अधिसूचना

नई दिल्ली, 18 मार्च, 2004

का.आ. 371(अ).—केन्द्रीय सतर्कता आयोग अधिनियम, 2003 (2003 का 45) की धारा 8 की उपधारा (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा सार्वजनिक क्षेत्र के सभी बैंकों के स्केल-V और उस से ऊपर के स्तर के सभी अधिकारियों को, उपर्युक्त अधिनियम की धारा 8 की उपधारा (1) के खंड (घ) के प्रयोजनार्थ अधिकारियों के वर्ग में शामिल करती है।

[सं. 418/2/2004-ए.वी.डी.-IV]

केशव देसिराजु, संयुक्त सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 18th March, 2004

S.O. 371 (E).—In exercise of the powers conferred by clause (b) of Sub-section (2) of Section 8 of the Central Vigilance Commission Act, 2003 (45 of 2003), the Central Government hereby include all the officers of Scale V and above of all Public Sector Banks in the category of officials for the purpose of clause (d) of Sub-section (1) of Section 8 of the said Act.

[No. 418/2/2004-AVD. IV]

KESHAV DESIRAJU, Jt. Secy.

922 GI/2004

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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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सं० 50]

नई दिल्ली, शुक्रवार, सितम्बर 12, 2003 / भाद्र 21, 1925

No. 50]

NEW DELHI, FRIDAY, SEPTEMBER 12, 2003 / BHADRA 21, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, dated the 12th September, 2003/Bhadra 21, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 11th September, 2003, and is hereby published for general information:—

THE CENTRAL VIGILANCE COMMISSION ACT, 2003

. No. 45 OF 2003

[11th September, 2003]

An Act to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Central Vigilance Commission Act, 2003.
2. In this Act, unless the context otherwise requires,—

Short title.
Definitions.

(a) "Central Vigilance Commissioner" means the Central Vigilance Commissioner appointed under sub-section (1) of section 4;

(b) “Commission” means the Central Vigilance Commission constituted under sub-section (1) of section 3;

(c) “Delhi Special Police Establishment” means the Delhi Special Police Establishment constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946; 25 of 1946.

(d) “Government company” means a Government company within the meaning of the Companies Act, 1956; 1 of 1956.

(e) “prescribed” means prescribed by rules made under this Act;

(f) “Vigilance Commissioner” means a Vigilance Commissioner appointed under sub-section (1) of section 4.

CHAPTER II

THE CENTRAL VIGILANCE COMMISSION

Constitution
of Central
Vigilance
Commission.

3. (1) There shall be constituted a body to be known as the Central Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Act and the Central Vigilance Commission constituted under sub-section (1) of section 3 of the Central Vigilance Commission Ordinance, 1999 which ceased to operate, and continued under the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No. 371/20/99-AVD. III, dated the 4th April, 1999 as amended *vide* Resolution of even number, dated the 13th August, 2002 shall be deemed to be the Commission constituted under this Act. Ord. 4 of 1999.

(2) The Commission shall consist of—

(a) a Central Vigilance Commissioner — Chairperson;

(b) not more than two Vigilance Commissioners — Members.

(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons—

(a) who have been or are in an All-India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration; or

(b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and persons who have expertise and experience in finance including insurance and banking, law, vigilance and investigations:

Provided that, from amongst the Central Vigilance Commissioner and the Vigilance Commissioners, not more than two persons shall belong to the category of persons referred to either in clause (a) or clause (b):

(4) The Central Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

(5) The Central Vigilance Commissioner, the other Vigilance Commissioners and the Secretary to the Commission appointed under the Central Vigilance Commission Ordinance, 1999 or the Resolution of the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No. 371/20/99-AVD. III, dated the 4th April, 1999 as amended *vide* Resolution of even number, dated the 13th August, 2002 shall be deemed to have been appointed under this Act on the same terms and conditions including the term of office subject to which they were so appointed under the said Ordinance or the Resolution, as the case may be. Ord. 4 of 1999.

Explanation.—For the purposes of this sub-section, the expression “term of office” shall be construed as the term of office with effect from the date the Central Vigilance Commissioner or any Vigilance Commissioner has entered upon his office and continued as such under this Act.

(6) The headquarters of the Commission shall be at New Delhi.

4. (1) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Appointment of Central Vigilance Commissioner and Vigilance Commissioners.

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—

- (a) the Prime Minister — Chairperson;
- (b) the Minister of Home Affairs — Member;
- (c) the Leader of the Opposition in the House of the People — Member.

Explanation.—For the purposes of this sub-section, “the Leader of the Opposition in the House of the People” shall, when no such Leader has been so recognised, include the Leader of the single largest group in opposition of the Government in the House of the People.

(2) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5. (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier. The Central Vigilance Commissioner, on ceasing to hold the office, shall be ineligible for reappointment in the Commission.

Terms and other conditions of service of Central Vigilance Commissioner.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

Provided that every Vigilance Commissioner, on ceasing to hold the office, shall be eligible for appointment as the Central Vigilance Commissioner in the manner specified in sub-section (1) of section 4:

Provided further that the term of the Vigilance Commissioner, if appointed as the Central Vigilance Commissioner, shall not be more than four years in aggregate as the Vigilance Commissioner and the Central Vigilance Commissioner.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some other person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in Schedule to this Act.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

(a) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the President by warrant under his hand and seal.

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission:

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of retirement benefits in respect of any previous service rendered in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government, his salary in respect of the service as the Central Vigilance Commissioner or, as the case may be, the Vigilance Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

6. (1) Subject to the provisions of sub-section (3), the Central Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground to be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Central Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Vigilance Commissioner or a Vigilance Commissioner.

(4) If the Central Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any

Removal of
Central
Vigilance
Commissioner
and Vigilance
Commis-
sioner.

benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

7. The Central Government may, in consultation with the Commission, make rules with respect to the number of members of the staff of the Commission and their conditions of service.

Power to make rules by Central Government for staff.

CHAPTER III

FUNCTIONS AND POWERS OF THE CENTRAL VIGILANCE COMMISSION

8. (1) The functions and powers of the Commission shall be to—

Functions and powers of Central Vigilance Commission.

49 of 1988.

(a) exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 or an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

2 of 1974.

25 of 1946.

(b) give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946:

Provided that while exercising the powers of superintendence under clause (a) or giving directions under this clause, the Commission shall not exercise powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of any case in a particular manner;

49 of 1988.

2 of 1974.

(c) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

49 of 1988.

2 of 1974.

(d) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

49 of 1988.

2 of 1974.

(e) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or the public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

49 of 1988.

(f) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;

(g) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(h) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government:

Provided that nothing contained in this clause shall be deemed to authorise the Commission to exercise superintendence over the Vigilance administration in a manner not consistent with the directions relating to vigilance matters issued by the Government and to confer power upon the Commission to issue directions relating to any policy matters;

(2) The persons referred to in clause (d) of sub-section (1) are as follows:—

(a) members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;

(b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1).

Proceedings of
Commission.

9. (1) The proceedings of the Commission shall be conducted at its headquarters.

(2) The Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Central Vigilance Commissioner and other Vigilance Commissioners.

(3) Save as provided in sub-section (2), all business of the Commission shall, as far as possible, be transacted unanimously.

(4) Subject to the provisions of sub-section (3), if the Central Vigilance Commissioner and other Vigilance Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

(5) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the senior-most Vigilance Commissioner present at the meeting, shall preside at the meeting.

(6) No act or proceeding of the Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Vigilance
Commissioner
to act as Cen-
tral Vigilance
Commissioner
in certain
circumstances.

10. (1) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Vigilance Commissioners to act as the Central Vigilance Commissioner until the appointment of a new Central Vigilance Commissioner to fill such vacancy.

(2) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorise in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

Power relating
to inquiries.

11. The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or other documents;
- and
- (f) any other matter which may be prescribed.

2 of 1974.
45 of 1860.

12. The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

Proceedings before Commission to be judicial proceedings.

CHAPTER IV

EXPENSES AND ANNUAL REPORT

13. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of India.

Expences of Commission to be charged on the Consolidated Fund of India.

14. (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission within six months of the close of the year under report.

Annual report.

25 of 1946.

(2) The report referred to in sub-section (1) shall contain a separate part on the functioning of the Delhi Special Police Establishment in so far as it relates to sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946.

(3) On receipt of such report, the President shall cause the same to be laid before each House of Parliament.

CHAPTER V

MISCELLANEOUS

15. No suit, prosecution or other legal proceeding shall lie against the Commission, the Central Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

45 of 1860.

16. The Central Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Central Vigilance Commissioner, Vigilance Commissioner and staff to be public servants.

17. (1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

Report of any inquiry made on reference by Commission to be forwarded to that Commission.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The Central Government and the corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Central Government, any corporation established by or under any Central Act, Government company, society or local authority owned or controlled by the Central Government, as the case may be, does not agree with the advice of the Commission, it shall, for reasons to be recorded in writing, communicate the same to the Commission.

Power to call for information.

18. The Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations, Government companies, societies and local authorities.

Consultation with Commission in certain matters.

19. The Central Government shall, in making any rules or regulations governing the vigilance or disciplinary matters relating to persons appointed to public services and posts in connection with the affairs of the Union or to members of the All-India Services, consult the Commission.

Power to make rules.

20. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of members of the staff and their conditions of service under section 7;

(b) any other power of the civil court to be prescribed under clause (f) of section 11; and

(c) any other matter which is required to be, or may be, prescribed.

Power to make regulations.

21. (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the duties and the powers of the Secretary under sub-section (4) of section 3; and

(b) the procedure to be followed by the Commission under sub-section (2) of section 9.

Notification, rule, etc., to be laid before Parliament.

22. Every notification issued under clause (b) of sub-section (2) of section 8 and every rule made by the Central Government and every regulation made by the Commission under this Act shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or the regulation, or both Houses agree that the notification or the rule or the regulation should not be made, the notification or the rule or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

24. With effect from the constitution of the Commission under sub-section (1) of section 3, the Central Vigilance Commission set up by the Resolution of the Government of India in the Ministry of Home Affairs No. 24/7/64-AVD, dated the 11th February, 1964 (hereafter referred to in this section as the existing Vigilance Commission) shall, in so far as its functions are not inconsistent with the provisions of this Act, continue to discharge the said functions and—

Provisions relating to existing Vigilance Commission.

(a) all actions and decisions taken by the Vigilance Commission insofar as such actions and decisions are relatable to the functions of the Commission constituted under this Act shall be deemed to have been taken by the Commission;

(b) all proceedings pending before the Vigilance Commission, insofar as such proceedings relate to the functions of the Commission, shall be deemed to be transferred to the Commission and shall be dealt with in accordance with the provisions of this Act;

(c) the employees of the Vigilance Commission shall be deemed to have become the employees of the Commission on the same terms and conditions;

(d) all the assets and liabilities of the Vigilance Commission shall be transferred to the Commission.

42 of 1999.

25. Notwithstanding anything contained in the Foreign Exchange Management Act, 1999 or any other law for the time being in force,—

Appointments, etc., of officers of Directorate of Enforcement.

(a) the Central Government shall appoint a Director of Enforcement in the Directorate of Enforcement in the Ministry of Finance on the recommendation of the Committee consisting of—

(i) the Central Vigilance Commissioner — Chairperson;

(ii) Vigilance Commissioners — Members;

(iii) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government — Member;

(iv) Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government — Member;

(v) Secretary to the Government of India in-charge of the Department of Revenue, Ministry of Finance in the Central Government — Member;

(b) while making a recommendation, the Committee shall take into consideration the integrity and experience of the officers eligible for appointment;

(c) no person below the rank of Additional Secretary to the Government of India shall be eligible for appointment as a Director of Enforcement;

(d) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;

(e) a Director of Enforcement shall not be transferred except with the previous consent of the Committee referred to in clause (a);

(f) the Committee referred to in clause (a) shall, in consultation with the Director of Enforcement, recommend officers for appointment to the posts above the level of the Deputy Director of Enforcement and also recommend the extension or curtailment of the tenure of such officers in the Directorate of Enforcement;

(g) on receipt of the recommendation under clause (f), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.

Amendment
of Act 25 of
1946.

Interpretation
section.

Superintendence
and adminis-
tration of
Special Police
Establishment.

26. In the Delhi Special Police Establishment Act, 1946,—

(a) after section 1, the following section shall be inserted, namely:—

“1A. Words and expressions used herein and not defined but defined in the Central Vigilance Commission Act, 2003, shall have the meanings, respectively, assigned to them in that Act.”;

(b) for section 4, the following sections shall be substituted, namely:—

“4. (1) The superintendence of the Delhi Special Police Establishment in so far as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988, shall vest in the Commission. 49 of 1988.

(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.

(3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a State as the Central Government may specify in this behalf.

Committee for
appointment
of Director.

4A. (1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of—

- | | | |
|--|---|--------------|
| (a) the Central Vigilance Commissioner | — | Chairperson; |
| (b) Vigilance Commissioners | — | Members; |
| (c) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government | — | Member; |
| (d) Secretary (Coordination and Public Grievances) in the Cabinet Secretariat | — | Member. |

(2) While making any recommendation under sub-section (1), the Committee shall take into consideration the views of the outgoing Director.

(3) The Committee shall recommend a panel of officers—

(a) on the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and

(b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951, 61 of 1951.

for being considered for appointment as the Director.

Terms and
conditions of
service of
Director.

4B. (1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

4C. (1) The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Superintendent of Police and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.”;

(c) after section 6, the following section shall be inserted, namely:—

“6A. (1) The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Central Government where such allegation relates to—

Approval of Central Government to conduct inquiry or investigation.

(a) the employees of the Central Government of the level of Joint Secretary and above; and

(b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the *Explanation* to section 7 of the Prevention of Corruption Act, 1988.”.

49 of 1988.

49 of 1988.

27. (1) The Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No. 371/20/99-AVD. III, dated the 4th April, 1999 as amended *vide* Resolution of even number, dated the 13th August, 2002 is hereby repealed.

Repeal and saving.

Ord. 4 of 1999.

25 of 1946.

46 of 1973.

(2) Notwithstanding such repeal and the cesser of operation of the Central Vigilance Commission Ordinance, 1999, anything done or any action taken under the said Resolution and the said Ordinance including the appointments made and other actions taken or anything done or any action taken or any appointment made under the Delhi Special Police Establishment Act, 1946 and the Foreign Exchange Regulation Act, 1973 as amended by the said Ordinance shall be deemed to have been made or done or taken under this Act or the Delhi Special Police Establishment Act, 1946 and the Foreign Exchange Regulation Act, 1973 as if the amendments made in those Acts by this Act were in force at all material times.

THE SCHEDULE

[See section 5(3)]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or Vigilance Commissioner:—

“I, A. B., having been appointed Central Vigilance Commissioner (or Vigilance Commissioner) of the Central Vigilance Commission do *swear in the name of God*
solemnly affirm
that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the constitution and the laws.”.

SUBHASH C. JAIN,
Secy. to the Govt. of India.



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग I—खण्ड 1

PART I—Section 1

प्राधिकार से प्रकाशित

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सं. 205]
No. 205]नई दिल्ली, मंगलवार, अगस्त 13, 2002/श्रावण 22, 1924
NEW DELHI, TUESDAY, AUGUST 13, 2002/SRAVANA 22, 1924कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

संकल्प

नई दिल्ली, 13 अगस्त, 2002

सं. 371/20/99-ए वी डी-III.—संसद की संयुक्त समिति द्वारा अपनी रिपोर्ट में यथा संस्तुत, केन्द्रीय सतर्कता-आयोग-विधेयक, 1999, विचार किए जाने और पारित किए जाने हेतु लोक सभा में लंबित चल रहा है ;

और केन्द्रीय सतर्कता-आयोग, केन्द्रीय सतर्कता-आयोग-अध्यादेश, 1998 की धारा 3 के अंतर्गत गठित किया गया था तथा उपर्युक्त आयोग, केन्द्रीय सरकार द्वारा जारी दिनांक अप्रैल 04, 1999 के एक समसंख्यक संकल्प के आधार पर क्रायम है ।

और पूर्वोक्त संकल्प में केन्द्रीय सतर्कता-आयुक्त और अन्य सतर्कता-आयुक्तों के पद भरे जाने के बारे में कोई प्रावधान विशेष नहीं था ;

और मौजूदा केन्द्रीय सतर्कता-आयुक्त अपना कार्यकाल पूरा कर लेने के उपरांत सितम्बर 02, 2002 को अपने पद का कार्य-भार छोड़ देंगे तथा अन्य सतर्कता-आयुक्त ने अपना कार्य-काल पूरा कर लेने के उपरांत मार्च 15, 2002 को अपने पद का कार्य-भार पहले ही छोड़ दिया है ;

और विनीत नारायण और अन्य बनाम भारत-संघ और अन्य के मुकदमें में 1993 की आपराधिक रिट याचिका संख्या 340-343 में उच्चतम न्यायालय द्वारा दिए गए निदेशों के अनुसार, केन्द्रीय सतर्कता-आयुक्त और सतर्कता-आयुक्त (आयुक्तों) के पद भरे जाने की दृष्टि से दिनांक अप्रैल 04, 1999 के संकल्प में संशोधन किए जाने आवश्यक हो गए हैं ;

अतः, अब केन्द्रीय सरकार एतद्द्वारा यह संकल्प करती है कि दिनांक अप्रैल 04, 1999 के पूर्वोक्त संकल्प में निम्नलिखित संशोधन किए जाएँ अर्थात् :-

“उक्त संकल्प के पैराग्राफ-1 के बाद निम्नलिखित जोड़ दिया जाए, अर्थात् :-

“1.1 आयोग निम्नलिखित से मिलकर बनेगा --

(क) एक केन्द्रीय सतर्कता-आयुक्त - अध्यक्ष;

(ख) दो से अनधिक सतर्कता आयुक्त - सदस्य ;

1.2 केन्द्रीय सतर्कता आयुक्त और सतर्कता-आयुक्त ऐसे व्यक्तियों में से नियुक्त किए जाएंगे जो -

(क) अखिल भारतीय सेवा में या संघ की किसी सिविल सेवा में या संघ के अधीन किसी सिविल पद पर रह चुके हैं या हैं और जिनके पास सतर्कता, नीति बनाने और प्रशासन जिसके अंतर्गत पुलिस प्रशासन भी है, से संबंधित विषयों का ज्ञान और अनुभव हो ; अथवा

(ख) किसी केन्द्रीय अधिनियम द्वारा या उसके अधीन स्थापित किसी निगम या केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणाधीन किसी सरकारी कंपनी में कोई पद धारण कर चुके हैं या पद पर हैं और ऐसे व्यक्ति जिनके पास वित्त, जिसके अंतर्गत बीमा और बैंककारी भी हैं, विधि, सतर्कता और अन्वेषणों में विशेषज्ञता और अनुभव हो :

परन्तु केन्द्रीय सतर्कता-आयुक्त और सतर्कता-आयुक्तों में खण्ड (क) या खण्ड (ख) में निर्दिष्ट व्यक्तियों के एक ही प्रवर्ग से संबंधित दो से अधिक व्यक्ति नहीं होंगे ।

1.3 (i) केन्द्रीय सतर्कता-आयुक्त और सतर्कता-आयुक्त राष्ट्रपति द्वारा अपने हस्ताक्षर और मुद्रा सहित अधिपत्र द्वारा नियुक्त किए जाएँगे :

परन्तु इस पैराग्राफ़ के अधीन प्रत्येक नियुक्ति एक समिति की सिफ़ारिश अभिप्राप्त करने के पश्चात् की जाएगी, जो निम्नलिखित से मिलकर बनेगी -

- (क) प्रधान मंत्री - अध्यक्ष ;
 (ख) गृह मंत्री - सदस्य ;
 (ग) लोक-सभा में विपक्ष का नेता - सदस्य ।

(ii) ऊपर पैराग्राफ़ 1.2 में यथा स्पष्ट की गई पात्रता से संबद्ध शर्तें पूरी करने वाले व्यक्तियों के नामों का एक पैनल, मंत्रिमंडल-सचिव द्वारा, उपर्युक्त समिति को उसके विचारार्थ मुहैया करवाया जाएगा ।

स्पष्टीकरण - इस पैराग्राफ़ के प्रयोजनों के लिए, "लोक-सभा में विपक्ष के नेता " के अंतर्गत जब मान्यता प्राप्त ऐसा कोई भी नेता नहीं हो तो - लोक-सभा में सरकार के सबसे बड़े एकल विरोधी दल के नेता शामिल होंगे ।

(iii) केन्द्रीय सतर्कता-आयुक्त या किसी सतर्कता-आयुक्त की कोई नियुक्ति समिति में किसी रिक्ति के कारण से ही अविधिमान्य नहीं होगी ।

1.4 केन्द्रीय सतर्कता-आयुक्त और प्रत्येक अन्य सतर्कता-आयुक्त अपना-अपना पद ग्रहण करने की तारीख़ से क्रमशः चार वर्ष और तीन वर्ष की अवधि तक अथवा सैंसठ वर्ष की आयु का हो जाने तक, इनमें से जो भी पहले हो, तब तक पद धारण करेंगे ।

1.5 केन्द्रीय सतर्कता-आयुक्त और प्रत्येक अन्य सतर्कता-आयुक्त, पद धारण करना समाप्त कर देने पर-

- (क) आयोग में पुनःनियुक्ति के लिए ;
 (ख) भारत-सरकार या किसी राज्य-सरकार के अधीन किसी लाभ के पद पर आगे नियोजन के लिए पात्र नहीं होगा ।

1.6 केन्द्रीय सतर्कता-आयुक्त या कोई सतर्कता-आयुक्त अपना पद ग्रहण करने से पहले राष्ट्रपति या उसके द्वारा इस निमित्त नियुक्त किसी अन्य व्यक्ति के समक्ष, इस संकल्प की अनुसूची में इस प्रयोजन के लिए दिए हुए प्रारूप के अनुसार शपथ लेगा या प्रतिज्ञान करेगा और उस पर अपने हस्ताक्षर करेगा ।

1.7 केन्द्रीय सतर्कता-आयुक्त या कोई सतर्कता-आयुक्त राष्ट्रपति को सम्बोधित स्वहस्ताक्षरित पत्र द्वारा अपना पद त्याग सकेगा ।

1.8 संदेय वेतन और भत्ते तथा सेवा की अन्य शर्तें -

(क) केन्द्रीय सतर्कता-आयुक्त की वही होंगी जो संघ-लोक-सेवा-आयोग के अध्यक्ष की हैं;

(ख) सतर्कता-आयुक्त की वही होंगी जो संघ-लोक-सेवा-आयोग के सदस्य की हैं :

परन्तु यदि केन्द्रीय सतर्कता-आयुक्त या कोई सतर्कता-आयुक्त अपनी नियुक्ति के समय भारत-सरकार के अधीन या किसी राज्य-सरकार के अधीन किसी पूर्व सेवा की बाबत कोई पेंशन (निःशक्तता या क्षति पेंशन से भिन्न) प्राप्त करता है तो केन्द्रीय सतर्कता-आयुक्त या किसी सतर्कता-आयुक्त के रूप में सेवा की बाबत उसका वेतन, उसकी पेंशन, जिसके अंतर्गत पेंशन का संराशीकृत किया गया भाग और सेवानिवृत्ति फायदों के अन्य प्रकार से समतुल्य पेंशन भी हैं किन्तु इसमें सेवानिवृत्ति उपदान के समतुल्य पेंशन नहीं है, की राशि के बराबर कम कर दिया जाएगा ।

परन्तु यह भी कि यदि केन्द्रीय सतर्कता-आयुक्त अथवा कोई सतर्कता-आयुक्त अपनी नियुक्ति की तारीख को किसी केन्द्रीय अधिनियम द्वारा अथवा उसके अनुसार स्थापित किसी निगम में अथवा केन्द्रीय सरकार की अपनी अथवा अपने द्वारा नियंत्रित किसी कम्पनी में पहले की गई सेवा के संबंध में सेवानिवृत्ति-प्रसुविधाएं ले रहे हों तो केन्द्रीय सतर्कता-आयुक्त अथवा किसी सतर्कता-आयुक्त के रूप में की जा रही सेवा के संबंध में उन्हें देय वेतन में से सेवानिवृत्ति-प्रसुविधाओं के समतुल्य पेंशन की धनराशि कम कर दी जाएगी ।

परन्तु यह भी कि केन्द्रीय सतर्कता-आयुक्त या किसी सतर्कता-आयुक्त को संदेय वेतन, भत्ते और पेंशन और उनकी सेवा की अन्य शर्तों में उसकी नियुक्ति के पश्चात् उसके लिए अलाभकारी परिवर्तन नहीं किया जाएगा । "

अनुसूची

[पैराग्राफ 1.6 देखिए]

केन्द्रीय सतर्कता-आयुक्त या सतर्कता आयुक्त द्वारा ली जाने वाली शपथ या किए जाने वाले प्रतिज्ञान का प्ररूप :-

“ मैं अमुक, जो केन्द्रीय सतर्कता-आयोग का केन्द्रीय सतर्कता-आयुक्त (या सतर्कता-आयुक्त) नियुक्त हुआ हूँ, ईश्वर की शपथ लेता हूँ/सत्यनिष्ठा से प्रतिज्ञान करता हूँ कि मैं विधि द्वारा स्थापित भारत के संविधान के प्रति सच्ची श्रद्धा और निष्ठा रखूँगा, मैं भारत की प्रभुता और अखंडता अक्षुण्ण रखूँगा तथा मैं सम्यक् प्रकार से और श्रद्धापूर्वक तथा अपनी पूरी योग्यता, ज्ञान और विवेक से अपने पद के कर्तव्यों का भय या पक्षपात, अनुराग या द्वेष के बिना पालन करूँगा तथा मैं संविधान और विधियों की मर्यादा बनाए रखूँगा ।”

एस. के. पुरकायस्थ, अपर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

RESOLUTION

New Delhi, the 13th August, 2002

No. 371/20/99-AVD-III.—WHEREAS the Central Vigilance Commission Bill, 1999, as reported by the Joint Committee of Parliament is pending for consideration and passing in the Lok Sabha;

AND WHEREAS the Central Vigilance Commission was constituted under Section 3 of the Central Vigilance Commission Ordinance, 1998 and the same is continuing by virtue of a Resolution of even number dated the 4th April 1999 issued by the Central Government.

AND WHEREAS the aforesaid Resolution did not contain a specific provision about the filling up the posts of Central Vigilance Commissioner and other Vigilance Commissioners;

AND WHEREAS the present Central Vigilance Commissioner will be demitting office on 2nd September, 2002 on completion of his tenure and that other Vigilance Commissioner has already demitted office on the 15th March, 2002 after completion of his tenure;

AND WHEREAS it has become necessary to make amendments in the Resolution dated the 4th April, 1999 to fill up the posts of the Central Vigilance Commissioner and other Vigilance Commissioners in accordance with the directions given by the Supreme Court in Criminal

2522 E1/02

Writ Petition Nos. 340-343 of 1993 in Vineet Narain and Others Versus Union of India and Others;

NOW, THEREFORE, the Central Government hereby resolves that the following amendments shall be made in the aforesaid Resolution dated the 4th April 1999, namely: -

“In the said Resolution, after paragraph 1, the following shall be inserted, namely: -

“1.1. The Commission shall consist of -

- (a) a Central Vigilance Commissioner - - Chairperson;
- (b) not more than two Vigilance Commissioners - - Members.

1.2. The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons -

- (a) who have been or are in an All-India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration; or
- (b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and persons who have expertise and experience in finance including insurance and banking, law, vigilance and investigations:

Provided that, from amongst the Central Vigilance Commissioner and the Vigilance Commissioners, not more than two persons shall belong to the category of persons referred to either in clause (a) or clause (b).

- 1.3. (i) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this paragraph shall be made after obtaining the recommendation of a Committee consisting of –

- (a) the Prime Minister - Chairperson;
- (b) the Minister of Home Affairs - Member;
- (c) the Leader of the Opposition in the House of the People - Member.

- (ii) A panel of names of persons fulfilling eligibility conditions as explained in paragraph 1.2 above shall be provided to the Committee by the Cabinet Secretary for its consideration.

Explanation – For the purposes of this paragraph, “the Leader of the Opposition in the House of the People” shall, when no such Leader has been so recognized, include the Leader of the single largest group in opposition of the Government in the House of the People.

- (iii) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

- 1.4. The Central Vigilance Commissioner and every other Vigilance Commissioner shall hold office for a term of four years and three years respectively from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.
- 1.5. On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for -
- (a) reappointment in the Commission;
 - (b) further employment to any office of profit under the Government of India or the Government of a State.
- 1.6. The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule to this Resolution.
- 1.7. The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.
- 1.8. The salary and allowances payable to and the other conditions of service of -
- (a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

- (b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission:

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of retirement benefits in respect of any previous service rendered in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government, his salary in respect of the service as the Central Vigilance Commissioner or, as the case may be, the Vigilance Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits.

Provided also that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.”

2522 CH/02-2

SCHEDULE

[See paragraph 1.6]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or Vigilance Commissioner:-

“I, A.B., having been appointed Central Vigilance Commissioner (or Vigilance Commissioner) of the Central Vigilance Commission do swear in the name of God that I will bear true faith and solemnly affirm

allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold Constitution and the laws.”

S. K. PURKAYASTHA, Addl. Secy.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग I—खण्ड 1
PART I—Section 1

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 74]
No. 74]

नई दिल्ली, रविवार, अप्रैल 4, 1999/चैत्र 14, 1921
NEW DELHI, SUNDAY, APRIL 4, 1999/CHAITRA 14, 1921

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

संकल्प

नई दिल्ली, 4 अप्रैल, 1999

संख्या 371/20/99-ए. वी. डी.-III.—भारत के उच्चतम न्यायालय ने विनीत नारायण तथा अन्य बनाम भारत संघ संबंधी आपराधिक रिट याचिका संख्या 340-343/1993 में 18 दिसम्बर, 1997 को अपने आदेश में, अन्य बातों के साथ-साथ, यह निर्देश दिए कि केन्द्रीय सतर्कता आयोग को सांविधिक दर्जा प्रदान किया जाए ;

और उक्त प्रयोजन के लिए राष्ट्रपति ने 25 अगस्त, 1998 को केन्द्रीय सतर्कता आयोग अध्यादेश, 1998 § अध्यादेश 15/1998§ तथा 27 अक्टूबर, 1998 को केन्द्रीय सतर्कता आयोग § संशोधन§ अध्यादेश 1998 प्रख्यापित किया था ;

और पूर्वोक्त अध्यादेशों का प्रतिस्थापित करने के लिए 7 दिसम्बर, 1998 को लोक सभा में केन्द्रीय सतर्कता आयोग, विधेयक 1998, पुरस्थापित किया गया था ;

और राष्ट्रपति ने, 8 जनवरी, 1999 को अन्य बातों के साथ-साथ उपर्युक्त विधेयक के उपबंधों को लागू करने के लिए केन्द्रीय सतर्कता आयोग अध्यादेश 1999 § अध्यादेश 4/1999§ प्रख्यापित किया था ;

और उक्त विधेयक, लोक सभा ने पारित कर दिया है तथा राज्य सभा के समक्ष लीखत है ;

984 GI/99

(1)

जिसमें यह अभिकथित किया गया है कि ऐसे कर्मचारी ने भ्रष्टाचार निवारण अधिनियम, 1988 के अन्तर्गत कोई अपराध करित किया है ;

§ iii § भ्रष्टाचार निवारण अधिनियम, 1988 के अधीन अभियोजन की मंजूरी के लिए सक्षम प्राधिकारियों के पास लम्बित आवेदनों की प्रगति का पुनर्विलोकन करना ;

§ iv § केन्द्रीय सरकार, किसी केन्द्रीय अधिनियम के द्वारा या उसके अधीन स्थापित निगमों, केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणाधीन सरकारी कम्पनियों, सोसाइटियों और स्थानीय प्राधिकारियों को ऐसे विषयों पर सलाह देना जो इसे उस सरकार, उक्त सरकारी कम्पनियों, सोसाइटियों और केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणाधीन स्थानीय प्राधिकारियों द्वारा या अथवा निर्दिष्ट किए जाएं ;

§ v § केन्द्रीय सरकार के विभिन्न मंत्रालयों या किसी केन्द्रीय अधिनियम द्वारा या उसके अधीन स्थापित निगमों, उस सरकार के स्वामित्वाधीन या नियंत्रणाधीन सरकारी कम्पनियों, सोसाइटियों और स्थानीय प्राधिकारियों के सतर्कता प्रशासन के ऊपर अपीक्षण रखना ।

4. आयोग की कार्यवाहियां इसके वर्तमान प्रधान कार्यालय में संचालित की जाएंगी।
5. आयोग अपने कार्य करने की बाबत प्रक्रिया के ऐसे नियमों तथा नैसर्गिक न्याय के सिद्धांतों का पालन करेगा ।
6. केन्द्रीय सतर्कता आयुक्त या यदि किसी कारण वह आयोग की किसी बैठक में उपस्थित होने के अयोग्य हो तो बैठक में उपस्थित ज्येष्ठतम सतर्कता आयुक्त बैठक की अध्यक्षता करेगा ।

वें. लक्ष्मीरतन, अपर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS

(Department of Personnel & Training)

RESOLUTION

New Delhi, the 4th April, 1999

No. 371/20/99-AVD. III.—WHEREAS the Supreme Court of India Vide its Order dated the 18th December, 1997 in Criminal Writ Petition numbers 340-343 of 1993 - Vineet Narain and others versus Union of India has inter alia given directions that statutory status should be conferred upon the Central Vigilance Commission;

AND WHEREAS the President was pleased to promulgate the Central Vigilance Commission Ordinance, 1998 (Ord.15 of 1998) on the 25th day of August, 1998 and the Central Vigilance Commission (Amendment) Ordinance, 1998 (Ord.18 of 1998) on the 27th day of October, 1998 for the said purpose;

AND WHEREAS the Central Vigilance Commission Bill, 1998 was introduced in the House of the People on the 7th day of December, 1998 to replace the said Ordinances;

AND WHEREAS the President was pleased to promulgate the Central Vigilance Commission Ordinance, 1999 (Ord.4 of 1999) on the 8th day of January, 1999 inter alia to give effect to the provisions of the aforesaid Bill;

AND WHEREAS the aforesaid Bill has been passed by the House of the People and is pending before the Council of States;

AND WHEREAS the Central Vigilance Commission Ordinance, 1999 (Ord.4 of 1999) is expiring on the 5th April, 1999 in terms of sub-clause(a) of clause (2) of article 123 of the Constitution;

AND WHEREAS it has become necessary to continue the Central Vigilance Commission beyond the 5th day of April, 1999;

NOW, THEREFORE; the Central Government hereby resolves that the Central Vigilance Commission constituted under section 3 of the Central Vigilance Commission Ordinance, 1998 and existing under section 3 on the date of this Resolution shall, notwithstanding the fact that the Central Vigilance Commission Ordinance, 1999 (Ord.4 of 1999) will cease to operate on the 5th day of April, 1999 in terms of sub-clause (a) of clause (2) of article 123 of the Constitution, continue to discharge its duties and exercise its powers under this Resolution which shall come into operation immediately after the expiry of the Ordinance.

2. The Central Vigilance Commissioner, other Vigilance Commissioner, officers and employees of the Commission constituted under the Central Vigilance Commission Ordinance, 1999 shall continue to hold office as such on the same terms and conditions of their appointment as on the date of this Resolution.

3. The Central Vigilance Commission shall have the following functions and powers, namely:-

- (i) To inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988;
- (ii) To cause an inquiry or investigation to be made into any complaint against any official belonging to the following category of officials, namely :—

- (a) Group 'A' Officers of the Central Government;
- (b) Such level of officers of the Corporations established by or under any Central Act,

Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf,


wherein it is alleged that such official has committed an offence under the Prevention of Corruption Act, 1988;

- (iii) Review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;
- (iv) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;
- (v) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act,

Government companies, societies and local authorities owned or controlled by that Government.

4. The proceedings of the Commission shall be conducted at its present headquarters.
5. The Commission shall observe such rules of procedure and the principles of the natural justice in regard to transaction of its business.
6. The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the senior most Vigilance Commissioner present at the meeting, shall preside at the meeting.

V. LAKSHMI RATAN, Addl. Secy.


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 81 नई दिल्ली, शुक्रवार, जनवरी 8, 1999 / पौष 18, 1920
No. 81 NEW DELHI, FRIDAY, JANUARY 8, 1999 / PAUSA 18, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th January, 1999 / Pausa 18, 1920 (Saka)

THE CENTRAL VIGILANCE COMMISSION ORDINANCE, 1999

(No. 4 of 1999)

Promulgated by the President in the Forty-ninth Year of the Republic of
India.

An Ordinance to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

WHEREAS the Central Vigilance Commission Ordinance, 1998 was promulgated by the President on the 25th day of August, 1998;

AND WHEREAS the said Ordinance was amended by promulgation of the Central Vigilance Commission (Amendment) Ordinance, 1998 on the 27th day of October, 1998;

AND WHEREAS the Central Vigilance Commission Bill, 1998 to replace the aforesaid Ordinances was introduced in the House of the People on the 7th day of December, 1998 but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the aforesaid Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

Short title and commencement. 1. (1) This Ordinance may be called the Central Vigilance Commission Ordinance, 1999.

(2) It shall be deemed to have come into force on the 25th day of August, 1998.

Definitions. 2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date on which the Commission is constituted under sub-section (1) of section 3;

(b) "Central Vigilance Commissioner" means the Central Vigilance Commissioner appointed under sub-section (1) of section 4;

(c) "Commission" means the Central Vigilance Commission constituted under sub-section (1) of section 3;

(d) "Delhi Special Police Establishment" means the Delhi Special Police Establishment constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "Vigilance Commissioner" means a Vigilance Commissioner appointed under sub-section (1) of section 4.

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CHAPTER II THE CENTRAL VIGILANCE COMMISSION

Constitution of Central Vigilance Commission. 3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a body to be known as the Central Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Ordinance.

(2) The Commission shall consist of—

(a) a Central Vigilance Commissioner— Chairperson;

(b) not more than four Vigilance Commissioners — Members.

(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons—

(a) who have been or are in an all-India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration; and

(b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and persons who have expertise and experience in finance including insurance and banking, law, vigilance and investigations;

Provided that, from amongst the Central Vigilance Commissioner and the Vigilance Commissioners, not more than three persons shall belong to the category of persons referred to either in clause (a) or in clause (b).

(4) The Central Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

(5) The headquarters of the Commission shall be at New Delhi.

4. (1) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Appointment of Central Vigilance Commissioner and Vigilance Commissioners.

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—

- (a) the Prime Minister — Chairperson;
- (b) the Minister of Home Affairs — Member;
- (c) the Leader of the Opposition in the House of the People — Member.

(2) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5. (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

Terms and other conditions of service of Central Vigilance Commissioner and Vigilance Commissioners.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of three years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

(a) reappointment in the Commission;

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission;

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State; his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

Removal of
Central
Vigilance
Com-
missioner
and
Vigilance
Commi-
ssioners.

6. (1) Subject to the provisions of sub-section (3), the Central Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office the Central Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Vigilance Commissioner or a Vigilance Commissioner.

(4) If the Central Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

7. The Central Government may by rules make provision with respect to the number of members of the staff of the Commission and their conditions of service.

Power to make rules by Central Government for staff.

CHAPTER III FUNCTIONS AND POWERS OF THE CENTRAL VIGILANCE COMMISSION

8. (1) The functions and powers of the Commission shall be to—

Functions and powers of Central Vigilance Commission.

49 of 1988. (a) exercise superintendence over the functioning of the Delhi Special Police Establishment insofar as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988;

49 of 1988. (b) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988;

49 of 1988. (c) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988;

49 of 1988. (d) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988;

49 of 1988. (e) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;

(f) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(g) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) The persons referred to in clause (c) of sub-section (1) are as follows:--

(a) Group 'A' officers of the Central Government;

(b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf;

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (c) of sub-section (1).

Proceedings of Commission.

9. (1) The proceedings of the Commission shall be conducted at its headquarters.

(2) The Commission shall observe such rules of procedure in regard to the transaction of the business as may be provided by regulations.

(3) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the seniormost Vigilance Commissioner present at the meeting, shall preside at the meeting.

(4) No act or proceeding of the Commission shall be invalid merely by reason of--

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Vigilance Commissioner to act as Central Vigilance Commissioner in certain circumstances.

10. (1) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Vigilance Commissioners to act as the Central Vigilance Commissioner until the appointment of a new Central Vigilance Commissioner to fill such vacancy.

(2) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorise in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

Power relating to inquiries.

11. The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:--

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

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- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

2 of 1974.
45 of 1860

12. The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

Proceedings before Commission to be judicial proceedings.

CHAPTER IV
EXPENSES AND ANNUAL REPORT

13. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of India.

Expenses of Commission to be charged on the Consolidated Fund of India.

14. (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission.

Annual report.

(2) The report referred to in sub-section (1) shall contain a separate part on the functioning of the Delhi Special Police Establishment insofar as it relates to sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946.

25 of 1946.

(3) On receipt of such report, the President shall cause the same to be laid before each House of Parliament.

CHAPTER V
MISCELLANEOUS

15. No suit, prosecution or other legal proceeding shall lie against the Commission, the Central Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Ordinance.

Protection of action taken in good faith.

Central
Vigilance
Com-
missioner,
Vigilance
Com-
missioner
and staff
to be
public
servants.

16. The Central Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1960

Report of
any inquiry
made on
reference
by
Commission
to be
forwarded
to that
Com-
mission.

17. (1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The Central Government and the corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Central Government, any corporation established by or under any Central Act, Government company, society or local authority owned or controlled by the Central Government, as the case may be, does not agree with the advice of the Commission, it may, for reasons to be recorded in writing, communicate the same to the Commission.

Power to
call for
information.

18. The Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations, Government companies, societies and local authorities.

Power to
give
directions.

19. The Commission shall from time to time give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946:

25 of 1946.

Provided that the Commission shall not exercise its powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of a particular case only in a particular manner.

Power to
make
rules.

20. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of members of the staff and their conditions of service under section 7;

(b) any other power of the civil court to be prescribed under clause (f) of section 11; and

(c) any other matter which is required to be, or may be, prescribed.

21. (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Ordinance and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Ordinance.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the duties and the powers of the secretary under sub-section (4) of section 3; and

(b) the procedure to be followed by the Commission under sub-section (2) of section 9.

22. Every notification issued under clause (b) of sub-section (2) of section 8 and every rule made by the Central Government and every regulation made by the Commission under this Ordinance shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or regulation, or both Houses agree that the notification or the rule or regulation should not be made, the notification or the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

Notification, rule, etc., to be laid before Parliament.

23. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

24. With effect from the appointed day the Central Vigilance Commission set up by the Resolution of the Government of India in the Ministry of Home Affairs No. 24/7/64-AVD dated the 11th February, 1964 (hereafter referred to in this section as the existing Vigilance Commission) shall, insofar as its functions are not inconsistent with the provisions of this Ordinance, continue to discharge the said functions and,—

Provisions relating to existing Vigilance Commission.

(a) all actions and decisions taken by the existing Vigilance Commission insofar as such actions and decisions are relatable to the functions of the Commission constituted under this Ordinance (hereafter referred to in this section as the new Commission) shall be deemed to have been taken by the new Commission;

(b) all proceedings pending before the existing Vigilance Commission, insofar as such proceedings relate to the functions of the new Commission, shall be deemed to be transferred to the new Commission and shall be dealt with in accordance with the provisions of this Ordinance;

(c) the employees of the existing Vigilance Commission shall be deemed to have become the employees of the new Commission on the same terms and conditions;

(d) all the assets and liabilities of the existing Vigilance Commission shall be transferred to the new Commission.

Appoint-
ments, etc.,
of officers
of
Directorate
of Enforce-
ment.

25. Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 or any other law for the time being in force,—

(a) the Central Government shall appoint a Director of Enforcement in the Directorate of Enforcement in the Ministry of Finance on the recommendation of the Committee consisting of—

(i) the Central Vigilance Commissioner — Chairperson;

(ii) Secretary to the Government of India
in-charge of the Ministry of Home Affairs
in the Central Government — Member;

(iii) Secretary to the Government of India
in-charge of the Ministry of Personnel
in the Central Government — Member;

(iv) Secretary to the Government of India
in-charge of the Department of Revenue,
Ministry of Finance in the Central
Government — Member;

(b) no person below the rank of Additional Secretary to the Government of India shall be eligible for appointment as a Director of Enforcement;

(c) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;

(d) a Director of Enforcement shall not be transferred except with the previous consent of the Committee referred to in clause (a);

(e) the Committee referred to in clause (a) shall recommend officers for appointment to the posts of the level above the Deputy Director of Enforcement and also recommend the extension or curtailment of the tenure of such officers in the Directorate of Enforcement;

(f) on receipt of the recommendation under clause (e), the Central Government shall pass such order as it thinks fit to give effect to the said recommendation.

Amendment
of Act 25
of 1946.

26. In the Delhi Special Police Establishment Act, 1946, with effect from the appointed day—

(a) after section 1, the following section shall be inserted, namely:—

"1A. Words and expressions used herein and not defined but defined in the Central Vigilance Commission Ordinance, 1999, shall have the meanings, respectively, assigned to them in that Ordinance."; Interpretation section.

(b) for section 4, the following sections shall be substituted, namely:—

49 of 1988.

"4. (1) The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988, shall vest in the Commission.

Superintendence and administration of Special Police Establishment.

(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.

(3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a State as the Central Government may specify in this behalf.

4A. (1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of—

Committee for appointment of Director.

(a) the Central Vigilance Commissioner --- Chairperson;

(b) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government --- Member;

(c) Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government --- Member.

(2) While making any recommendation under sub-section (1), the Committee shall consider the views of the Director.

(3) The Committee shall recommend a panel of officers—

(a) on the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and

(b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951,

61 of 1951.

for being considered for appointment as the Director.

4B. (1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

Terms and conditions of service of Director.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

Appoint-
ment for
posts
of Joint
Director
and above,
extension
and curtail-
ment of
their tenure,
etc.

4C. (1) The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Joint Director and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such order as it thinks fit to give effect to the said recommendation."

Repeal and
saving.

27. (1) The Central Vigilance Commission Ordinance, 1998, and the Central Vigilance Commission (Amendment) Ordinance, 1998 are hereby repealed.

Ord.
15 of 1998
Ord.
18 of 1998

(2) Notwithstanding such repeal, anything done or any action taken under the Central Vigilance Commission Ordinance, 1998, as amended by the Central Vigilance Commission (Amendment) Ordinance, 1998 shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Ord.
15 of 1998
Ord.
18 of 1998

THE SCHEDULE

[See section 5(3)]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or
Vigilance Commissioner:—

"I, A.B., having appointed Central Vigilance Commissioner (or Vigilance
Commissioner) of the Central Vigilance Commission do swear in the name of God
solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law
established, that I will uphold the sovereignty and integrity of India, that I will duly and
faithfully and to the best of my ability, knowledge and judgment perform the duties of
my office without fear or favour, affection or ill-will and that I will uphold the
Constitution and the laws."

K.R. NARAYANAN,

President.

RAGHIBIR SINGH,

Secy. to the Govt. of India.

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PART II — Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 27th October, 1998/Kartika 5, 1920 (Saka)

THE CENTRAL VIGILANCE COMMISSION (AMENDMENT)
ORDINANCE, 1998

No. 18 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic
of India.

An Ordinance to amend the Central Vigilance Commission Ordinance, 1998.

WHEREAS the Central Vigilance Commission Ordinance, 1998 was promulgated by the
President on the 25th day of August, 1998;

AND WHEREAS Parliament is not in session and the President is satisfied that
circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of
the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Central Vigilance Commission (Amendment)
Ordinance, 1998.

(2) It shall be deemed to have come into force on the 25th day of August, 1998.

Short title
and
commence-
ment.

Amendment of section 2. In section 3 of the Central Vigilance Commission Ordinance, 1998 (hereinafter referred to as the principal Ordinance),— Ord. 15 of 1998.

(a) in sub-section (2),—

(i) in clause (b), for the word "three", the word "four" shall be substituted;

(ii) clause (c) shall be omitted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons—

(a) who have been or are in an all-India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration; and

(b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and persons who have expertise and experience in finance including insurance and banking, law, vigilance and investigations;

Provided that, from amongst the Central Vigilance Commissioner and the Vigilance Commissioners, not more than three persons shall belong to the category of persons referred to either in clause (a) or in clause (b)."

Amendment of section 8. 3. In section 8 of the principal Ordinance, in sub-section (1), clause (d) shall be omitted.

Amendment of section 15. 4. In section 15 of the principal Ordinance, the words "the ex-officio Member," shall be omitted.

Amendment of section 21. 5. In section 21 of the principal Ordinance, in sub-section (2), clause (b) shall be omitted.

Amendment of Act 25 of 1946. 6. Section 6A of the Delhi Special Police Establishment Act, 1946, as inserted by clause (c) of section 26 of the principal Ordinance, shall be omitted.

K.R. NARAYANAN, President.

RAGHBIR SINGH, Secy. to the Govt. of India.

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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 25th August, 1998/Bhadra 3, 1920 (Saka)

THE CENTRAL VIGILANCE COMMISSION
ORDINANCE, 1998

No. 15 OF 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Central Vigilance Commission Ordinance, 1998.

Short title
and com-
mencement.

(2) It shall come into force at once.

Definitions. 2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date on which the Commission is constituted under sub-section (1) of section 3;

(b) "Central Vigilance Commissioner" means the Central Vigilance Commissioner appointed under sub-section (1) of section 4;

(c) "Commission" means the Central Vigilance Commission constituted under sub-section (1) of section 3;

(d) "Delhi Special Police Establishment" means the Delhi Special Police Establishment constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "Vigilance Commissioner" means a Vigilance Commissioner appointed under sub-section (1) of section 4.

25 of 19

CHAPTER II
THE CENTRAL VIGILANCE COMMISSION

Constitution of Central Vigilance Commission.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a body to be known as the Central Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Ordinance.

(2) The Commission shall consist of—

(a) a Central Vigilance Commissioner— Chairperson;

(b) not more than three Vigilance Commissioners — Members;

(c) Secretary to the Government of India in-charge of the Ministry of Personnel — Member, *ex officio*.

(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons who are or have been in an All India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration.

(4) The Central Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

(5) The headquarters of the Commission shall be at New Delhi.

Appointment of Central Vigilance Commissioner and Vigilance Commissioners.

4. (1) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—



(a) the Prime Minister	—	Chairperson;
(b) the Minister of Home Affairs	—	Member;
(c) the Leader of the Opposition in the House of the People	—	Member.

(2) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5. (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

Terms and other conditions of service of Central Vigilance Commissioner.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of three years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

(a) reappointment in the Commission;

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission:

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

Removal of Central Vigilance Commissioner and Vigilance Commissioner.

6. (1) Subject to the provisions of sub-section (3), the Central Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground to be removed.

(2) The President may suspend from office the Central Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in sub-section (1), the President may by order remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Vigilance Commissioner or a Vigilance Commissioner.

(4) If the Central Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

Power to make rules by Central Government for staff.

7. The Central Government may by rules make provision with respect to the number of members of the staff of the Commission and their conditions of service.

CHAPTER III

FUNCTIONS AND POWERS OF THE CENTRAL VIGILANCE COMMISSION

Functions and powers of Central Vigilance Commission.

8. (1) The functions and powers of the Commission shall be to—

(a) exercise superintendence over the functioning of the Delhi Special Police Establishment insofar as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988;

(b) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or

- 49 of 1988. controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988;
- 49 of 1988. (c) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988;
- 49 of 1988. (d) grant approval or otherwise for the conduct of investigation into allegations of corruption under the Prevention of Corruption Act, 1988 against the persons mentioned in section 6A of the Delhi Special Police Establishment Act, 1946 in accordance with the regulations made in this behalf;
- 25 of 1946.
- 49 of 1988. (e) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988;
- 49 of 1988. (f) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;
- 49 of 1988. (g) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;
- (h) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) The persons referred to in clause (c) of sub-section (1) are as follows:—

- (a) Group 'A' officers of the Central Government;
- (b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf;

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (c) of sub-section (1).

- 9. (1) The proceedings of the Commission shall be conducted at its headquarters. Proceedings of Commission.
- (2) The Commission shall observe such rules of procedure in regard to the transaction of the business as may be provided by regulations.
- (3) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the senior-most Vigilance Commissioner present at the meeting, shall preside at the meeting.
- (4) No act or proceeding of the Commission shall be invalid merely by reason of—
 - (a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Vigilance Commissioner to act as Central Vigilance Commissioner in certain circumstances.

10. (1) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Vigilance Commissioners to act as the Central Vigilance Commissioner until the appointment of a new Central Vigilance Commissioner to fill such vacancy. —

(2) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorise in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

Power relating to inquiries.

11. The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

Proceedings before Commission to be judicial proceedings.

12. The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

CHAPTER IV
EXPENSES AND ANNUAL REPORT

Expenses of Commission to be charged on the Consolidated Fund of India.

13. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of India.

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

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12

14. (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission.

Annual report.

15 of 1946.

(2) The report referred to in sub-section (1) shall contain a separate part on the functioning of the Delhi Special Police Establishment insofar as it relates to sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946.

(3) On receipt of such report, the President shall cause the same to be laid before each House of Parliament.

CHAPTER V
MISCELLANEOUS

15. No suit, prosecution or other legal proceeding shall lie against the Commission, the Central Vigilance Commissioner, any Vigilance Commissioner, the *ex officio* Member, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Ordinance.

Protection of action taken in good faith.

16 of 1860.

16. The Central Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Central Vigilance Commissioner, Vigilance Commissioner and staff to be public servants.

17. (1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

Report of any inquiry made on reference by Commission to be forwarded to that Commission

(2) The Commission shall on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The Central Government and the corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Central Government, any corporation established by or under any Central Act, Government company, society or local authority owned or controlled by the Central Government, as the case may be, does not agree with the advice of the Commission, it may for reasons to be recorded in writing communicate the same to the Commission.

18. The Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work

Power to call for information.

In that Government and in the said corporations, Government companies, societies and authorities.

Power to give directions.

19. The Commission shall from time to time give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946: 25 of 1946.

Provided that the Commission shall not exercise its powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of a particular case only in a particular manner.

Power to make rules.

20. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the number of members of the staff and their conditions of service under section 7; and

(b) any other power of the civil court to be prescribed under clause (f) of section 11;

(c) any other matter which may be prescribed.

Power to make regulations.

21. (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Ordinance and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the duties and the powers of the secretary under sub-section (4) of section 3;

(b) the grant of approval for the conduct of investigation under clause (d) of sub-section (1) of section 8;

(c) the procedure to be followed by the Commission under sub-section (2) of section 9.

Notification, rule, etc., to be laid before Parliament.

22. Every notification issued and every rule made by the Central Government and every regulation made by the Commission under this Ordinance shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or regulation, or both Houses agree that the notification or the rule or regulation should not be made, the notification or the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

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(3) The Committee shall recommend a panel of officers—

(a) on the basis of seniority, integrity and experience in investigation of anti-corruption cases; and

(b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951,

of 1951.

for being considered for appointment as the Director.

4B. (1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

Terms and conditions of service of Director.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

4C. (1) The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Joint Director and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

Appointment for posts of Joint Director and above, extension and curtailment of their tenure, etc.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such order as it thinks fit to give effect to the said recommendation.”;

(c) after section 6, the following section shall be inserted, namely:—

“6A (1) The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Commission where such allegation relates to,—

Approval of Commission to conduct inquiry or investigation.

(a) the employees of the Central Government of the level of Joint Secretary and above;

(b) such officers as are appointed by the Central Government in the corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving the arrest of a person on the spot on the charge of accepting or attempting to accept, any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act 1988.”.

of 1988.

of 1988.

THE SCHEDULE

[See section 5(3)]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or Vigilance Commissioner:—

"I, A.B., having been appointed Central Vigilance Commissioner (or Vigilance Commissioner) of the Central Vigilance Commission do swear in the name of God solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

K.R. NAⁿ YANAN,
President.

RAGHDIR SINGH,
Secy. to the Govt. of India.

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No. 24/7/64-AVD
Government of India
Ministry of Home Affairs

New Delhi-11, February 11, 1964.

RESOLUTION

On a careful consideration of the recommendations made by the Committee on Prevention of Corruption under the chairmanship of Shri K. Santhanam, the Government have decided to set up a Central Vigilance Commission which will be headed by the Central Vigilance Commissioner.

2. The powers and functions of the Central Vigilance Commission will be as follows:-

The Central Vigilance Commission will have jurisdiction and powers in respect of matters to which the executive powers of the Union extends -

- (i) to undertake an inquiry into any transaction in which a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner;
- (ii) to cause an inquiry or investigation to be made into –
 - (a) any complaint that a public servant had exercised or refrained from exercising his powers for improper or corrupt purposes;
 - (b) any complaint of corruption, misconduct, lack of integrity or other kinds of malpractices or misdemeanour on the part of a public servant including members of the All India Services even if such members are for the time being serving in connection with the affairs of a State Government;

(The relevant rules under the All India Services Act will be amended in consultation with the State Governments in order to bring the members of those Services under the purview of the Commission).

- (iii) to call for reports, returns and statements from all Ministries/ Departments/ Corporate Central undertakings so as to enable it to exercise general check and supervision over the vigilance and anti-corruption work in the Ministries/ Departments/ undertakings;
- (iv) to take over under its direct control such complaints, information or cases as it may consider necessary for further action which may be either:

- (a) to ask the Central Bureau of investigation to register a regular case and investigate it, or
- (b) to entrust the complaint, information or case for inquiry-
 - (1) to the Central Bureau of Investigation; or
 - (2) to the Ministry/ Department/ undertaking concerned;
- (v) in cases referred to in paragraph (iv) (b) above the report of the inquiry will be forwarded to the Commission so that on a consideration of the report and other relevant records, it may advise the concerned Ministry/ Department/ undertaking as to further action;
- (vi) the Central Bureau of Investigation will forward to the Ministry of Home Affairs through the Commission the final report in all cases investigated by the Bureau in which it considers that a prosecution should be launched, provided that sanction for such prosecution is required under any law to be issued in the name of the President; and the Bureau will simultaneously send a copy to the Ministry/ Department/ undertaking concerned for any comments which it may wish to forward to the Commission;
- (vii)
 - (a) the Commission will advise the Ministry of Home Affairs, after examining the case and considering any comments received from the concerned Ministry/ Department/ undertaking, whether or not prosecution should be sanctioned. (Orders will, thereafter, be issued by the Ministry of Home Affairs in whom the power to accord such a sanction will be vested);
 - (b) in cases where an authority other than the President is competent to sanction prosecution and the authority does not propose to accord the sanction sought for by the Central Bureau of Investigation the case will be reported to the Commission and the authority will take further action after considering the Commission's advice;
- (viii) the Commission will have the power to require that the oral inquiry in any departmental proceedings, except in petty cases, should be entrusted to one of the Commissioners for Departmental Enquiries. (A suitable number of Commissioners for Departmental Enquiries will be attached to the Central Vigilance Commission);
- (ix) the Commission will examine the report of the Commissioner for Departmental Enquiries, which will in all cases be submitted by the Commissioner for Departmental Enquiries to the Central Vigilance Commission, and the Commission will forward the record of the case to the appropriate disciplinary authority with its advice as to further action;
- (x) in any case where it appears that discretionary powers had been exercised for an improper or corrupt purpose the Commission will advise the Ministry/ Department/ undertaking that suitable action may be taken

against the public servant concerned; and if it appears that the procedure or practice is such as affords scope or facilities for corruption or misconduct the Commission may advise that such procedure or practice be appropriately changed, or changed in a particular manner;

- (xi) the Commission may initiate at such intervals as it considers suitable review of procedures and practices of administration in so far as they relate to maintenance of integrity in administration;
- (xii) the Commission may collect such statistics and other information as may be necessary;
- (xiii) the Commission may obtain information about action taken on its recommendations;
- (xiv) the Commission will submit an annual report to the Ministry of Home Affairs about its activities drawing particular attention to any recommendation made by it which had not been accepted or acted upon; and a copy of the report together with a memorandum explaining the reasons for non-acceptance of any recommendations of the Commission will be laid by the Ministry of Home Affairs before each House of Parliament.

3.The Central Vigilance Commissioner –

- (a) [will be appointed by the President by warrant under his hand and seal;] (*)
the proposal for the appointment of the Central Vigilance Commissioner shall be initiated by the Cabinet Secretary and approved by the Prime Minister; (*)

(*) *vide DOPT's Resolution No. 247/2/95-AVD-II dated 1.11.1995*

- (b) will not be removed or suspended from office except in the manner provided for the removal or suspension of the Chairman or a Member of the Union Public Service Commission;

- (c) [will ordinarily hold office for a term of three years;] (**)

[Provided that the Central Government may, by order, when the public interest so requires, extend the term of office of the Central Vigilance Commissioner for such further period, not exceeding two years, as may be specified in the order;] (^)

(^) *inserted vide Resolution No. 254/8/76-AVD-II dated 22.02.1977*

will hold office for a term of five years; (**)

(**) *vide DOPT's Resolution No. 247/1/90-AVD-II dated 21.5.1990*

- (d) on ceasing to hold the office of the Central Vigilance Commissioner, shall not accept any further employment under the Union or a State Government or accept any political public office.

Provided that the Central Government may in exceptional circumstances, when the public interest so requires, permit a person who has held the office of the Central Vigilance Commissioner to accept any such employment or office.

[Proviso inserted vide Department of Personnel Resolution No. 262/2/72-AVD-II dated 15.2.1972].

4. The Central Vigilance Commission will, for the present, be attached to the Ministry of Home Affairs, but in the exercise of its powers and functions it will not be subordinate to any Ministry/ Department and will have the same measure of independence and autonomy as the Union Public Service Commission.

5. The Central Vigilance Commissioner will be responsible for the proper performance of the duties and responsibilities assigned to the Commission and for generally co-ordinating the work of and advising the Ministries/ Departments/ undertakings in respect of all matters pertaining to maintenance of integrity in administration.

6. The Chief Vigilance Officer in Ministries/ Departments will be appointed in consultation with the Central Vigilance Commission and no person whose appointment as the Chief Vigilance Officer is objected to by the Central Vigilance Commission will be so appointed.

7. The Central Vigilance Commissioner will have the power to assess the work of the Chief Vigilance Officers and Vigilance Officers and the assessment will be recorded in the character rolls of the officers.

8. The Central Vigilance Commission will take the initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against public servants.

ORDER

ORDERED that a copy of this Resolution be communicated to all State Governments, all Ministries of the Government of India, etc., and also that the Resolution be published in the Gazette of India.

L.P. SINGH
Special Secretary to the Govt. of India