

No.4-24/2016-Vig
Government of India
Ministry of Communications
Department of Posts

New Delhi, the 5th November, 2018.

To

The CPMsG (All Circles)
The Director, Rafi Ahmed Kidwai National Postal Academy
All Postal Training Centers
Addls DG APS, West Block-III, R. K. Puram, New Delhi – 110066
CGM (PLI), Directorate, Chanakyapuri, New Delhi – 110021
CGM (BD), BD Directorate, Dak Bhawan, New Delhi

Subject: Various circular issued from Central Vigilance Commission.

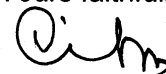
Sir/Madam

I am directed to forward herewith a copy of following circulars issued by Central Vigilance Commission for information and further necessary action:

Sl.No	CVC Circular No & date	Subject
1.	Sl. No 018/VGL/038-385947 Circular No 05/07/18 Dated 10.07.2018	Second stage consultation with the CVOs of Departments/ Organizations in disciplinary cases of Category 'B' officers.
2.	Sl. No 99/VGL/087-389176 Circular No 08/07/2018 Dated 31.07.2018	Simultaneous action of prosecution and initiation of departmental proceedings-guidance thereof.
3.	Sl. No 018/VGL/044 Circular No 09/07/18 Dated 27.07.2018	CVO to closely monitor presentation of case by Presenting Officer before IO

2. This may kindly be brought to the notice of all concerned.

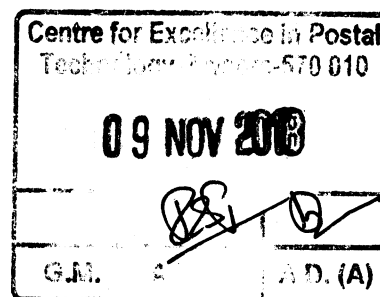
Yours faithfully,



(Vikash Kumar)
Section Officer (Vig.)

Copy to:

1. GM, CEPT, DoP, Mysore with request to upload the letter on the website of Department of Posts.
2. PPS to Secretary (Posts), PPS to all Member (PSB)/PPS to Addls DG Coord/Sr.DDG (PAF)/AS&FA.
3. All DDGs, Dak Bhawan.
4. CE (Civil), Dak Bhawan
5. ADG(Vig-I)/ADG (Vig-II)/ADG (Vig-III)/ ADG(inv-I)/ADG(Inv-II)/AD(CCS).



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केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi-110023

सं. / No. 018/VGL/038
-385447

दिनांक / Dated 10.07.2018

Circular No. 05/07/18

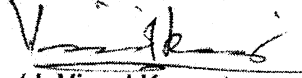
Subject: Second stage Consultation with CVOs of Departments/ Organizations in disciplinary cases of Category 'B' officers – reg.

The Commission has been receiving references from Departments/ Organisations seeking clarifications/guidance whether consultation with CVO of Department / Organisation is mandatory at second stage before issue of final orders by Disciplinary Authorities (DA) in respect of disciplinary cases of Category 'B' officers (i.e. in non-CVC referred cases of individual cases or composite cases) where the Disciplinary Authority's tentative opinion after completion of enquiry is in line with CVO's first stage advice.

2. The Commission has reviewed the consultation mechanism with CVOs of the Department/Organizations in non-CVC referable cases/matters. In order to ensure speedy finalization of disciplinary matters and to maintain uniformity in processing of disciplinary cases, the Commission would prescribe that consultation with CVO for second stage advice in respect of such cases where the Disciplinary Authority proposes to impose a penalty which is in line with the CVO's first stage advice in respect of Category 'B' officers (in non-CVC cases/matters) may be dispensed with. However, in disciplinary cases of officers, where the DA tentatively proposes to take any action which is at variance with the CVO's first stage advice, would continue to be referred to the CVO for obtaining second stage advice.

3. The Commission has already vide its circular No.08/12/14 dated 03.12.2014 prescribed the procedure on similar lines for processing CVC referable cases of Category 'A' officers as well as composite cases involving Category 'B' officers, wherein CVC had tendered first stage advice.

4. All CVOs are advised to appraise the above guidelines to the concerned Disciplinary Authorities (DAs) and other officers in their Department/Organization for guidance/compliance while processing disciplinary cases/matters.


(J. Vinod Kumar)
Director

To

- (i) The Secretaries of all Ministries/Departments of Gol.
- (ii) All Chief Executives of CPSUs/PSBs/FIs/PSICs/Autonomous Bodies/etc.
- (iii) All Chief Vigilance Officers of Ministries/Departments/CPSEs/PSBs/FIs/PSICs/Autonomous Organizations etc.
- (iv) Website of CVC

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सं./No. 99/VGL/087-389176

दिनांक / Date 8th July 2018

Circular No.08/07/2018

Subject: Simultaneous action of prosecution and initiation of departmental proceedings – guidance thereof.

As per judgements of the Hon'ble Supreme Court and guidelines of Department of Personnel & Training issued thereon, it has been reaffirmed that there is no bar in conducting simultaneous criminal and departmental proceedings. Attention is invited to the Department of Personnel & Training O.M. No.11012/6/2007-Estt.(A-III) dated 1st August, 2007 and 21st July 2016 in this regard.

2. The Commission while examining the disciplinary cases referred to it for advice has noticed that in cases where simultaneous action of prosecution and initiation of departmental proceedings are advised, the departmental proceedings are unduly delayed by Departments/Organisations by keeping them in abeyance on the ground that the matter is under trial in the Court. Such an approach in finalizing disciplinary matters is a matter of serious concern and is also not a correct approach.

3. The Disciplinary Authority has been vested with the powers to carry out its statutory duty / obligations by initiation of appropriate departmental actions. This is as much to ensure that a delinquent public servant does not get undue benefit either by the long pendency of court proceedings or by the higher standard of proof required as it is to protect innocent public servant from vexatious proceedings. It is not open to the Disciplinary Authorities to await the outcome or decision of investigating / prosecuting agency or the Court trial.

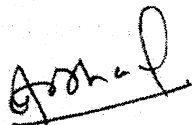
4. The Commission would like to clarify that Disciplinary Authorities are vested with responsibility to ensure that employees under their control, against whom criminal trial is pending are proceeded against forthwith for simultaneous departmental proceedings. Further, a view as to whether simultaneous disciplinary proceedings are to be initiated need to be invariably taken by the Competent Authorities at the time of considering the request for grant of sanction for prosecution

itself. However, the Disciplinary Authority may withhold departmental proceedings only in exceptional cases wherein the charge in the criminal trial is of grave nature which involves questions of fact and law. In other words, in complex matters where, in case it is not possible to delineate the misconduct for the purpose of RDA. If the charge in the criminal case is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. Further, even if stayed at one stage, the decision may require reconsideration, if the criminal case gets unduly delayed. It may be noteworthy to mention that the Hon'ble Supreme Court in State of Rajasthan vs. B.K.Meena & Ors. (1996) 6 SCC 417 emphasised the need for initiating departmental proceedings and stated as below:

"It must be remembered that interests of administration demand that the undesirable elements are thrown out and any charge of misdemeanor is enquired into promptly. The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements. The interest of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanor should be continued in office indefinitely, i.e., for long periods awaiting the result of criminal proceedings."

5. The Commission would, therefore, advise all concerned Administrative Authorities that in cases where it is appropriate to initiate disciplinary proceedings along with criminal prosecution, the disciplinary proceedings must be initiated simultaneously.

6. All Ministries/Departments/Organisations may apprise the above guidelines to the concerned officers for compliance in cases of simultaneous proceedings.


(M.A. Khan)

Officer on Special Duty

To

- (i) The Secretaries of all Ministries/Departments of Gol.
- (ii) All Chief Executives of CPSUs/PSBs/FIs/PSICs/Autonomous Bodies/etc.
- (iii) All CVOs of Ministries/Departments/CPSUs/PSBs/FIs/PSICs/Autonomous Organizations.
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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
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Block A, INA, New Delhi-110023
018/VGL/044

सं. / No.....

दिनांक / Dated..... 27.07.2018

Circular No. 09/07/18

Subject: CVO to closely monitor presentation of case by Presenting Officer before the IO

It has been noticed by the Commission that many of the CVOs are not monitoring the presentation of cases by the Presenting Officers (PO) before the Inquiry Officers (IO). Undesirable practice of POs taking decisions contrary to the position stated in the charge-sheet without the specific consent of the Disciplinary Authority has also been noticed.

2. In this regard attention is invited to para 7.24.3 (xi) of Vigilance Manual 2017 whereby the Presenting Officers are required to keep the Disciplinary Authority posted with the progress of inquiry proceedings by sending a brief of work done at the end of each hearing. Attention is also invited to para 17 of Chapter 15 of the Handbook for Inquiry Officers and Disciplinary Authorities issued by ISTM (DoPT) wherein guidelines on the responsibilities of the PO during the Regular Hearing have been described in detail.

3. The Presenting Officer is required to lead the evidence of the prosecution logically and forcefully before the Inquiring Authority. The CVOs are required to monitor the progress of inquiry proceedings including the quality of performance of Presenting Officers before the IO on a regular basis and keep the disciplinary authorities posted about it. While examining some of the cases referred to the Commission for second

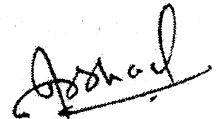
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stage advice, it has been noticed by the Commission that some of the Presenting Officers (POs) have taken a stand / position contrary to the stand / position stated in the charge-sheet without the explicit consent of the Disciplinary Authority. In some cases, the POs have not presented some of the listed/ relied upon documents. Further, in some cases, the POs have not even ensured that the listed witnesses are summoned and produced before the Inquiring Authority for examination and substantiating the position stated in the charge-sheet. There are also instances where the POs have not sought additional documents to be produced before the IO even though they were felt essential for sustaining the charges/imputations.

4. The Commission conveys that the CVOs do not become *functus officio* once the PO is appointed in a departmental proceeding. The CVOs need to closely monitor the presentation of the case by the PO before the IO. The Commission would therefore advise all CVOs to closely monitor the presentation of cases made by the Presenting Officers before the Inquiring Authority and ensure that the cases are suitably presented before the IO on behalf of the Disciplinary Authority. The performance of the CVOs in this regard will be closely watched by the Commission. Further, for any of the observations in the conduct of the proceedings the CVO is answerable.

5. This issues with the approval of the Commission.



(M. A. Khan)

Officer on Special Duty

To

1. All CVOs of Ministries/Departments/CPSEs/PSBs/FIs/PSICs/Autonomous Organisations
2. NIC for uploading the circular on CVC's website