



**HANDBOOK**  
**FOR**  
**VIGILANCE ADMINISTRATION**  
**2022**

**CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**









**Directorate General of Vigilance  
Indirect Taxes and Customs  
Ministry of Finance  
New Delhi**



# **CBIC HANDBOOK FOR VIGILANCE ADMINISTRATION 2022**





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सुरेश एन. पटेल  
SURESH N. PATEL



केन्द्रीय सतर्कता आयुक्त  
केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSIONER  
CENTRAL VIGILANCE COMMISSION

### MESSAGE FROM THE CVC

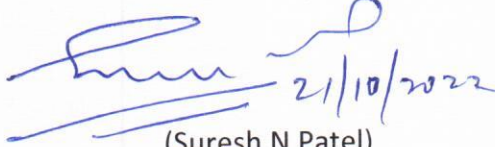
I am very happy to note that the Central Board of Indirect Taxes and Customs, has come out with the second edition of its "Handbook for Vigilance Administration" for the guidance of its officers, especially those who are dealing with vigilance matters in the field formations.

I have noticed that the scope of this Handbook now stands expanded by inclusion of several relevant topics thus, making it a truly comprehensive handbook on vigilance matters. The book carries references to relevant Rules, Office Memorandums, Circulars etc. issued by the CVC, DoPT and CBIC on various topics, which lends credence and makes it an authentic and authoritative tool.

I am sure that officers of CBIC will find this as a very useful guidance material and will enable them in timely completion of Vigilance proceedings.

I congratulate the Chairman, CBIC for his guidance and the officers and staff involved for their dedicated efforts to compile the second edition of "Handbook for Vigilance Administration".

Wishing all the success in the future endeavours also.

  
(Suresh N Patel)




### **CHAIRMAN'S MESSAGE**

The Vigilance function is an essential component that helps an organization stay focused on its objectives. This is perhaps a touch more so for large public service organizations like ours.

The Directorate General of Vigilance has constantly endeavored to improve our Vigilance Administration. To that end, I am pleased to note that the Directorate has taken an initiative to update the "*Handbook for Vigilance Administration*" so as to keep it abreast with the changing environment.

The second edition of Handbook not only contains the updated chapters but has also included new chapters on other relevant aspects of vigilance administration which makes it a handy reference and a useful tool for our officers posted in the discharge of their functions in a more productive and constructive manner.

My compliments to Smt. Suchitra Sharma, Pr. Director General, Directorate General of Vigilance and her team for their initiative in bringing out this second edition of the "*Handbook for Vigilance Administration*".

  
13/X/2022.  
(Vivek Johri)







**Sungita Sharma**  
Special Secretary & Member

भारत सरकार  
GOVERNMENT OF INDIA  
वित्त मंत्रालय/राजस्व विभाग  
MINISTRY OF FINANCE / DEPARTMENT OF REVENUE  
केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड  
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### Member's Message

It is very heartening to know that Directorate General of Vigilance has taken the initiative to update the "Handbook for Vigilance Administration" which was initially brought out in 2018.

2. The updation exercise has focused not only on updating the existing chapters, but several new topics such as vigilance investigation, prosecution sanction, handling of court cases in disciplinary proceedings, vigilance clearance, preventive vigilance etc. which are extremely relevant have also been incorporated. This will make it a complete guidance tool for our officers.

3. I am hopeful that this latest comprehensive edition of Handbook for Vigilance Administration" will be of great help to the officers posted in vigilance sections in performing their duties efficaciously.

4. I congratulate Principal DG and her team for bringing out the second edition of "Handbook for Vigilance Administration". I also take the opportunity to compliment Sh. Peri Umasankar, ADG, DGoV, Sh. Ataur Rahman, Commissioner of Customs, Kolkata Sh. Prabhjeet Singh Gulati, ADG DGoV, Dr. Suryaprakash, DC DGoV, Sh. Amit Kumar, AC, Delhi Customs (ACC Exports) Sh. Santosh Kumar, VO, DGoV, in particular, for their commendable efforts in putting together this updated version. I continue to look forward towards such fruitful and quality initiatives by Team DGoV.

  
(Sungita Sharma)







## Foreword

With a sense of immense pride and gratitude, I write the foreword to the second edition of "Handbook for Vigilance Administration" being brought out by the Directorate General of Vigilance (DGoV) of Central Board of Indirect Taxes & Customs. The first edition brought out in 2018 had acted as a guidance tool for Inquiry officers, Presenting officers and Disciplinary authorities.

2. As a measure of upgrading the skills of the vigilance stakeholders in the department, it was decided to update the "Handbook for Vigilance Administration" and a committee comprising of six officers from DGoV was entrusted with this responsibility. After deliberations, the committee decided to enhance the scope of this handbook and include other relevant aspects of vigilance administration which were not present in the first edition to make it a complete guidance tool on vigilance related activities.

3. In the present edition, several new chapters like Concept of Advice, Vigilance Investigation, Drafting of charge sheet, Prosecution sanction, Handling of court cases in disciplinary proceedings, Vigilance database, Vigilance clearance, Preventive vigilance etc. have been added. It goes without saying that the existing chapters have also been realigned, rationalized and updated. The relevant applicable Rules/Circulars/OMs etc., are not only compiled and appended but incorporated in its essence along with the citation of that relevant legal authority at the required places.

4. India is signatory to UN Convention Against Corruption (UNCAC) and CBIC remains committed to promote integrity, transparency and accountability in the department. DGoV has taken series of initiatives to bring more efficiency in the punitive vigilance mechanism as well as in promoting preventive vigilance measures. The publication of the handbook is one small step

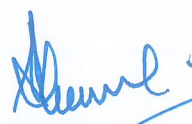
in our endeavor to enhance the performance of our vigilance officers and to raise overall awareness about anti-corruption mechanisms in place.

5. This updated and restructured Vigilance Handbook has been meticulously and painstakingly compiled by Sh. Peri Umasankar, ADG, DGoV, Sh. Ataur Rahman, Commissioner of Customs, Kolkata Sh. Prabhjeet Singh Gulati, ADG DGoV, Dr. Suryaprakash, DC, DGoV, Sh. Amit Kumar AC, Delhi Customs (ACC Exports), Sh. Santosh Kumar, VO, DGoV. I also acknowledge the efforts of officers of Co-ordination section of DGoV Hqrs. and South Zonal Unit of DGoV in the compilation of this edition of Handbook. I also acknowledge the efforts of officers of DGoV and Ad.V who have contributed through proof reading of this handbook.

6. An online version of the handbook, with all the cited Rules, Circulars, OMs, etc. hyperlinked, is also being released on the CBIC's website. This will further save the stakeholder's efforts in locating the relevant authority. The scanned copies of relevant Circulars & Orders are also appended in the online version of this publication.

7. I hope that this handbook henceforth, will emerge as useful tool not just for the Disciplinary Authorities, Inquiry Authorities and Presenting Officers but will also guide all officers from DGoV as well as those posted in the field formations in the timely, efficient and effective handling of vigilance matters.

The DGOV welcomes suggestions on the content or form of this Handbook for further improvement.

  
(Suchitra Sharma)

<b>ABBREVIATIONS / ACRONYMS</b>	
ACB	Anti-Corruption Branch/Bureau
Ad.II	Ad.II wing of CBIC
Ad.V	Ad.V wing of CBIC
APAR	Annual Performance Appraisal Report
C&AG,/CAG	Comptroller & Auditor General of India
CAT	Central Administrative Tribunal
CBIC	Central Board of Indirect Taxes and Customs
CBI	Central Bureau of Investigation
CCA	Cadre Control Authority
CCO	Chief Commissioner's Office
CCS(CCA) RULES, 1965	Central Civil Services (Classification Control & Appeal) Rules, 1965
CCS(CONDUCT)RULES, 1964	Central Civil Services (Conduct) Rules, 1964
CEO	Chief Executive Officer
CFSL	Central Forensic Science Laboratories
CGST	Central goods and Service Tax
CHC	Complaint Handling Cell
CHP	Complaint Handling Policy

CIC	Central Information Commission
CO	Charged Officer
CONSTITUTION	Constitution of India
CVC	Central Vigilance Commission
CVO	Central Vigilance Officer
DA	Disciplinary Authority / Defense Assistant
DN	Disagreement Note
DoPT	Department of Personnel and Training
DP	Disciplinary Proceedings
ED	Enforcement Directorate
FI	Further Information
FIR	First Information Report
FR	Factual Report/Fundamental Rules
FSA	First Stage Advice
I&R	Investigation & Report
IA	Inquiring Authority
IO	Inquiry Officer
IR	Inquiry Report
ISTM	Institute of Secretariat Training and

	management
MHA	Ministry of Home Affairs
NA	Necessary Action
ODI	Officers of Doubtful Integrity
OM	Office Memorandum
PCACT, 1988	Prevention of Corruption Act, 1988
PE	Preliminary Enquiry
PIDPI	Public Interest Disclosure & Protection of Informer Resolution, 2004
PMLA	Prevention of Money Laundering Act, 2002
PO	Presenting officer
PRESIDENT	Hon'ble President of India
PSE	Public Sector Enterprise
PSU	Public Sector Undertaking
QPR	Quarterly Progress Report
RC	Regular Case
RDA	Regular Departmental Action
SOP	Standard Operating Procedure
SPE	Special Police Establishment

SSA	Second Stage Advice
UPSC	Union Public Service Commission
VAW	Vigilance Awareness Week
VO	Vigilance Officer
WSD	Written Statement of Defense

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## **CHAPTER - I**

### **INTRODUCTION TO VIGILANCE ADMINISTRATION**

#### **1.1 INTRODUCTION**

In India, the anti-corruption framework of the Central Government consists of following entities:

- i. The Central Vigilance Commission.
- ii. Administrative Vigilance Division (AVD) in the Department of Personnel & Training.
- iii. Central Bureau of Investigation (CBI).
- iv. Vigilance units in the Ministries / Departments of Government of India, Central Public Sector Enterprises, and other autonomous organizations.
- v. Disciplinary authorities, and
- vi. Supervisory officers.

*(Refer para 1.1 of CVC Vigilance Manual 2021 for details)*

#### **1.2 VIGILANCE ADMINISTRATION IN CBIC**

- a. The vigilance work in Central Board of Indirect Taxes and Customs (CBIC) is administered and supervised by the Chief Vigilance Officer (CVO) with the assistance of two wings, viz. Directorate General of Vigilance (DGoV) and Ad.V Section in the CBIC, with each performing its set of functions. The CVO, CBIC also heads the Directorate General of Vigilance as its Pr. Director General.
- b. While the overall responsibility for the maintenance of integrity and efficiency on the part of the officers and staff working under the control of CBIC vests in the Chairman, the Chief Vigilance Officer interacts with the CBIC in all matters relating to vigilance and provides the link between the Central Board of Indirect Taxes & Customs and the Central Vigilance Commission on one hand and with the CBI on other hand. The CVO is appointed with the approval of CVC.
- c. The Pr. DG Vigilance / CVO also liaises with the field formations on the matters pertaining to vigilance investigation and disciplinary proceedings.

- d. The President of India, who is a Disciplinary Authority for Group A officers as well as retired officers, is assisted by the Ad.V wing of CBIC in disciplinary and prosecution related matters related to them. As far as Group 'B' & 'C' officers/staff are concerned, the Commissioner/Addl. Commissioner / Jt. Commissioner of Customs, GST & Central Excise of the respective field formations are the Disciplinary Authority.

### 1.3 ADMINISTRATIVE SET UP

- i. **Ad V in CBIC:** Ad.V is an office of CVO, CBIC and is headed by a CVO, who is a Principal Chief Commissioner/Principal Director General rank officer (with a Apex level pay scale in Govt. of India) and is assisted by a team of officers.
- ii. **Directorate General of Vigilance (DGoV):** DGoV has been entrusted with the functions and responsibilities of overseeing the Vigilance Administration in CBIC. DGoV is headed by a Pr. DG rank officer and is headquartered in Delhi. The Directorate has seven (07) Zonal units located at Ahmadabad, Chennai, Hyderabad, Kolkata, Mumbai, Lucknow & New Delhi. Each Zonal unit is headed by a Pr./ADG rank officer and with support staff/officers to assist him/her.
- iii. **Field formations of CBIC:** All Commissionerates of CBIC headed by Pr./Commissioners have vigilance branches which handles all vigilance related responsibilities of the field formations. The Commissionerates also undertake various preventive vigilance activities to keep a watchful eyes on its staff and to encourage high standards of conduct, good governance, and adherence to public service values in CBIC.

### 1.4. FUNCTIONS & RESPONSIBILITIES

**1.4.1 Directorate General of Vigilance:** The following are the key functions and responsibilities of the DGoV:

- *Investigations of the complaints either through the Zonal Units or field formations.*
- *To handle vigilance related work and processes uptil the pre-charge memorandum stage.*
- *To monitor the ongoing vigilance cases of officers.*

- *To maintain close liaison with CVC & CBI on various vigilance related matters.*
- *To assist the Disciplinary Authority in disciplinary and prosecution matters relating to Group 'A' officers under CBIC in consultation with CVC.*
- *To process all prosecution related matters pertaining to Group A officers under the provisions of the Prevention of Corruption Act 1988 for getting the advice of the CVC*
- *To keep a discreet watch on the officers of doubtful integrity.*
- *To carry out various preventive vigilance activities, like Surprise Checks, Vigilance Audits, thematic studies etc.*
- *Giving the vigilance status of all Group 'A' officers required for promotions, deputations, rewards and other concerned areas to the CBIC*
- *Advising Ministry on matters of Vigilance Clearance in respect of Group 'A' officers under CBIC.*

In addition to the above, following key functions are also discharged by the Zonal units of DGoV:

- Tendering of First stage advice and Second stage advice of CVO, CBIC under the delegated powers, in respect of certain categories of cases pertaining to Group 'B', whether investigated by the Zonal units of the Directorate General of Vigilance (DGoV) or by any other agency.

*(Refer CBIC instructions issued vide F. No. V.500/84/ 2014-Pt. dated 05.2.2016)*

- Processing of cases of retired officers (other than Group 'A') under Rule 9 of CCS(Pension) Rules, 1972 and Revision / Review cases under Rule 29/29A of CCS(CCA) Rules 1965.

*(Refer CBIC instructions issued vide F. No. 11016/31/202-Ad.V/7247 dt. 29.09.2021)*

**1.4.2 Ad.V Section, CBIC:** The following are the key functions and responsibilities of Ad.V section:

- *To handle the disciplinary proceedings of all Group 'A' officers starting from issuance of charge memorandum till their conclusion.*

- *To conclude the disciplinary proceedings of all retired officers.*
- *To handle Prosecution Matters of Group 'A' officers.*
- *To process all matters related to suspension of Group 'A' officers.*
- *To maintain liaison with UPSC, DOP&T & Law Ministry on various vigilance related matters; and*
- *To grant vigilance status to CBIC for Vigilance clearance of Group A officers.*

**1.4.3 Field formations of CBIC:** The following are the key functions and responsibilities of field formations of CBIC:

- *Investigation of complaints involving group 'B' and 'C' officers.*
- *To handle the disciplinary proceedings of all Group 'B' and 'C' officers starting from issuance of charge memorandum till their conclusion.*
- *To handle Prosecution Matters of Group 'B' and 'C' officers.*
- *To handle entire work related to suspension of Group 'B' and 'C' officers.*
- *To maintain liaison with DGoV on various vigilance related matters. and*
- *To grant vigilance clearance to Group 'B' and 'C' officers.*
- *To perform various preventive vigilance activities.*

#### **1.4.4 Supervisory officers**

It is a duty of supervisory officers to ensure the absolute integrity and devotion to duty of all officers for the time being under his control and authority.

*(Refer Rule 3 (2)(i) of CCS(Conduct) Rules, 1964)*

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## CHAPTER - II

### LEGAL FRAMEWORK IN VIGILANCE

The legal framework of vigilance proceedings is covered under the following:

1. Constitutional provisions
2. Conduct Rules, 1964
3. CCA Rules, 1965
4. Pension Rules, 1972 and 2021

#### 2.1 CONSTITUTIONAL PROVISIONS

**2.1.1** Part XIV of the Constitution relates to '**Services under the Union and the States**', wherein, Articles 309, 310 and 311 are relevant to disciplinary proceedings.

**2.1.2** Article 312 of Indian Constitution has provided the basic framework for All India Services and any such services.

**2.1.3** Article 309 is an enabling provision which gives power to the legislature to enact laws governing the conditions of service of the persons appointed in connection with the affairs of the state.

**2.1.4** Article 310 of the Constitution contains what is known as the Pleasure Doctrine. It provides that the term of appointment of the Union Government Servants shall depend upon the pleasure of the President.

**2.1.5** In respect of Government Servants, a restriction on the Pleasure of the President is contained in the Article 311.

**2.1.6** Article 311 grants two protections to the civilian government servants (other than the defense civilians, of course). The two protections relate to who and how.

- a. The first part of the Article provides that no person shall be dismissed or removed from service by an authority subordinate to the one by whom he was appointed. Thus, the protection is that, before being removed from service, a Government servant is entitled to have his case considered by the authority who is equal in rank to the one who appointed him to the service. If the penalty of dismissal or removal from service is imposed by an authority who is lower in rank than the Appointing Authority, the same will be unconstitutional.
- b. The second protection granted by Article 311 is available in Clause 2 of the Article and it states how a Government Servant can be dismissed, or removed from service or reduced in rank.

**2.1.7** The Article 311 not only provides protection to permanent employees but also to the temporary employees, as clarified by the Supreme Court in the case of **Parshottam Lal Dhingra Vs Union of India [A11R1958 SC 36]**.

**2.1.8** Article 311(2) provides that under certain circumstances, a government servant may be dismissed or removed from service or reduced in rank without an inquiry. The circumstances under which the protection under Article 311 Clause 2 does not apply are as under:

- a. Where the penalty is being imposed on the ground of conduct which has led to his conviction on a criminal charge; or.
- b. Where the Disciplinary Authority is satisfied, for reasons to be recorded, that it is not reasonably practicable to hold an inquiry in the case; or
- c. Where the President is satisfied that in the interest of the security of the country it is not expedient to hold the inquiry.

**2.1.9** Penalty may be imposed on a Government Servant even without Inquiry under the provisions of Rule 19 of the CCS (CCA) Rules 1965. This provision grants power to the Disciplinary Authority to impose penalty without conducting inquiry if the Government servant has been convicted in a criminal case. While taking recourse to this provision, the Disciplinary Authority is under an obligation to issue a show cause notice to the Government Servant as required under the proviso to Rule 19 of the CCA Rules.

**2.1.10** In addition to Part XIV of the Constitution (Articles 309 to 311), Part III of the Constitution is also relevant to the matter of Disciplinary Proceedings. Part III of the Constitution contains the Fundamental Rights. These are available against the actions of the State. The restrictions imposed on disciplinary inquiry flow from Article 14 right to equality and Article 21 right to life and liberty.

## **2.2 CONDUCT RULES, 1964**

**2.2.1** Conduct Rules, 1964 are issued in exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution. The various Rules and title of the said Rules are as follows:

<b>Rule</b>	<b>Title of the Rules</b>
1	Short title, commencement and application
2	Definitions
3	General

3- A	Promptness and Courtesy
3-B	Observance of Government's policies
3-C	Prohibition of sexual harassment of working women
4	Employment of near relatives of Government servant in companies or firms
5	Taking part in politics and elections
6	Joining of association by Government servants
7	Demonstration and Strikes
8	Connection with Press or other media
9	Criticism of Government
10	Evidence before Committee or any other authority
11	Communication of official information
12	Subscriptions
13	Gifts
13-A	Dowry
14	Public demonstration in honour of Government servants
15	Private trade or employment
15-A	Subletting and vacation of Government accommodation
16	Investments, lending and borrowing
17	Insolvency and habitual indebtedness
18	Movable, immovable and valuable property
18-A	Restrictions in relation to acquisition and disposal of immovable property outside India and transactions with foreigners, etc.
19	Vindication of acts and character of Government servants
20	Canvassing of non-official or other outside influence
21	Restriction regarding marriage
22	Consumption of intoxicating drinks and drugs
22-A	Prohibition regarding employment of children below 14 years of age
23	Interpretation
24	Delegation of Powers
25	Repeal and Saving

**2.2.2** Disciplinary proceedings are initiated for violation of one or other Rules of Conduct Rule *ibid*.

## **2.3 CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL & APPEAL) RULES, 1965.**

### **2.3.1 Scope and Applicability of CCS (CCA) Rules, 1965**

The following are the essential conditions for the application of the CCS (CCA) Rules, in the context of disciplinary proceedings against an employee.

- Firstly, the employee concerned must be amenable to the jurisdiction of the CCA Rules in terms of Rule 3 thereof. Rule 3 of the CCA Rules specify the category of employees to whom these rules apply.
- Secondly, CCA rules can be applied only for the purpose for which the same have been prescribed

### **2.3.2 Purposes for which the provisions of CCA Rules are to be invoked:**

CCA Rules basically form part of the reward and punishment sub-system under Personnel Management system of organisation. It provides a mechanism for dealing with erring employees whose behaviour does not conform to the prescribed organizational norms — either by express provision or by necessary implications. The rules cover the following aspects:

- a. What penalties can be imposed on an erring employee? (*Rule 11*)
- b. Who can impose these penalties? (*Rule 12 and 13*)
- c. What is the procedure to be followed for imposing these penalties? (*Rule 14, 15, 16, 18, 19, etc.*)
- d. What remedies are available to the employee after a penalty has been imposed? (*Rule 22 to 28-Appeal, Rule 29-Revision and Rule 29A- Review*)
- e. Issues which are incidental to the above? (*Rule 10 i.e. suspension which is a step in aid for conducting inquiry Rule 31 to 35 etc.*)

### **2.3.3 Mandatory procedure laid down in the CCA Rules:**

- a. In so far as the punitive moves are concerned, procedures laid down in the CCA Rules are applicable only for imposing the penalties prescribed in the above Rules. There may be several instances in the career of an employee which may have a punitive impact on the employee concerned but are not penalty within the meaning of the CCA Rules. An illustrative list of such

adverse instances in the career of the employee is available under the Explanation under Rule 11 of the CCA Rules.

- b. Some distinguishing features between a penalty and other adverse instances in the career of an employee are as under:
- A penalty is that which is imposed for a good and sufficient reason as prescribed in Rule 11; on the other hand, the adverse instances illustrated under the Explanation under Rule 11 are the natural consequences of certain deficiencies of the employee or the enforcement of contractual or statutory provisions.
  - Imposition of penalty basically carries with it a stigma. On the other hand, if an employee is reverted to the lower post for want of vacancy, it involves no stigma.
  - Imposition of a penalty implies a misconduct on the part of the employee i.e. an omission or commission on the part of employee which has a bearing on his/her competence, conduct and character. On the other hand, other adverse instances may indicate the imbalance between the job requirement and the employee capability.
  - A penalty can be imposed after following the procedure prescribed in the Rules — even if the inquiry is dispensed with under Rule 19 of the CCA Rules, there is a procedure prescribed for it in the Rules. On the other hand, adverse instances of career can be meted out after following the procedure laid down under various service rules — say DPC Procedure, or procedure for review under Fundamental Rules 56(j), etc.

**2.3.4.** Under certain situations, even a permanent Government employee is liable to be discharged from service without following the procedure prescribed under CCA Rules. These are as follows:

- a. A permanent employee can be discharged from service under the provisions of FR 56j
- b. An employee whose employment has been obtained by fraud or misrepresentation, can be discharged from service without any inquiry.
- c. An employee found guilty of sexual harassment of women in the working place may be dismissed from service without recourse to separate proceedings under Rule 14 of CCA Rules because under the proviso to Rule 14(2), the Complaints Committee constituted under Rule 3-C of the CCS (Conduct) Rules 1964 shall be deemed to be the Inquiring Authority and the Committee shall conduct the inquiry as far as possible, in accordance with Rule 14 of CCA Rules unless a separate procedure has been prescribed for the Committee.

## **2.4 PENSION RULES, 1972 AND 2021**

The CCS (Pension) Rules, 2021 are issued in exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution. The proceedings against retired government servant are processed as per Rule 8 of CCS (Pension) Rule.

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## CHAPTER- III

### COMPLAINTS

#### 3.1 WHAT IS A COMPLAINT?

A complaint is a communication or statement or piece of information containing details of corruption, malpractice or misconduct alleged to have been committed by a public servant.

#### 3.2 SOURCES OF COMPLAINTS

**3.2.1** Complaints may be received by the Directorate General of Vigilance (DGoV), its Zonal Units or other Directorates or field formations of the Central Board of Indirect Taxes and Customs (CBIC), from the public, assesses, taxpayer, officials of CBIC or from *inter alia* the following sources:

- i. Central Vigilance Commission (CVC)
- ii. The President's Secretariat and the Prime Minister's Office.
- iii. Lokpal /Lokayukta
- iv. Ministries and Departments of the Central or State Govt.
- v. Any Administrative Authority under CBIC.
- vi. CBI and other police authorities when they do not intend to investigate the complaint.
- vii. Member of Parliament / Member of Legislative Assembly /VIPs /Individual and Non- Governmental organizations.
- viii. Proceedings of both Houses of Parliament in which Members of Parliament may mention information in their possession.
- ix. Reports of various Committees of Parliament, CAG Report.
- x. Annual Reports of DRI, DGCI, D.G (PM), D.G. (GST) Internal Audit Reports, Departmental Inspection Reports, Review proceedings, Surprise checks and Vigilance Audits carried out by the DGoV or field formations.
- xi. Cases booked by DRI, DGCI, Anti-Evasion/Preventive Wings of Commissionerates etc.
- xii. Information appearing in the Media.

- xiii. Scrutiny of transactions reported under the Civil Services (Conduct) Rules, or scrutiny of the immovable and movable property returns.
- xiv. Source information, if received verbally from an identifiable source, to be reduced in writing.
- xv. Complaints received from public or employees through e-mail/Web based feed-back/other interactive systems viz., complaint filing facility on CVC and CBIC web site, complaints filed through CPGRAMS of Department of Administrative Reforms and Public Grievances etc.

**3.2.2** In addition, CVO/Head of the Department concerned may also devise other methods appropriate to the context of work handled, for collecting information about any malpractice and misconduct among the employees.

**3.2.3** Information gathered from reports, returns, media etc. will be included under the term "Complaint" and will be dealt with in the same way as letters of complaints.

**3.2.4** Complaint in the form of information may also be received orally from any person, who does not want to give a complaint in writing. However, such information must be reduced in writing and the source of information must be identifiable.

**3.2.5** For providing information about corruption and malpractices of a superior or colleague, communications through official channel need not be insisted upon. However, while genuine complainants should be protected against harassment or victimization, if a complaint after verification, is found to be false and malicious there should be no hesitation in taking penal action against such complainants.

### **3.3 ENTRY/REGISTRATION OF A COMPLAINT**

**3.3.1** Every Vigilance Section/Unit/DGoV HQ/Zonal Units will maintain, electronically and as hard copy, a Vigilance Complaints Register in Format CVO-1, in two separate parts for Category 'A' and Category 'B' employees {Annexure-1 to this Chapter}. Category 'A' includes those employees in whose case CVC's advice is required and the rest are included in category 'B'. If a complaint involves both categories of employees, it should be shown against Category 'A'.

**3.3.2** Every complaint, irrespective of its source, will be entered in the CVO-1 Register chronologically as it is received or taken notice of. A complaint



containing allegations against several officers may be treated as one complaint for the purpose of statistical returns.

- 3.3.3** Only those complaints should be entered in the register which contain an allegation of corruption or improper motive or if the alleged facts, prima facie, indicate an element or potentiality of vigilance angle. Complaints, which relate to purely administrative matters or technical lapses, such as late attendance, disobedience, insubordination, negligence, lack of supervision or operational or technical irregularities, etc. **should not be entered in the register** and should be dealt with separately as "Non- Vigilance Complaints".
- 3.3.4** Source information should be recorded and filed as per procedure prescribed for DRI-I/AE-I. If the information also contains details about Indirect Tax/ Customs duty evasion, the part of source information related to such Tax/ Customs duty evasion should be forwarded to the appropriate formation for necessary action and report. Vigilance action in such matters should be initiated preferably on receipt of report from the formation concerned. However, the limitation of time for disciplinary action against retired officers prescribed under Rule 8(2)(c)(ii) of CCS (Pension) may be kept in view in this regard.

## **3.4 VERIFICATION OF COMPLAINTS**

- 3.4.1** After receipt and registration, the genuineness of the complainant may be verified by any of the following methods.
- i. Addressing the complainant, a letter through speed post with acknowledgement due, asking him to confirm that he has made the complaint, within 15 days, followed by a reminder if no response is received. If no response is received even after 15 days of the reminder, the complaint may be treated as pseudonymous.
  - ii. By deputing an authorized official to personally contact the complainant and obtain a written confirmation to the effect that a complaint has been made by him.
  - iii. In a case the complaint is received electronically vide e-mail, the complainant should be asked to disclose his verifiable details regarding name and address which should be subjected to verification as prescribed in sub-paras above.
  - iv. In the case of complaints received from MPs/ MLAs etc. requests for verification of genuineness some time do not receive a response; in such an eventuality, the genuineness must be verified by deputing an authorized official to contact the MP/ MLA concerned.

If the complaint is not found to be genuine, on verification, it has to be treated as pseudonymous.

**3.4.2** However, verification of genuineness is not required to be done in following cases:

- i. Complaint forwarded to CBIC with a positive endorsement by, or on behalf of the Minister, asking for a report.
- ii. Complaints forwarded by the CVC for investigation or those received by it under PIDPI (Public Interest Disclosure and Protection of Informers Resolution).

### **3.5 SCRUTINY OF COMPLAINTS**

**3.5.1** Each complaint will be examined and if the allegations are found to be vague, general, prima facie unverifiable and where no action is necessary, the complaint should be dropped and filed. Where the complaint has information definite enough to require a further check, a preliminary enquiry /investigation will need to be made to verify the allegations as to whether departmental action or prosecution or both is called for. The information passed on by the CBI to the Ministry/ Department regarding the conduct of any of its officers should also be treated in the same way.

### **3.6 DISPOSAL OF COMPLAINTS**

**3.6.1** A complaint which is registered can be dealt with as follows:

- i. file it without or after investigation; or
- ii. forward it to the CBI for investigation / appropriate action; or
- iii. forward it to the administrative authority concerned for appropriate action, if no vigilance angle is involved; or
- iv. to take up for detailed investigation by the Departmental vigilance unit.

### **3.7 ACTION ON COMPLAINTS**

**3.7.1** Any complaint that does not bear the name and address of the complainant is an anonymous complaint. Complaints that do not bear the full particulars of the complainant or are unsigned or are not subsequently acknowledged by the complainant when sent for verification as per para 3.4, are treated as pseudonymous complaints. **No action is to be taken on anonymous or pseudonymous complaints irrespective of the nature of allegations,** and

such complaints should be filed by decision at following levels:

- i. In the case of Group 'A' officers decision is to be taken at the level of Pr. DG(Vig). The jurisdictional Chief Commissioner /Director General should forward to Pr. DG(Vig) any such complaints against a Group 'A' officer indicating that it is anonymous/ pseudonymous. It may be noted that no preliminary inquiry should be conducted without affirmation of the complainant.
- ii. In the case of Group B (Gazetted and Non- Gazetted) officers similar decision is to be taken by jurisdictional Chief Commissioner/Director General.
- iii. For all other cadres, similar action should be taken by jurisdictional Commissioner/ADG(s).
- iv. In DGoV, decision regarding closure in respect of Group 'A' officers is to be taken by Pr. DG (Vigilance) and for other cadres by Zonal ADGs (Vigilance).

**3.7.2** Complaints having no vigilance angle but which relate to purely administrative matters or technical lapses, such as late attendance, disobedience, insubordination, negligence, drunken behaviour at work, lack of supervision or operational or technical irregularities etc., against all cadres of officials are required to be dealt with by the respective Disciplinary Authorities and hence should be forwarded/referred to the respective Disciplinary Authorities. Such complaints having no vigilance angle, involving purely administrative matters or technical lapses as mentioned in para 3.3.3 *ibid*, in case of Group A officers may be forwarded to concerned administrative section of the CBIC. The procedure to refer such cases pertaining to Group A officers, *CBIC's instructions F. No. C-14011/08/2017-Ad.V dated 25.2.2019* may be followed.

**3.7.3** Any complaint from a person known to make frivolous complaints (complaints having misleading and incorrect facts) may be filed, after *prima-facie* scrutiny of the complaint. The concerned office in such cases may contemplate action under Section 182 of IPC against the complainant.

*(Refer Para 3.12 of CVC Vigilance Manual 2021)*

**3.7.4** DoPT has from time to time issued guidelines regarding handling of complaints in Ministries/Departments. The same has been recently consolidated vide DoPT Office Memorandum dated 28.09.2022. This latest guidelines prescribes action to be taken on anonymous complaints, complaints containing vague allegations and complaints containing verifiable allegations.

(Refer DoPT OM F. No 104/76/2022-AVD.IA dated 28.09.2022)

### 3.8 VIGILANCE ANGLE

**3.8.1** For any Vigilance officer, Supervisory officer or anyone discharging the responsibility of Inquiry officer or Disciplinary authority, it is extremely important to understand the concept of vigilance angle and its broad features in order to discharge their responsibilities judiciously.

CVC in its Vigilance Manual has described the presence of Vigilance angle in the following acts:

- a. *Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.*
- b. *Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or is likely to have official dealings or his subordinates have official dealings or where he can exert influence.*
- c. *Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.*
- d. *Possession of assets disproportionate to his known sources of income.*
- e. *Cases of misappropriation, forgery or cheating or other similar criminal offences.*

**3.8.2** CVC has further listed out some irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. These are:

- a. *Gross or willful negligence.*
- b. *Recklessness in decision making; blatant violations of systems and procedures.*
- c. *Exercise of discretion in excess, where no ostensible public interest is evident.*
- d. *Failure to keep the controlling authority / superiors informed of required transactions and issues in time;*
- e. *Cause of undue loss or a concomitant gain to an individual or a set of individuals / a party or parties.*

Any undue / unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case. **(CVC Office Order No. 74/12/05 dated 21.12.2005)**

**3.8.3** Some very important aspects related to Vigilance angle which have been clarified down by Hon'ble Supreme Court are briefly summarized below for easy comprehension:

- a. **Vigilance action merely on the basis of difference of opinion or lack of efficiency or failure to attain exemplary devotion:** A vigilance investigation on a complaint should **not** be called for on the basis of a mere difference of opinion / perception or an error of judgment simpliciter or lack of efficiency or failure to attain exemplary devotion in the performance of duties. (**Union of India vs. J. Ahmed AIR1979 SC 1022**). Such failures may be a matter of serious concern to the organization but not from the vigilance point of view. They have to be dealt with separately.
- b. **Lapses of officers exercising quasi-judicial powers:** The lapses on part of officers exercising quasi-judicial powers can be covered under vigilance angle. For examining the presence of vigilance angle while exercising quasi-judicial powers, apart from above stated ingredients of Vigilance Angle, the following criteria laid down by Hon'ble Supreme Court in **K.K. Dhawan Vs. UOI case (1993 AIR 1478)** should be considered: -
  - 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 corrupt motive, however, small the bribe may be.*

(Refer CVC F.No.007/MISC/Legal/04(Pt.) Circular No. 39/11/07 dated 01.11.2007)
- c. *In addition to the above principles as enunciated in CVC's Circular dated 1st November 2007, the following criteria laid down by Hon'ble Supreme Court in **R.R. Parekh Vs. Gujarat High Court Case** (Civil Appeal Nos. 6116-6117 of 2016 [AIR 2016 SC 3356] may also be kept in view while examining alleged lapses / misconducts in respect of officials exercising quasi-judicial functions / powers.*
  - i. *Since, direct evidence of corruption may not always be forthcoming in every case involving a misconduct, a wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle.*

- ii. *In the absence of cogent explanation, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that an officer was actuated by extraneous considerations can be drawn.*
- iii. *The disciplinary authority has to determine whether there has emerged from the record one or more circumstances that indicate that the decision which form the basis of the charge of misconduct was not an honest exercise of judicial power.*
- iv. *A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact.*

*(Refer CVC Circular No.12/10/16 dated 24.10.16)*

**3.8.4** Mere absence of vigilance angle in various acts of omission and Commission does not mean that the concerned official is not liable to face the consequences of his actions. All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately as per the disciplinary procedure under the service rules.

Administrative misconduct such as lack of punctuality, drunken behaviour at work, insubordination, etc. would be left to the disciplinary authority to deal with in an appropriate manner. If the lapse is without a vigilance angle, the disciplinary authority would be within its rights to initiate appropriate penalty proceedings against erring employees.

*(Refer CVC Office Order No.23/04/04 dated 13.04.2004)*

## **3.9 SEXUAL HARASSMENT**

Complaints involving allegations of sexual harassment are to be referred to Internal Complaints Committee setup as per Section 4(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The procedure for investigation and subsequent disciplinary proceedings in such cases are to be carried out in terms of the said Act and Rules made thereunder. *DOPT's circular F. No. 11013/2/2014-Estt (A-II1) dated 16.7.15* gives a step wise guide in this regard.

## **3.10 ACTION ON COMPLAINTS REFERRED BY CVC**

**3.10.1** CVC refers cases to CVOs under different categories. The action and time-limits for action against these categories are as follows:

- i. Where CVC refers a complaint for investigation and calls for **Inquiry Report (I&R cases)** the CVO is required to furnish investigation reports on such complaints **within three months** from the date of receipt of references from the Commission or within such time as specified by the Commission. However, in respect of PIDPI complaints, the time limit for submission of report is **12 weeks**.
- ii. After receipt of the report, CVC may tender its advice or seek further information or clarification (**FI cases**) from the CVO. In such cases the clarification and / or comments, should be sent to the CVC within six weeks. Where it is not possible to complete the investigation and submit the report/clarification to CVC, the CVO has to seek extension of time from CVC.
- iii. In case of complaints sent by CVC for **Necessary Action (NA cases)**, the CVO is to scrutinize and decide action on such complaints within a period of one month. Such complaints must be referred back to the CVC for advice, if vigilance angle is noticed on investigation against an officer falling under the jurisdiction of CVC. If such a complaint is taken up for inquiry / investigation the same should be completed within three months. Otherwise, such complaints require no further reference to the CVC and are to be disposed of by the Departments themselves after taking necessary action.
- iv. All the complaints made under **PIDPI Resolution** which have been forwarded to the CVO for necessary action must be referred back to the Commission, irrespective of Commission's normal jurisdiction, for advice if they have been investigated and the allegation of corruption or mis-use of office by an employee has come to notice. In all cases received under PIDPI resolution, Action Taken Report shall necessarily be sent to CVC.

### 3.11 INVESTIGATION OF COMPLAINTS

- 3.11.1 Vigilance Investigation /Preliminary Enquiry is conducted for ascertaining and verifying the facts alleged in a complaint. It generally involves collection of documents and other evidence, obtaining statement of witnesses, their verification and scrutiny to bring out the truth.
- 3.11.2 In case a complaint on preliminary scrutiny/ investigation is found to have allegations of offences covered under laws which the CBI is authorized to investigate such as bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records, possession of assets disproportionate to known sources of

income, cases requiring inquiries from non-official persons or examination of non-Government records, books of accounts, or other cases of a complicated nature requiring expert police investigation the case may be referred to CBI for detailed investigation. Reference of case for investigation to CBI has to be done after approval of Pr. DG (Vig.). In such cases, if CBI wants a formal complaint to be lodged with them by the department, the field formation concerned or the Zonal Unit of DGoV who conducted the preliminary inquiry/investigation shall lodge the complaint with CBI.

- 3.11.3** Routine cases of complaints by field formations shall not be referred to Directorate General of Vigilance and must be promptly dealt with by the Commissionerates/ Custom House which have their own vigilance set-ups.
- 3.11.4** Matters involving officers of 'Group A' shall be referred to the Directorate General of Vigilance for investigation. In other cases pertaining to 'Non Group-A' officers clear justification shall be given while forwarding the proposal/requests for investigation. The references by field formations for investigation shall be forwarded by CCOs/DGs and should be routed through the Headquarters of Directorate General of Vigilance, and not to the Zonal Units of DGoV directly. In cases of urgent nature, the Zonal Units could be approached directly indicating the urgency but keeping the Headquarters of the Directorate General of Vigilance informed.
- 3.11.5** In matters arising out of Customs, GST & Central Excise investigations, the field formations including DGRI and DGGI shall also look into the possibility of connivance of the departmental officers in the offence and while collecting evidence /recording statements of accused as well as suspect officers, vigilance angle shall be covered and a view shall be taken by them on possible action against conniving officers under the relevant Acts. The report to Vigilance should normally be sent only on conclusion of the investigation and issue of Show Cause Notice unless it is a case where immediate vigilance action is called for. However, the limitation of time for disciplinary action against retired officers prescribed under Rule 8(2)(c)(ii) of CCS (Pension) maybe kept in view in this regard.
- 3.11.6** Depending on nature and seriousness of allegations or level of officers involved, DGoV including its Zonal Units may refer cases to field formations for factual report or for investigation and report. If the complaint is not pertaining to the field office addressed, it should be forwarded to the relevant jurisdictional formation, under intimation.
- 3.11.7** In a composite case involving officers belonging to different cadres, decision for closure/investigation would be taken by the Authority empowered to take a final view in the case of senior most officer involved.



- 3.11.8** If the officer, against whom a complaint is received, is transferred out of the jurisdiction, during the pendency of disposal of such complaint, then the Disciplinary Authority under whose jurisdiction the officer was previously posted should complete the investigation and forward the inquiry report along with draft charge sheet/charge memo to the current DA, where the said officer is presently working. The current DA would then seek the first stage advice from the competent authority and take action accordingly.
- 3.11.9** Complaints referred for investigation by the Hon. Minister of Finance/Minister of State for Revenue, CBIC, or CVC are to be investigated by the DGoV. To avoid parallel investigations in such cases, before taking up investigation it must be ascertained whether the field formation concerned is already seized of the matter. If the formation concerned is already investigating into the complaint, a decision would be taken by Pr. DG(Vig.) whether to let the formation continue the investigation or to take it over. If the case is taken over by DGoV, all records pertaining to the investigation will be handed over by the field formation to the DGoV, otherwise the material available with DGoV will also be handed over to the field formation to complete its investigation. In case the matter under reference is being investigated by CBI, a view whether the Pr. DG(Vig) would pursue the matter any further would be taken in consultation with CBI.
- 3.11.10** The cases pertaining to Group B (Gazetted) shall be referred to CVO for First Stage Advice with a recommendation by the DA for closure/issue of charge sheet. (Refer *para 12.2.2 of CBIC's Complaint Handling Policy*)

### **3.12 ACTION ON COMPLAINTS AGAINST SECRETARIES TO THE GOVERNEMENT OF INDIA**

DoPT vide its Office Memorandum dated 28.09.2022 has also prescribed the procedure to be followed for dealing with the complaints against Secretaries to the Government of India. Such complaints are to be referred to Cabinet Secretariat for placing before the Group of Secretaries for action as prescribed in the said OM.

(Refer DoPT OM F. No 104/76/2022-AVD.IA dated 28.09.2022)

### **3.13 MODEL TIMELINES FOR INVESTIGATION OF COMPLAINTS**

S.No.	State of Investigation or inquiry	Timelines
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.	3 months in terms of <u>CVC Circular No. 021-AIS-1(2) dated 19.04.2021.</u>
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.

**ANNEXURE-I****PROFORMA****CVO-1**

C.V.O. Register 1 of complaints to be maintained in separate columns for category A and Category B employees.

S.No	Source of complaint (See N.B.1)	Date of receipt	Name & Designation of officer(s) complained against	Reference to File No.	Action taken (See N.B.2)	Date of action	Remarks (See N.B.3)
1	2	3	4	5	6	7	8

**N.B:**

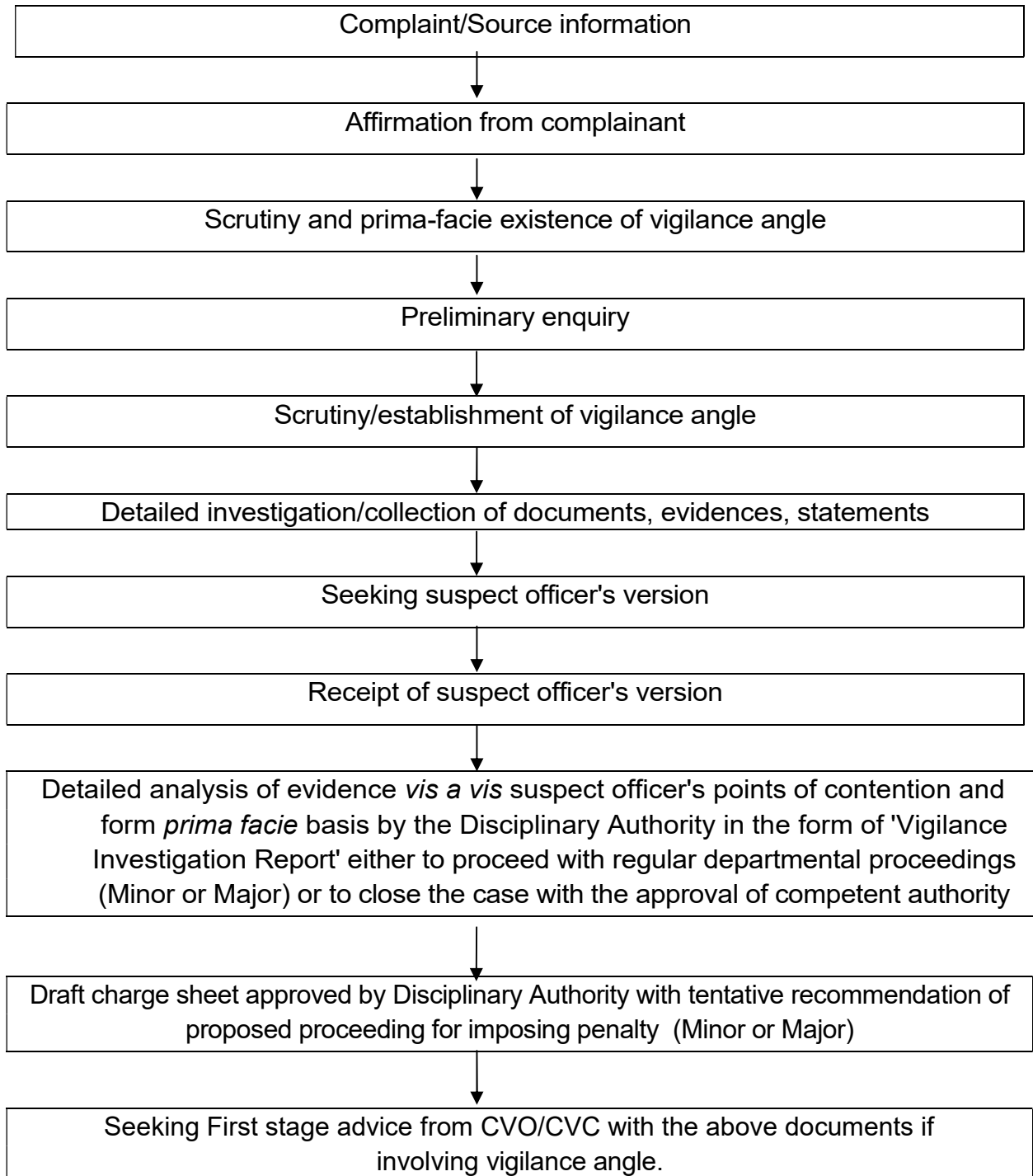
1. A Complaint includes all types of information containing allegations of misconduct against public servants, including petitions from aggrieved parties, information passed on to the CVO by CVC, and CBI, press reports, findings in inspection reports, audit paras, PAC reports, etc. In the case of petitions the name and address of the complainants should be mentioned in Col. 2 and 1 and in other cases, the sources as clarified above should be mentioned.
2. Action taken will be of the following types: (a) filed without enquiry (b) Filed after enquiry (c) Passed on to other sections as having no vigilance angle (c) Taken up for investigation by Departmental vigilance agency.
3. Remarks Column should mention (a) and (b).
  - (a) If there were previous cases / complaints against the same officer, the facts should be mentioned in the "Remarks" column.
  - (b) Date of charge-sheet issued, wherever necessary.

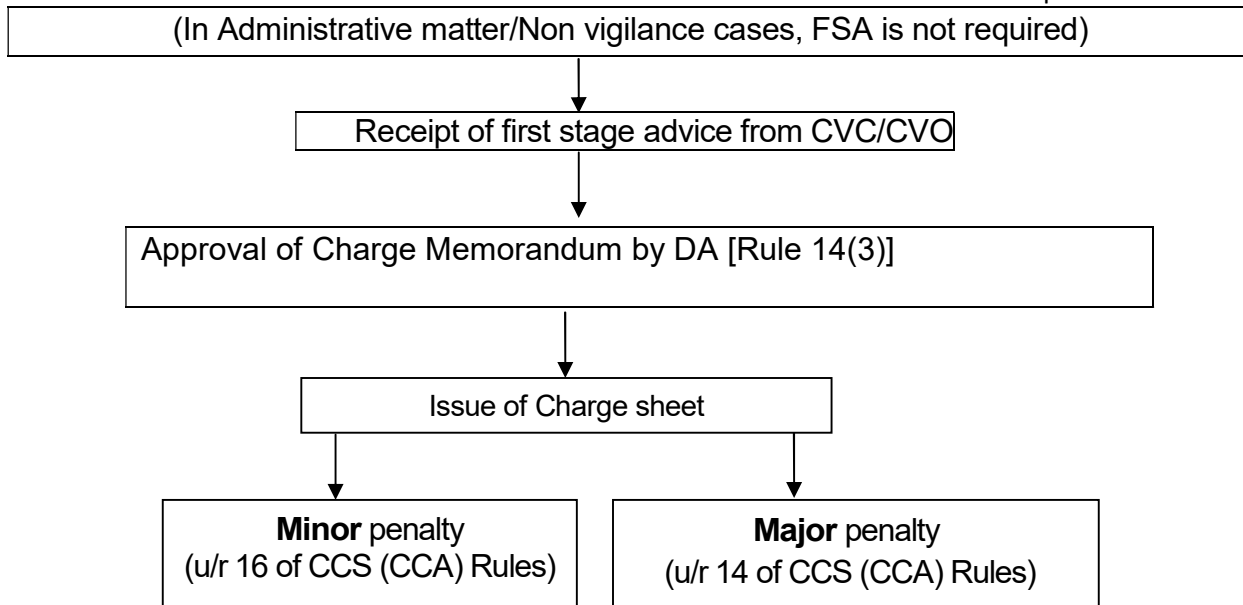
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## CHAPTER – IV

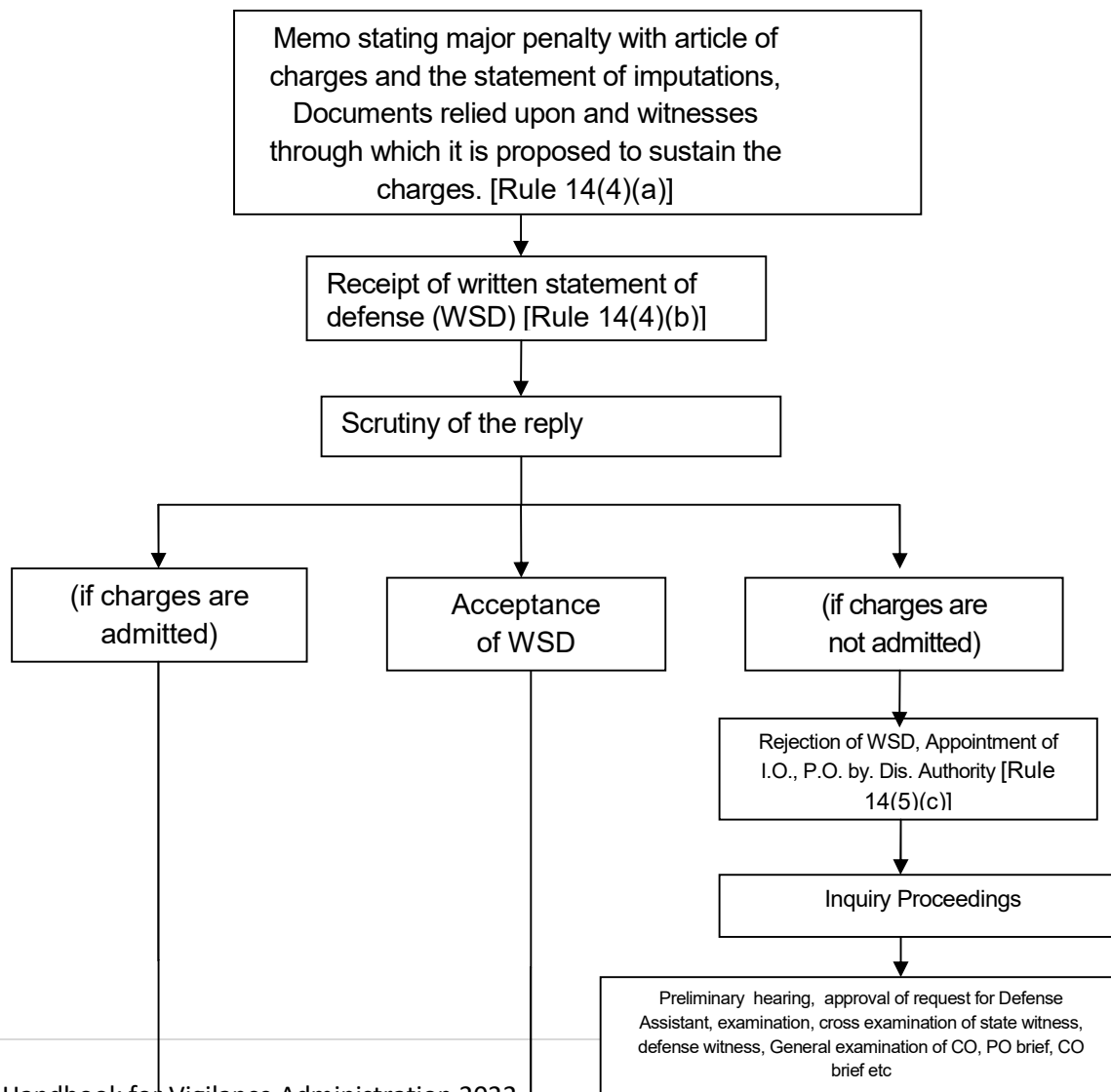
### SCHEMATIC FLOW CHART OF VIGILANCE PROCEEDINGS

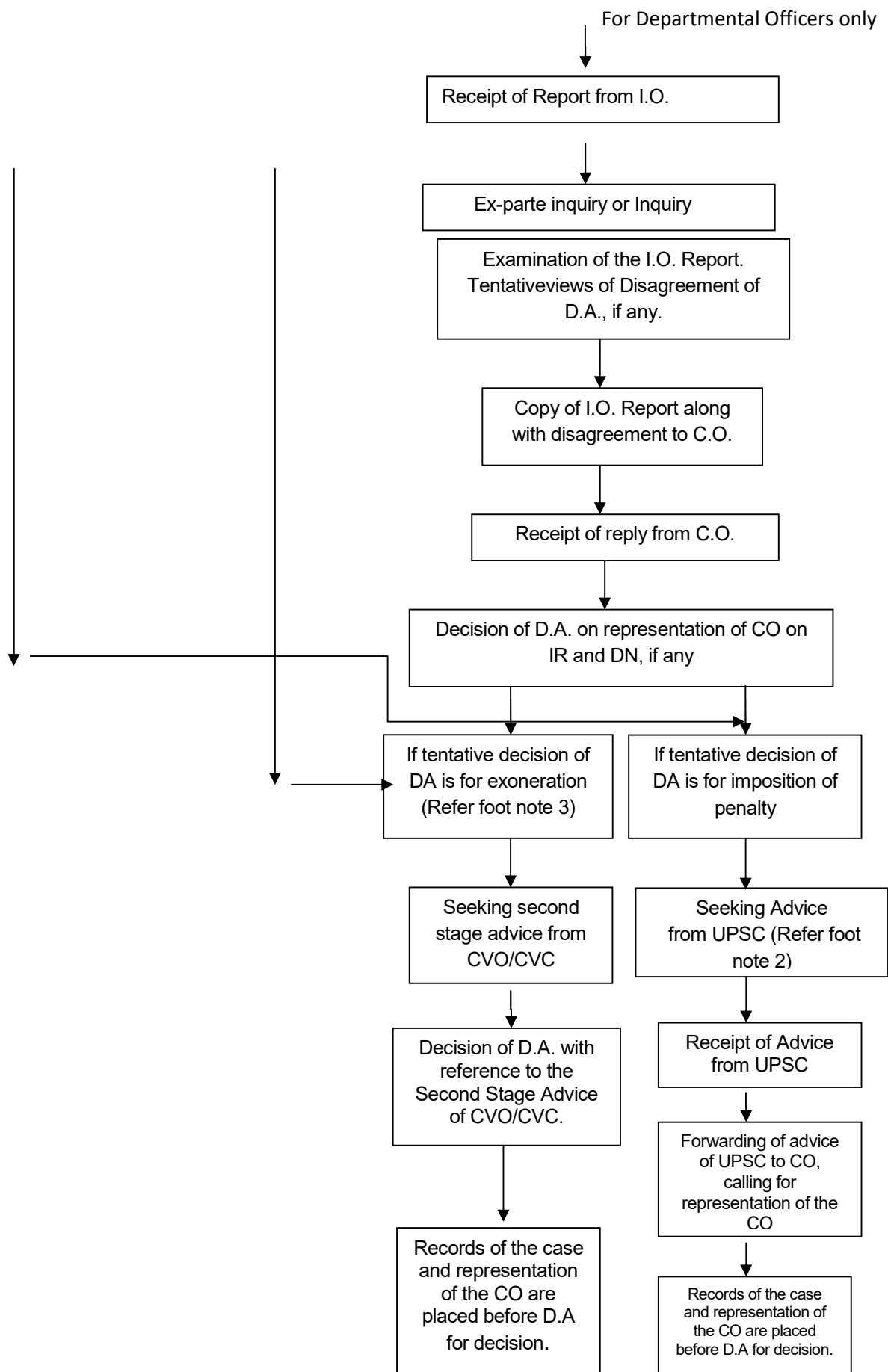
4. The vigilance proceedings can be depicted in following flow chart-

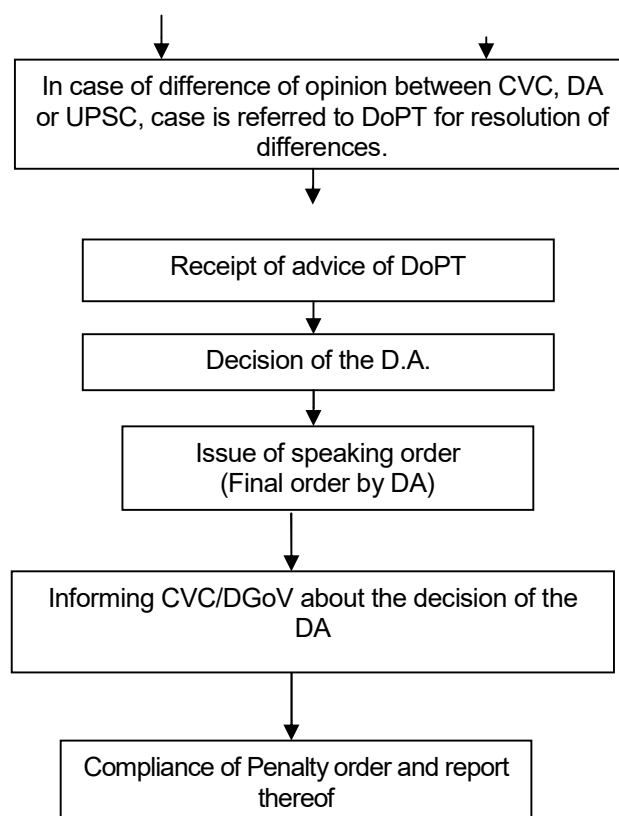


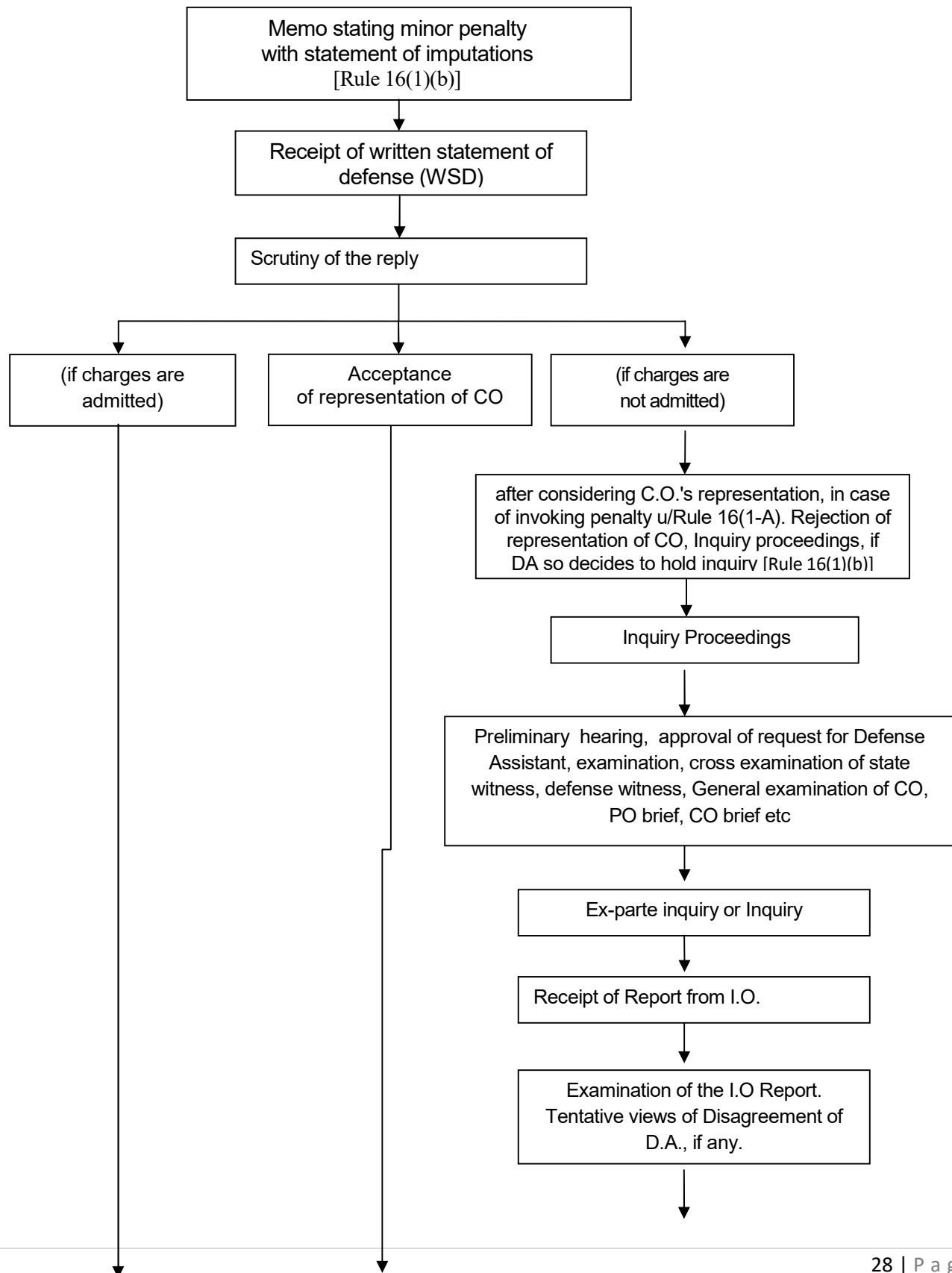


### **Major penalty (u/r 14 of CCS (CCA) Rules)**

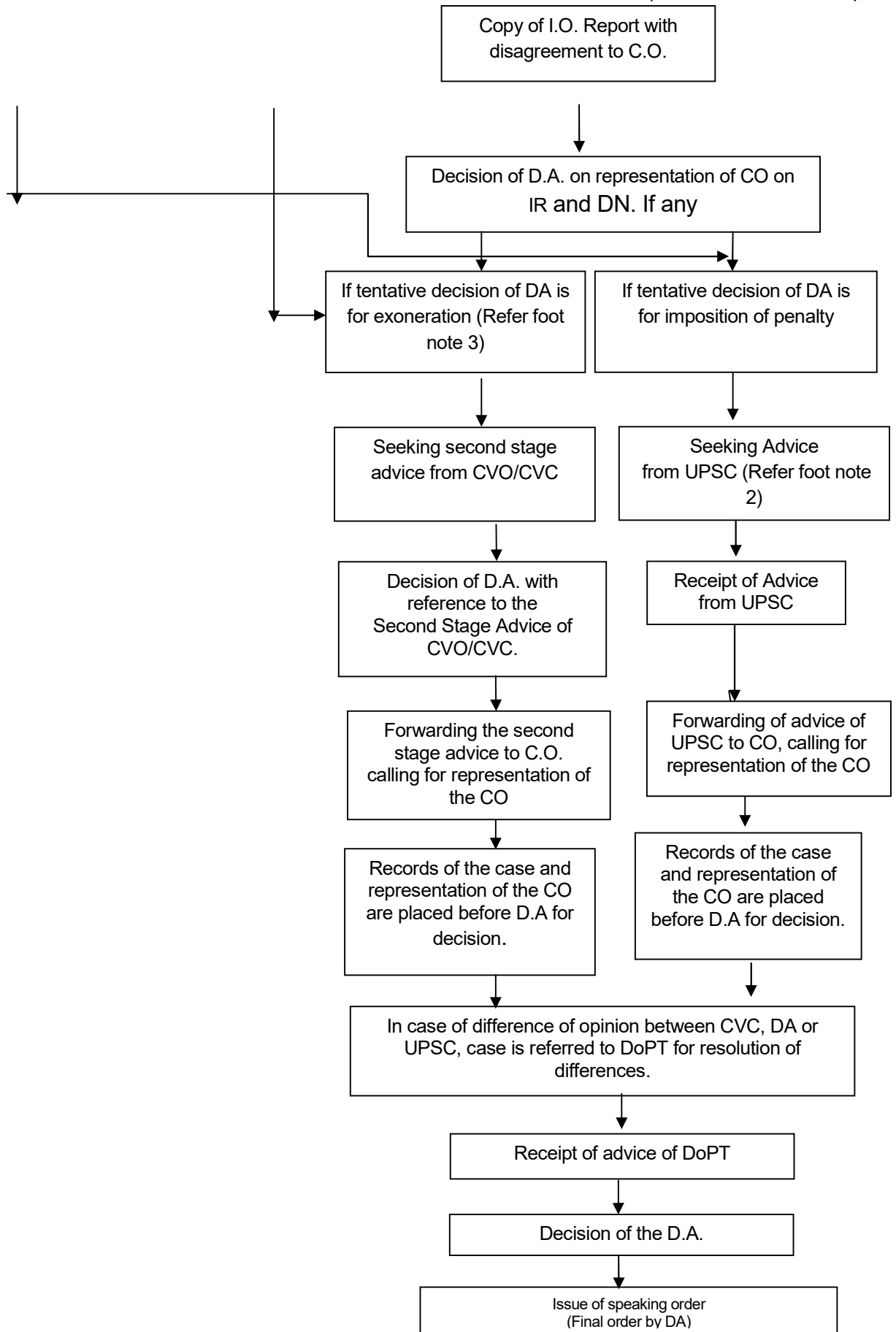


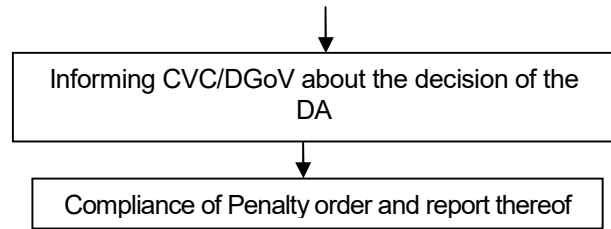




**Minor penalty (u/r 16 of CCS (CCA) Rules)**







**Note-**

1. The above chart is indicative in nature and broadly pertains to cases where President is to take decision.
2. In case of non Group A cases, advice of UPSC is not required for deciding quantum of penalty to be imposed. However, advice from regional jurisdictional unit of DGoV is to be sought in case of Group B Gazette officers. For officers below the rank of Group B Gazette officers, the DA may decide the quantum of penalty on their own.
3. In cases of serving non Group A officers, SSA is required in all scenarios where DA is not in agreement with FSA tendered by CVC/CVO.
4. Inquiry is held only for those charges not admitted by CO.

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## CHAPTER – V

### VIGILANCE INVESTIGATIONS

#### 5.1 VIGILANCE INVESTIGATION: AN INTRODUCTION

A Vigilance investigation is an enquiry carried out to ascertain and verify the veracity of truthfulness or facts alleged in a complaint. The purpose of the Vigilance investigation is to ascertain whether any prima-facie case for instituting disciplinary proceedings against the official is made or not. This may involve collection of documents and other evidence, obtaining statement of witnesses, and their verification and scrutiny to bring out the truth.

Once it is decided by the competent authority to investigate the allegations levelled in a complaint, it will be necessary to decide whether the allegations should be enquired into departmentally or whether it should be handed over to CBI for further investigation. As a general rule, the norms for categorization of cases as outlined in following paras may be followed.

#### 5.2 COMPLAINTS WHICH NEED TO BE INTERNALLY INVESTIGATED

All affirmed complaints involving verifiable allegations of departmental lapses or irregularities or negligence or non-criminal misconduct on the part of government servant may be investigated internally by the department.

#### 5.3 COMPLAINTS WHICH NEED TO BE HANDED OVER TO CBI FOR INVESTIGATION

**5.3.1** As per para 5.1 of CVC Manual 2021, as a general rule, investigation into allegations of the following types should be entrusted to the CBI:

- a. *Cases involving allegations criminal in nature, for ex. bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records:*
- b. *Cases involving possession of assets disproportionate to known sources of income;*
- c. *Cases in which truth cannot be ascertained without making inquiries from non-official persons, or those involving examination of non-government records, books of accounts etc.*
- d. *Cases of complicated nature requiring expert police investigation for arriving at conclusion.*

- 5.3.2** In certain cases, where the allegations may be relating to both criminal as well as non-criminal misconduct, such cases should be decided in consultation with the Central Bureau of Investigation as to which of the allegations should be dealt with departmentally and which should be investigated by the Central Bureau of Investigation.
- 5.3.3** In case, there is any difficulty in segregating the allegations for separate investigation in the manner suggested above, the better course would be to entrust the whole case to the Central Bureau of Investigation.
- 5.3.4** All such complaints should be referred to jurisdictional CBI for further investigation with the approval of Pr. DG (Vig)/CVO, CBIC

*(Refer DGOV Hqrs. Office Note vide F. No. V-521/17/15/1009 dt. 17.02.2016)*

## **5.4 PARALLEL INVESTIGATION BY DEPARTMENT AND THE CBI**

Once a case has been referred to and taken up by the CBI for investigation, a parallel investigation by the Departmental agencies should be avoided. Further action by the Department in such matters should be taken on completion of investigation by the CBI on the basis of their report.

However, the department is not barred from investigating the non-criminal misconducts in such matters or issues which are not being investigated by CBI for achieving quick results. In case department decides to do, then the CBI should be informed of the non-criminal aspects which the departmental agency is investigating.

Further, if the Departmental proceedings have already been initiated on the basis of investigations conducted by the Departmental agencies, the administrative authorities may proceed with such Departmental proceedings. *(CVC Circular No. 99/VGL/87 dated 30.09.2005)*

*(Refer Para 5.2 CVC Vigilance Manual 2021)*

## **5.5 PRELIMINARY ENQUIRY BY DEPARTMENTAL AGENCIES**

**5.5.1** The matters involving officers of Group A, whether exclusive or composite cases (involving Non group 'A' officers also), should be referred to the Directorate General of Vigilance for investigation. Such references should be directed to Directorate General of Vigilance (Hqrs), and not to the Zonal Units of DGoV directly. In cases of urgent nature, the Zonal Units could be approached directly indicating the urgency but keeping the Headquarters of the Directorate General of Vigilance informed.

**5.5.2** The matters involving non-Group 'A' officials shall not ordinarily be referred to Directorate General of Vigilance and must be dealt by the respective field formation. However, in cases where investigation by DGoV is warranted, clear justification shall be given.

**5.5.3** The purpose of preliminary enquiry is to ascertain the truth or determine whether there is, prima facie, some substance in the allegations. The preliminary enquiry may be made in several ways depending upon the nature of allegations and the judgment of the enquiry officer, e.g.: -

- a. If the allegations contain information which can be verified from any document or file or any other departmental records, the enquiry / vigilance officer should, without loss of time, secure such records, etc., for personal inspection.
- b. If any of the papers examined is found to contain evidence supporting the allegations, such papers should be taken over by him for retention by the vigilance Department to guard against the possibility of available evidence being tampered with.
- c. If the papers in question are required for any current action, it may be considered whether the purpose would not be served by keeping authenticated copies of the relevant portions of the records in the respective file while the original copies are retained by the enquiry officer in his custody. If that is not considered feasible for any reason, the officer requiring the documents or papers in question for current action should be made responsible for their safe custody after retaining authenticated copies for the purpose of enquiry;
- d. In case, where the alleged facts are likely to be known to other employees of the Department, the enquiry officer should interrogate them orally or ask for their written statements. The enquiry officer should make a full record of the oral interrogation which the person interrogated should be asked to sign in token of confirmation. Wherever necessary, any important facts disclosed during oral interrogation or in written statements should be verified by documentary or corroboratory evidence to make sure of the facts;
- e. In case, it is found necessary to make inquiries from the employees of any other Government Department or office, the investigating officer may seek the assistance of the Department concerned, through its CVO, for providing facility for interrogating the person(s) concerned and / or taking their written statements;

- f. In certain types of complaints, the enquiry officer may find it helpful to make a site inspection, or a surprise check, to verify the facts on the spot and also to take suitable action to ensure that the evidence found there, in support of the allegations, is not disturbed;
- g. During the course of preliminary enquiry by the Vigilance Department, the version of the suspect government servant concerned should be recorded otherwise the government servant concerned is likely to be proceeded against unjustifiably. It is, therefore, desirable that the suspect officer's version of "facts" and why an inquiry should not be held should be obtained. There is no question of making available to him any document at this stage. Such an opportunity, however, may not be given in cases in which a decision to institute Departmental proceedings is to be taken without any loss of time, e.g., in a case in which the public servant concerned is due to retire or to superannuate soon and it is necessary to issue a charge-sheet to him before his retirement, the facts are not in dispute, officer is not traceable, the officer is deliberately delaying the report etc.
- h. If during the course of enquiry, it is found that it will be necessary to collect evidence from non-official persons or to examine any papers or documents in their possession, investigation in the matter may be entrusted to the Central Bureau of Investigation.
- i. If the complaint is received from CVC for investigation and report, the investigation report is required to be submitted to CVC by DGoV Hqrs.

## **5.6 TIMELINES TO COMPLETE INVESTIGATION / PRELIMINARY ENQUIRY**

- a. CVC vide its *Circular No 000/VGL/18 /CVC dt. 23.05.2000* has prescribed timelines with regard to vigilance investigations. The circular prescribes 3 months timeframe to complete the investigations and submit the report.
- b. Any further extension, if required to complete the investigation should be with the permission of Disciplinary Authority or Pr. DG, Vigilance, as applicable in the matter.
- c. In cases of investigations of complaints received from CVC where it is not possible to complete the investigations and submit the report within the prescribe time limit extension of time limit must be sought from CVC indicating the progress of the investigation and reasons for the delay.

## 5.7 FORMAT OF INVESTIGATION / PRELIMINARY ENQUIRY REPORT

On completion of the investigation, a self-contained report should be prepared containing the explanation of the suspect officer, material to refute the defense wherever applicable along with final recommendations for action. The fact that an opportunity was given to the officer concerned should be mentioned in the enquiry report even if the officer did not avail of it or was non cooperative.

The report should be submitted in the format as prescribed by the CVC vide its *Circular No 21/08/09 dt. 06.08.2009*. The format of the report prescribed by CVC is as following:

- Source of the complaint
- Gist of the complaint
- Facts of the case
- Observations
- Response of the officials concerned
- Counter to the Response
- Conclusion
- Responsibility of officials
- Recommendation for action
- Recommendation for Systemic Improvement

The report shall also contain an assurance memo and bio-data of the officer(s) as per the format prescribed in the *CVC Circular No 21/08/09 dt.06.08.2009*.

## 5.8 ACTION ON THE INVESTIGATION/ PRELIMINARY REPORT

**5.8.1** In case of investigations involving Group 'A' officers (whether exclusive or composite matters), the Zonal Units should submit their investigation reports to Pr. DG Vigilance in the prescribed format along with their recommendations on action and systemic improvements, if any. Pr. DG Vigilance will then decide that whether the complaint should be dropped or whether regular departmental proceedings should be recommended against the government servant concerned or the administration of a warning or caution would serve the purpose. Pr. DG will then forward the inquiry report to the competent authority, along with his own recommendations, for appropriate decision.

*(Refer Office Order No. 01/2016 dated 27.10.2016 vide F.No.50/ 10/2005-Ad.I-Vig, GOI, Ministry of Finance, Deptt. of Revenue, New Delhi prescribing the level of*

*competent authorities for different rank of Group A officers for the purpose of decision on the investigation reports.)*

- 5.8.2** In cases, where the competent authority has approved the initiation of disciplinary proceedings, First Stage Advice of CVC would be sought by DGoV Hqrs. While seeking first stage advice, a draft charge memorandum along with relied upon documents, the investigation report and approval of competent authority is required to be forwarded to CVC.

After receipt of CVC's advice, the same along with the approval of competent authority and draft Charge Memorandum are to be forwarded to the concerned Disciplinary authority for issuance of Charge Memorandum.

- 5.8.3** Similarly, in case of investigations involving exclusive Group B (Gazetted) officers, the field formations must submit their investigation reports to jurisdictional Pr/ADG, Zonal Unit of DGoV for its advice.

(Refer DGoV Hqrs instructions vide *F.No V-500/84/2014/Pt/759 dated 05.02.2016*)

- 5.8.4** In respect of officer falling under category 'B', if there persists an unresolved difference of opinion between the Chief Vigilance Officer and the disciplinary authority concerned about the course of action to be taken, the matter would be reported by the CVO to the Chief Executive (CCA) for appropriate direction.

Further action may be taken as described in para-1.2.2(b) of the CVC Vigilance Manual, 2021 and matter need to be referred to CVC if differences between CVO and Chief Executive are not resolved.

As soon as it is decided by the disciplinary authority to institute disciplinary proceedings against the public servant(s) concerned, the complaint should be regarded as having taken the shape of a vigilance case.

On the contrary, in cases where prima facie no case is made out and the complaint does not involve any vigilance angle, the complaint is closed with the approval of prescribed competent authority

(Refer CBIC Office Order No. 01/2016 dated 27.10.2016 vide *F.No.50/ 10/2005-Ad.I-Vig.*)

There is no need to refer the matter to CVC for its advice in closure cases except in case of complaints which are referred by CVC for investigation and report.



## **5.9 CASES INVOLVING NO VIGILANCE ANGLE**

In cases where no vigilance angle is involved but prima facie a case of lapse is made against the officer, First stage advice of CVC/CVO (as applicable) is not required and Disciplinary authority can straight away issue the charge memorandum.

*(Refer CVC Circular No. 07/04/15 dated 27.04.2015)*

## **5.10 ENQUIRY AGAINST OFFICERS WHO HAVE BEEN TRANSFERRED OUT FROM THE JURISDICTION WHERE THE COMPLAINT WAS RECEIVED**

In case of non-Group A officer(s), against whom a complaint is received is transferred out of the jurisdiction of the Commissionerate, then the Commissionerate where the misconduct had happened should complete the investigation, prepare the investigation report along with the draft charge memorandum, if required, and forward them to the Commissionerate where the officer is currently posted, which would then seek first stage advise, if required from the competent authority.

## **5.11 ENQUIRY AGAINST OFFICERS ON DEPUTATION**

Enquiry against an officer on deputation should be carried out by the CVO of the organization where the misconduct has occurred. However, when enquiry has started against an officer, who is on deputation, by parent Department, it will be appropriate if parent Department sends an intimation to that effect to the borrowing organization. In such cases, the result of final enquiry should also be sent to the borrowing organization.

In cases, where enquiry was initiated by the parent organization in respect of an officer for a misconduct in the parent organization and the officer proceeds on deputation, the CVO of the parent organization shall take the matter to a logical conclusion and not transfer to CVO of the organization in which the suspect officer is on deputation.

*(Refer Para 5.6 of CVC Vigilance Manual 2021)*

## **5.12 ENQUIRY AGAINST OFFICERS UNDER SUSPENSION / CLOSE TO RETIREMENT**

Enquiry into the allegations against officers under suspension or those about to retire or already retired should be given the highest priority. It should also be ensured that there is sufficient time for processing the enquiry reports involving retiring and retired employees so that the matter does not get time barred for action (if warranted) under the Pension Rules or Regulations.

*(Refer Para 5.7 of CVC Vigilance Manual 2021)*

## **5.13 RESIGNATION/VRS BY OFFICERS PENDING INVESTIGATION / INQUIRY**

**5.13.1** If an officer against whom enquiry or investigation is pending, submits his request for resignation/VRS, such request should not normally be accepted or taken.

**5.13.2** In cases where, however, the acceptance of resignation/VRS is considered necessary in the public interest, because:

- the alleged offence(s) do not involve moral turpitude;
- or the evidence against the officer is not strong enough to justify the assumption that if the proceedings are continued, the officer would be removed or dismissed from service;
- or the proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation,

the resignation/VRS may be accepted with the prior approval of the Head of the Department in the case of holders of Group 'C' and 'D' posts and that of the Minister-in-charge in respect of Group 'A' and 'B' posts.

**5.13.3** In case of Group A officers, if CVC had advised initiation of Departmental action against the officer concerned or such action had been initiated on its advice, then prior concurrence of the CVC should also be obtained before submitting the case to the Minister-in-charge.

*(Refer Para 5.8 of CVC Vigilance Manual 2021)*

**Important: Chapter V (Preliminary Inquiry) of CVC Manual 2021 may be referred to for more details relating to Vigilance investigation.**

## 5.14 MANAGING CONFLICT OF INTEREST

The Conflict of interest flows from the principle of Natural Justice that 'No one should be the judge in his / her own case (*Nemo judex in causa sua*)'. It leads to biases. Bias means an act which leads to unfair activity whether in a conscious or unconscious stage in relation to the party or a cause or case. That is where the conflict of interest arises. The Conflict of interest issue is an emerging area of concern in public governance.

*(Refer Para 1.4A and 11.7 of CVC Vigilance Manual 2021)*

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## CHAPTER-VI

### CONCEPT OF ADVICE

#### 6.1 INTRODUCTION

Section 8(1)(g) of the CVC Act, 2003 empowers CVC to tender appropriate Advice to the Central Government (Disciplinary Authorities) regarding the nature of action to be initiated against the concerned Public Servant.

**6.1.1** If Disciplinary Authority, be it President or other than President, intends to (i) accord Sanction of Prosecution; and/or (ii) initiate Regular Departmental Action for Major or Minor penalty against any officer, Advice is required to be obtained from CVC. Para-1.6.1 of the Vigilance Manual, 2021 prescribes that matters where the Commission tenders its Advice to the Competent Authority are as follows:-

- a. when a request for grant of previous sanction necessary for prosecution is made by an investigating agency to the competent authority in respect of specified categories of public servants, and
- b. for initiating Departmental proceedings and before taking a final decision in the vigilance case against the **specified category** of public servants.

#### 6.2 FSA & SSA IN RDA PROCEEDINGS

CVC's Advice in Regular Departmental Action (RDA) initiated under Central Civil Services (Classification, Control and Appeal) Rules, 1965:

**6.2.1** The CVC tenders its Advice at two stages:

**a. First Stage Advice (FSA):**

The CVC is required to be consulted:

- i. in all cases where vigilance angle is present and in respect of the public servants specified in Section 8(2) of CVC Act, 2003 (Category-A), after conclusion of preliminary inquiry / investigation and before the issue of charge-sheet;
- ii. where an Investigation Report on a complaint forwarded by the Commission has been called for, the CVO is required to submit the Investigation Report to the Commission for advice;

- iii. in Composite cases, wherein public servants other than Category-A (i.e. Category-B) are also involved along with those belonging to Category-A and wherein vigilance angle is present.

*(Refer CVC's Office Order No.26/4/2004 dated 16.04.2004 from No.98/VGL/15)*

- iv. where there is difference of opinion between the CVO and the Disciplinary Authority, action may be taken as described in para-1.2.2(b) of the CVC Vigilance Manual, 2021.

#### **b. Second Stage Advice (SSA):**

1. In all such cases where FSA has been tendered, on conclusion of oral inquiry after issue of charge-sheet but before a final decision is taken by competent authority, the Commission is required to be consulted for second stage advice. (Subject to exception & exemptions mentioned below)
2. Further, in respect of other cases where there is difference of opinion between the CVO and the Disciplinary Authority, action may be taken as described in *Para 1.2.2(b) of the CVC Vigilance Manual, 2021.*

#### **Exception: -**

In respect of a Presidential appointee, if the Disciplinary Authority proposes a penalty and where UPSC is required to be consulted, the CVC's advice is not required. However, in respect of a Presidential appointee, if the Disciplinary Authority proposes exoneration, the CVC's SSA is required to be obtained.

*(Refer CVC Circular No.17/12/12 dated 07.12.2012 & No.08/12/14 dated 03.12.2014)*

### **6.3 DOCUMENTS REQUIRED FOR SEEKING FSA**

- 6.3.1** The procedure for obtaining CVC's FSA is prescribed in Para-7.9 and its sub-Para of CVC Vigilance Manual, 2021. In this regard, reference may also be drawn from *CVC's Circular No.21/8/09 dated 06.08.2009 from No.006/PRC/1*. The UO Note sent to CVC seeking FSA should be drafted in the format prescribed in Annexure-'A' of the said Circular. Thus, in order to expedite the issue, the investigation agencies including of Zonal Units of DGoV are required to prepare its 'Investigation Report' in this format only and the same should also accompany 'Assurance Memo' in the form of Annexure-'B'; Bio-data of the officer; copy of the complaint/source information; copy of the preliminary investigation report containing the allegations in brief; draft

copies of the charge-sheet(s); and authenticated copies of Relied Upon Documents (RUDs) in duplicate.

- 6.3.2** CVC vide its *Circular No.09/12/2014 dated 11.12.2014 from No.006/PRC/1* has also desired to furnish the tabular statement in formats prescribed therein along-with other records/documents while making references for FSA or SSA of the CVC.

**6.3.3 DELEGATION OF POWER W.R.T. OTHER THAN GROUP 'A' OFFICER**

Further, vide Office Order F.No.V.500/84/2014.Pt. dated 05.02.2016, some of the powers vested with CVC/CVO, CBIC has been delegated to the Pr/ADG of Zonal Units of DGoV. Salient feature of this Order is as below:-

- i. *Proposals for FSA as well as SSA of CVO, presently pending with Hqrs., will be dealt with at the Hqrs.*
- ii. *FSA will be provided by the Pr./ADG(Vig.) of the Zonal Unit having jurisdiction over the Customs, Customs(Prev.), CGST and Central Excise Zone where the incident took place.*
- iii. *SSA will be provided by the Pr./ADG(Vig.) of the Zonal Unit having jurisdiction over the Customs, Customs(Prev.), CGST and Central Excise Zone to which the Officer involved in the case is posted at the time of seeking SSA of CVO,CBIC.*
- iv. *For cases involving officers posted in Directorates/NACIN/Narcotics Commissioner/Chief Controller of Factories/CRCL, including those of the Zonal/Regional Units of these organizations, the provisions at Paras 3.1 & 3.2 above will apply mutatis mutandis.*
- v. *Cases involving officers posted in DRI, DGGI and DGoV, including those of the Zonal/Regional Units of these organizations, will continue to be dealt with at the Hqrs., irrespective of the level of officer/staff involved.*
- vi. *Composite cases involving Gr. 'B' and Gr. 'C' officers/staff shall be dealt with by respective Zonal units in accordance with provisions at Paras 3.1 & 3.2 above.*
- vii. *Composite cases involving Gr 'A' officers where officers/staff belonging to Gr. "B" and/or C' are also involved, will continue to be dealt with at the Hqrs., irrespective of the level of officer/staff involved.*

- viii. *Matters where CVC has asked for factual report/investigation report, will continue to be dealt with at the Hqrs. irrespective of the level of officer/staff involved.*
- ix. *CVO, CBIC may direct any case, including those falling under 4.1 or 5.1 to be dealt with by Hqrs.*
- x. *Proposals for seeking FSA/SSA of the CVO, CBIC shall be directly received by the jurisdictional Pr./ADG (Vig.) from the field formations and the advice will be directly communicated to the Disciplinary authority concerned.*
- xi. *This will also apply to those cases of SSA, which do not appear to be coinciding with the FSA provided by DG (Vig.) in the same case.*
- xii. *Instructions issued by DoPT and CVC from time to time in this regard particularly the instructions issued by the CVC in their Office Order No.26/4/2004 dated 16.4.2004, issued from F.No.98/VGL/15, may be kept in mind while processing the vigilance cases for advice.*

#### **6.4 RECONSIDERATION OF CVC'S FSA**

In terms of CVC Circular No.008/VGL/027 dated 09.09.2020 and 06.08.2020, any proposal for reconsideration of its FSA should be made to CVC with the approval of Competent Authority in DGoV (Hqrs.) within one month of receipt of CVC's FSA and that too only in those exceptional individual case having additional/new material facts.

*(Refer Para 1.6.4 and Para-7.9.9 of the CVC Vigilance Manual, 2021)*

#### **6.5 REQUIREMENT OF SSA**

As per Rule 15 (3) of the CCS(CCA) Rules, 1965, where it is necessary to consult the CVC/CVO, the Disciplinary Authority shall seek SSA before passing the order under Rule 15(5). Therefore, the SSA in case of Group-'A' officer or Composite case is to be sought from the CVC. Similarly, for the Group-'B' officer (Gazetted), the SSA is to be sought from the respective Zonal Units of DGoV in whose jurisdiction the Charged Officer is posted.

While deciding the Disciplinary Proceedings, the Disciplinary Authority has to comply with the provision contained in para-7.28 and its sub-para of the CVC Vigilance Manual, 2021.

## 6.6 FINAL ORDER IN DISAGREEMENT WITH CVC'S SSA:-

Instances have been seen, where Disciplinary Authority (for other than Group-‘A’ Officer) is passing Order contrary to the SSA tendered by CVC/CVO. In this regard DGoV (Hqrs.) instruction contained in letter *F.No.V-656/01/2016 dated 29.01.2020* addressed to the ‘Field Formations’ may be adhered to before passing such order. In case of disagreement between Disciplinary Authority and CVC and/or deviation from / non-implementation of CVC’s Advice.

- *Para-1.6.5, 7.19.3, 7.19.4 and 7.28.6 of the CVC Vigilance Manual, 2021 may also be referred;*
- *Para 1.6.5A of the CVC Vigilance Manual, 2021 further prescribes that in case of difference of opinion with CVC, the CVO, CBIC is required to consult DoPT; and*
- *Para-1.6.6 of the CVC Vigilance Manual, 2021 further prescribes the situation, where consultation of CVC is not required.*

## 6.7 ORDER OF APPELLATE AUTHORITY IN DISAGREEMENT WITH CVC'S ADVICE

Sometimes after imposition of the punishment by the Disciplinary Authority, the Charged Official makes an appeal. The Appellate Authority is expected to keep in view 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.

*(Refer Para-7.38 of the CVC Vigilance Manual, 2021)*

## 6.8 FSA W.R.T. CLOSURE OF CASE FOR THE OFFICER OTHER THAN GROUP-‘A’ OFFICER

It has been seen that Commissioner of Customs/Customs(P), and CGST and Central Excise (the Disciplinary Authority) are seeking FSA in respect of Group-‘B’ (Gazetted) officer from Zonal Unit of DGoV only in those cases, where they propose initiation of RDA Major or Minor penalty proceedings against the officer. In this regard, it is clarified that if any complaint involving ‘Vigilance Angle’ (Refer para3.8 of Chapter 3 of this Handbook) has been investigated by the Commissionerates and the Disciplinary Authority forms an opinion that the said complaint is liable to be dropped, in that event also FSA is required to be sought from the Zonal Unit of this Directorate.

*(Refer para 12.2.2 of CBIC's Complaint Handling Policy)*



## **6.9 REQUIREMENT OF ADVICE W.R.T. GROUP-‘B’ (NON-GAZETTED)/ GROUP-‘C’ OFFICERS**

Subject to the provisions mentioned hereinabove, DGoV (Hq.) vide letter F.No.V-500/84/2014/Pt. dated 26.12.2016 clarified that the case involving Group-‘B’ (Non-Gazetted) or a composite case involving Group-‘B’ (Non-Gazetted) with Group-‘C’ officers shall be dealt with by the Disciplinary Authority concerned without any requirement of Advice from DGoV (Hq. or Zone).

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## CHAPTER – VII

### INTRODUCTION TO PROCEDURES AND STEP BY STEP PROCESS IN DISCIPLINARY PROCEEDINGS

#### 7.1 PROCEDURE FOR IMPOSING MAJOR PENALTY

**The procedure for imposing major penalty is given in Rule 14 &15 of CCS(CCA) Rules 1965.**

- 7.1.1** An inquiry will have to be conducted during which oral and documentary evidences are recorded in the presence of the charged officer and he is given opportunity to cross-examine witnesses produced on behalf of the Disciplinary Authority. The charged officer may also produce documentary and oral evidences (Witnesses) in his defense which are cross examined by the Presenting Officer. An Inquiring Authority conducts the inquiry and a Presenting Officer presents the case on behalf of the Disciplinary Authority and the charged official is assisted by a Defense Assistant, not being a legal practitioner.
- 7.1.2** The Charged Officer is given an opportunity of explaining the circumstances appearing against him and no material is taken on record by IA for consideration without his getting such an opportunity in his defense.

#### 7.2 STEPS IN DISCIPLINARY PROCEEDINGS - (MAJOR PENALTY)

- i. To obtain First Stage Advice for imposing Major Penalty from CVC (for Group A Officers and composite cases) and CVO (Non Group A officers).
- ii. Service of charge-sheet (Charge Memorandum with Annexure I, II, III& IV along with First stage advice of the CVO/CVC) on Charged Officer (CO) by Disciplinary Authority (DA); Service of charge sheet should be effected on the charged officer as per Rule 30 of CCS (CCA) Rules.
- iii. Written statement of defense of CO within specified period Under Rule 14(4)(b) of the CCS (CCA) Rules, 1965  
*“within a period of fifteen days, which may be further extended for a period not exceeding fifteen days at a time for reasons to be recorded in writing by the Disciplinary Authority or any other Authority authorized by the Disciplinary Authority on his behalf: Provided that under no circumstances, the extension of time for filing written statement of defense shall exceed forty-five days from the date of receipt of articles of charge”.*

- iv. The Disciplinary Authority (in case of all or some charges are admitted by the CO) to record its findings on such charge(s), after taking such evidence as it may deem fit.
- v. Appointment of Inquiry Authority [IA also known as Inquiry Officer (IO) & Presenting Officer(PO)], where the charges are not admitted or no reply to the charge sheet is filed within prescribed time limit.
- vi. Preliminary hearing by IA (As per Rule 14(7) of the CCS (CCA) Rules, 1965, CO to appear before IA on such day and at such time within ten working days from the date of receipt by the inquiring authority of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by notice in writing, specify, in this behalf, or within such further time, not exceeding ten days, as the inquiring authority may allow).
- vii. Inspection of listed documents by CO & Defense Assistant.
- viii. Submission of lists of defense witnesses and of additional documents by CO indicating relevancy of such document and witnesses.
- ix. IA to decide relevance of additional documents sought for by CO & Defense Assistant.; IA to write to the custodian of defense documents for production thereof.
- x. Every authority having the custody or possession of the requisitioned documents to produce the same or issue a non-availability certificate before the Inquiring Authority within one month of the receipt of such requisition.
- xi. Regular hearing of Prosecution case (Examination-in-Chief of State Witnesses (SW) i.e., Witnesses listed in Annexure IV of the Charge Memorandum (also known as Prosecution Witnesses PWs by PO/; Cross examination of SWs by CO/DA/; Re-examination of SWs by PO).
- xii. Submission of statement of Defense by CO, which may be oral or written.
- xiii. Hearing of Defense case (Examination-in-Chief of Defense Witness (DWs)/ Cross examination of DWs/Re-examination of DWs).
- xiv. C.O. appearing as a DW or Mandatory questions to C.O. by I.O.
- xv. General Examination of the C.O. as provided under Rule 14(18) of CCS (CCA) Rules is mandatory if CO does not depose as his own witness.
- xvi. Submission of written brief by P.O. to I.O. with a copy to C.O within 15 days;
- xvii. Submission of written brief by C.O. within 15 days.
- xviii. Conclusion of inquiry and submission of Report by I.O. to D.A. within 6 months from date of receipt of order of appointment as I.A, as laid down in Rule 14(24)(a) as follows:

*"The Inquiring Authority should conclude the inquiry and submit his report within a period of six months from the date of receipt of order of his appointment as Inquiring Authority. (b)Where it is not possible to adhere to the time limit specified in clause (a), the Inquiring Authority may record the reasons and seek extension of time from the Disciplinary Authority in writing, who may allow an additional time*

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*not exceeding six months for completion of the Inquiry, at a time. (c) The extension for a period not exceeding six months at a time may be allowed for any good and sufficient reasons to be recorded in writing by the Disciplinary Authority or any other Authority authorised by the Disciplinary Authority on his behalf ".*

- xix. Remission of the case to IA by D.A. for further inquiry; Reasons for remission to be recorded.
- xx. D.A. sending a copy of IO's report to the C.O. with tentative reasons for agreement/ disagreement with IO's findings. CO to submit his written representation or submission to the Disciplinary Authority within fifteen days.
- xxi. Obtaining second stage advice from CVO/ CVC in cases, wherever required.
- xxii. Referring the matter to UPSC for advice for quantum of penalty in cases where President is the Disciplinary Authority.
- xxiii. Referring the matter to DoPT for resolution of difference between tentative view of DA and UPSC or DA and CVC.
- xxiv. Sending a copy of UPSC advice to the C.O. for his written representation within 15 days, if any.
- xxv. D.A to issue "speaking order" imposing any of the penalties or an order exonerating the C.O.(Cases of retired non Group 'A' govt. servants to be referred to the CBIC for Presidential order by the original Disciplinary Authority).

### **7.3 PROCEDURE FOR IMPOSING MINOR PENALTY**

The procedure for imposing minor penalty is given in Rule 16 of CCS(CCA) Rules 1965.

- 7.3.1** There is material difference between the procedure for imposing a minor penalty and that for imposing a major penalty. In the case of minor penalty, the employee should be informed in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which action is proposed to be taken and given a reasonable opportunity of making such representation as he may wish to make against the proposal. It is not necessary to conduct an inquiry. However, if the Disciplinary Authority considers it necessary, depending on the nature of the charge or if examination of witnesses is required to hold an inquiry as in major penalty proceedings to arrive at the truth, he may hold such inquiry. The CO may request for holding an oral inquiry citing grounds for the same. However, the discretion to hold Inquiry lies with the Disciplinary Authority. After considering the representation of the employee and the record of inquiry, if any, conducted, the Disciplinary Authority may take appropriate decision on the finding and the penalty to be imposed and impose a minor penalty. Major penalty cannot be imposed on a Charged Officer if the proceedings were initiated under Minor Penalty provisions.

## 7.4 MAJOR STEPS IN DISCIPLINARY PROCEEDINGS RELATING TO MINOR PENALTY

- i. Service of charge memorandum on CO by D.A;
- ii. Written reply of CO, within specified period
- iii. Holding an inquiry under Rule 14, wherever required.
- iv. Obtaining necessary advice of CVC in case of exoneration.
- v. Referring the matter to UPSC for advice for quantum of penalty
- vi. Dropping of charges or imposition of a minor penalty through a "Speaking order" by D.A.

## 7.5 TIMELINES FOR COMPLETION OF INVESTIGATION, INQUIRY AND DISCIPLINARY PROCEEDINGS

**7.5.1** Timely completion of Departmental inquiry/Departmental proceedings is the prime responsibility of the Disciplinary Authority. CVC and DoPT vide various circulars and OMs have prescribed time lines for finalization of investigation, inquiry and Disciplinary proceedings. Followings instructions/OMs are issued in this regard-

1. *CVC Guidelines vide Circular No.000/VGL/18 dated 23.05.2000*
2. *CVC Circular No. 002/VGL/49 dated 19.09.2002: Delay in implementation of CVC's advice*
3. *CVC Office Order No. 51/08/2004 dated 10.08.2004 regarding adherence to time limits in processing of disciplinary cases*
4. *DoPT OM No. 372/3/2007AVD-III(Vol.10) dated 14.10.2013, timely action in disciplinary matters where major penalty proceedings have been initiated*
5. *CVC Circular No. 02/01/2016 dated 18.01.2016-Timely completion of disciplinary proceedings)*
6. *DoPT O.M No. 425/04/2012-AVD-IV(A) dated 29.11.2012 regarding Guidelines for monitoring and expeditious disposal of the disciplinary proceeding cases*
7. *CVC Circular No. 18/12/20 dated 14.12.2020: Timely finalization of Departmental Inquiry Proceedings – improving vigilance administration)*
8. *CVC Circular No. 20/12/20 dated 30.12.2020: Disposal of old pending cases*

**7.5.2** The various timelines prescribed for investigation, inquiry and various stages of disciplinary proceedings are as follows-

S. No.	State of Investigation or inquiry or Disciplinary proceedings	Timeline
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.	3 months in terms of CVC Circular No.021-AIS-1(2) dated 19.04.2021.
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.
	Submission of defense reply/statement.	15 days, not exceeding 45 days as per CCS(CCA) Rule
9	Consideration of defense reply/statement.	Within 15 (Fifteen) days.
10	Issue of final orders in minor penalty cases.	Two months from the receipt of defense statement.
11	Appointment of IO/PO in major penalty cases.	Within 15 (fifteen) days after receipt and consideration of defense statement.
12	Issue of Charge Sheet to the stage of appointment of IO and PO.	All the required action may be completed within a period of two months from the date of issue of First Stage Advice of the Commission.
13	Conducting Departmental inquiry and submission of report.	Six months from the date of appointment of IO/PO.
14	Sending a copy of the IO's report to the Charged Officer for his representation.	(i) Within 15 (fifteen) days of receipt of IO's report if any of the Articles of charge has been held as proved; (ii) 15 (fifteen) days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated.

15	Submission by charged officer to IO's findings/DA's disagreement note.	Within 15(fifteen) days.
16	Conducting departmental inquiry and submission of report by the inquiry officer (I.O).	The inquiry report should be submitted within six months from the date of appointment of inquiry officer.
17	Overall additional time for all / any of the above stages of disciplinary proceedings due to some unavoidable / unforeseen circumstances.	In addition to the above time limit, a period of 1 more month maybe taken, if required.
18	Overall time limit for conclusion of disciplinary proceedings.	DoPT vide OM No. 372/3/2007AVD-III (Vol. 10) dated 14.10.2013 has prescribed a time limit of 18months for completion of major penalty proceedings against Government servants from the date of delivery of charge-sheet and till the date of passing of final orders.

## 7.6 COMMON PROCEEDINGS

Common proceedings is the process through which disciplinary action is conducted simultaneously against two or more Government servants in respect of the misconduct committed by them in a single transaction. This is provided under Rule 18 of CCA Rules.

As per Rule 18, common proceedings may be initiated either by President or the authority that can impose the penalty of dismissal from service on all the delinquent employees.

For conduct of common proceedings, all the employees concerned must be amenable to CCA Rules. The proceedings must be based on a single transaction in which all the delinquent employees must have contributed/participated. It would be advantageous if all the delinquent employees are under the disciplinary powers of the same authority.

*(Refer Para 7.6 of CVC Vigilance Manual 2021, Chapter 22 of HANDBOOK FOR INQUIRY OFFICERS AND DISCIPLINARY AUTHORITIES, 2013 published by ISTM, DoPT for additional information in Q&A form)*

## 7.7 SIMULTANEOUS DEPARTMENTAL PROCEEDINGS AND CRIMINAL PROCEEDINGS

There is no bar in simultaneous departmental proceedings and criminal proceedings. However, if the departmental proceedings and the criminal case are based on an identical and similar set of facts and the charge in the criminal case against the delinquent employee 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. In cases where it is appropriate, disciplinary proceedings must be initiated simultaneously with criminal proceedings.

*(Refer DoPT OM dated 21.07. 2016 vide F.No.11012/6/2007-Estt (A-III) and CVC Circular 08/07/2018 dated 31.07.2018 vide 99/VGL/087-389176)*

## 7.8 DISCIPLINARY PROCEEDINGS FOR PROBATIONERS

### 7.8.1 Procedure to be followed for terminating the services of a probationer

Services of a probationer or temporary employee can be terminated by invoking the terms of appointment or the Temporary Services Rules — if it is applicable to that case. This is known as discharge simpliciter. It is settled position of law that in the event of a non-stigmatic termination of the services of a probationer, principles of *audi alteram partem* are not applicable. Normally, the rules would provide for a notice period or salary in lieu of notice period. This must be complied with. Precautions are to be taken while visiting the employee with adverse career impact by invoking the terms of contract or statutory provisions.

Two precautions must be ensured under the above circumstance

- a. The provisions of the contract or the statutory provisions must be adhered to — say the length of the notice period, the conditions and procedure prescribed in the statutory provisions such as FR 56 (j), etc.
- b. The order of discharge must not cast any stigma on the employee concerned. For example, the order discharging a probationer should not mention any deficiency on the part of the employee. The discharging authority has no power to cast any aspersion on the competence or character of the employee without providing any opportunity to clarify his/her position.

*(Refer Rule 5 of CCS (TEMPORARY SERVICE) RULES, 1965 )*



In short, even probationers will be entitled to the protection of inquiry, if the order of discharge contains a stigma. Therefore, it may be noted that the proceedings can be initiated against the delinquent officer during probation under the CCS (CCA) Rules, 1965.

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## **CHAPTER-VIII**

### **DRAFTING OF CHARGE MEMORANDUM**

#### **8.1 INTRODUCTION**

Charge Memorandum is a culmination of Vigilance Investigation, where department forms an opinion that there is some irregularity against a Government Servant and he may be liable for penalty as prescribed under Rule 11 of the CCS (CCA) Rules, 1965. Therefore, drafting of Charge Memorandum be it, Major Penalty Charge Memorandum under Rule 14 *ibid* or Minor Penalty Charge Memorandum under Rule 16 *ibid* is an important part in a Disciplinary Proceedings. Sustainability of Charge Memorandum depends upon quality of Vigilance Investigation and preservation of original documents to be relied upon.

Chapter-12 (Drafting and Issue of Charge Memorandum) of the 'Handbook for Inquiry Officers and Disciplinary Authorities' prepared by Institute of Secretariat Training and Management under Department of Personnel and Training (DoPT) gives detail on drafting of Charge Memorandum in the question answer format.

*(Refer [https://dopt.gov.in/sites/default/files/Vigilance\\_Handbook-2013.pdf](https://dopt.gov.in/sites/default/files/Vigilance_Handbook-2013.pdf))*

#### **8.2 FORMAT OF CHARGE MEMORANDUM**

A Major Penalty Charge Memorandum should be drafted as per the Form-6 (Standard form of charge-sheet for penalties). Similarly, a Minor Penalty Charge Memorandum should be drafted as per the Form-11 (Standard form of memorandum of charge for Minor Penalties) and as per the Form-12 (Standard form for initiation of Minor Penalty proceedings), if Disciplinary Authority decides to hold inquiry. The 'Sample Forms' are available in Chapter-32 of the 'Handbook for Inquiry Officers and Disciplinary Authorities' prepared by Institute of Secretariat Training and Management under Department of Personnel and Training (DoPT)

#### **8.3 DRAFTING/PREPARATION OF CHARGE MEMORANDUM IN VIGILANCE MATTER**

**8.3.1** If an Article of Charge includes more than one allegation, the same, sometimes, may lead to issue of partly proved situation. To overcome this, an Article of Charge should contain only one allegation against the officer. Thus, for each allegation, there should be separate Article of Charge.

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CBIC has issued Instructions on drafting of Charge Memorandum vide *F.No.C-11016/38/2019-Ad.V dated 08.01.2020* prescribing procedure and Standard Operating Procedure (SoP). While drafting a Charge Memorandum reference from Vigilance Manual, 2021 as well as from the CCS(CCA) Rules, 1965 can be drawn. In case of Major Penalty proceedings, there are four (04) Annexure to the Charge Memorandum. The relevant Para for the drafting of each Annexure of any Charge Memorandum are as follows:

		<b>CVC Vigilance Manual, 2021</b>	<b>CCS(CCA) Rules, 1965</b>
Annexure – I	Articles of Charge	Para-7.12	Rule 14(3)(i)
Annexure – II	Statement of imputations of misconduct or misbehavior	Para-7.13	Rule 14(3)(ii)
Annexure – III	List of Documentary evidence in support of the charges	Para-7.14	Rule 14(3)(ii)(a)
Annexure – IV	List of Oral witnesses in support of the charges	Para-7.15	Rule 14(3)(ii)(b)

**8.3.2** The Charge Memorandum should be served in a timely manner to maintain relevance; the charge must be specific, and precise and show clearly the responsibility of the Official for the misconduct; the charge should give full details of the incident and it should be handed over to the employee concerned and its receipt be obtained from him. In case he refuses to give a receipt, such an endorsement can be made on it, in the presence of at least two witnesses.

## **8.4 IMPORTANCE OF RUDs IN DISCIPLINARY PROCEEDINGS**

**8.4.1** Relied Upon Documents (RUDs), as listed out in Annexure-III to the Charge Memorandum are also an important part of a Disciplinary Proceedings as the Charged Officer during the course of Inquiry Proceedings before Inquiry Officer may ask production of the Original and/or Authenticate documents. Therefore proper maintenance of RUDs is very important. In this regard, SoP issued by CBIC through letter *F.No.C-11016/19/2010-Ad.V dated 17.12.2018* is required to be adhered to for proper maintenance of RUDs.

**8.4.2** Further, as per CBIC's letter *No.C-14010/5/2011-Ad.V dated 24.02.2011*, no statement recorded during investigation can be used against the Charged Officer in the inquiry, unless the person is made a witnesses in Annexure-IV, and is examined before the inquiring Authority. It is critical that the list of prosecution witnesses is carefully scrutinised,

finalised and listed, so as to make a water tight case and ensure that the charges can be successfully established.

## **8.5 DRAFTING/PREPARATION OF CHARGE MEMORANDUM IN NON-VIGILANCE MATTER**

For non-vigilance case including of unauthorised absence, sexual harassment etc. against a Group-‘A’ Officer, it has been decided as communicated by *Ad.V of CBIC vide its letter F.No.C-14011/08/2017-Ad.V dated 04.04.2019* that all such complaints will be referred to Ad.V only after preliminary Investigation is completed. In case, Competent Authority has taken a view to initiate Disciplinary Action then they should obtain CBIC’s approval and thereafter only, the case will be referred to CVO/Ad.V for obtaining the approval of disciplinary authority for institution of formal disciplinary action under CCS(CCA) Rules, 1965 and further action in the matter. While submitting proposal to the Ad.V, the same should accompany the documents as listed out in para-2 of the said letter dated 04.04.2019.

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## **CHAPTER –IX**

### **ROLE AND FUNCTIONS OF DA, IO AND PO AND GUIDANCE NOTE**

#### **9.1 ROLE AND RESPONSIBILITIES OF DISCIPLINARY AUTHORITY**

**9.1.1** Disciplinary Authority is defined under Rule 2(g) CCS(CCA) Rules, 1965. It is defined as the authority who has been entrusted with powers to impose any of the penalties on the employees specified in Rule 11. The Disciplinary authority can either hold the enquiry by themselves or delegate this authority to another officer who is in a grade higher than the Charged Official. If the Disciplinary Authority finds that any or all the charges have not been admitted by the employee in their written statement of defense or if no written statement of defense is received within the specified date, the Disciplinary Authority may inquire into the truth of the charges. It should be ensured that the officer so appointed has no bias and had no occasion to express an opinion in the earlier stages of the case.

**9.1.2** The main responsibility of the Disciplinary Authority is to ensure discipline in the organization. Towards this, the Disciplinary Authorities are required to identify acts of indiscipline and take appropriate remedial action such as counseling, cautioning, admonition, imposition of penalties, criminal prosecution, etc.

**9.1.3** Disciplinary Authorities are expected to keep the employees informed of the code of conduct and the consequences of deviant behavior. They should also be consistent in approach. The Disciplinary Authority should treat all employees alike without any discrimination. The Disciplinary authority is also expected to impose penalty without any delay.

**9.1.4** Where there are charges relating to misconduct against the Disciplinary Authority, such officer cannot function as Disciplinary Authority. Further, an officer who has detected the misconduct or one who is a witness or a complainant, cannot function as Disciplinary Authority.

**9.1.5** When the Disciplinary Authority orders an enquiry, an Inquiring Authority and a Presenting Officer have to be appointed. The Inquiry Officer should be senior to the Presenting officer and the officer/employee proceeded against.

There is no bar on the Disciplinary Authority for conducting an inquiry by themselves but it is desirable for the sake of justice and equity that the Inquiry Officer should be an independent authority.

An Inquiry Officer must be

- an independent authority with an open mind and without any connection with the

case

- a responsible official commanding respect from the employees of the organization.
- no special qualification needed to be an IA but must possess a fair knowledge of the principles of natural justice.
- a person who has taken part in the preliminary investigation of the case and has given their opinion on the matter should not be appointed as an Inquiry Officer.
- should be senior to the officer being inquired into, so that the inquiry is carried out fairly and without coming under pressure

A standard checklist is prescribed by the CBIC for Inquiry Officer on appointment, wherein the attention of IO is drawn to the time bound completion of inquiry, general examination of Charged Officer, check list of points, separate folders of documents should be followed. The check list is placed as annexure to this chapter.

**9.1.6** Before a reference is made to the Inquiry Officer, the Disciplinary Authority shall ensure that they are in possession of the listed documents. On conclusion of the enquiry, the Inquiry Officer shall submit their report to the Disciplinary Authority together with all the inquiry records. The report should clearly indicate their findings in respect of each charge as to whether it has been proved on the basis of evidence adduced during the inquiry. On the basis of the Inquiry Officer's report, the Disciplinary Authority will pass the final order.

## **9.2. FUNCTIONS OF DA**

A Disciplinary authority is required to discharge the following functions:

- i. Examination of the complaints received against the employees.
- ii. Deciding as to who is to be appointed as the investigating authority.
- iii. Taking a view as to whether there is any need to keep the delinquent employee under suspension.
- iv. Taking a view on the preliminary investigation report and deciding about the future course of action thereon, such as warning, training, counseling, initiation of major or minor penalty proceeding, prosecution, discharge simpliciter, etc.
- v. Consultation with the CVC/CVO, where necessary.
- vi. Deciding whether there is any need to issue of charge sheet or whether penalty may be imposed, dispensing with inquiry, under the appropriate provision.
- vii. Issue of charge sheet where necessary.

- viii. In the case of minor penalty proceedings, deciding, either suo motu or based on the request of the delinquent employee, as to whether it is necessary to conduct a detailed oral hearing.
- ix. In the case of minor penalty proceedings, forming tentative opinion about the quantum of penalty, based on the representation of the delinquent employee, if any, and ordering for a detailed oral hearing where necessary.
- x. After issue of charge sheet, deciding as to whether there is any need to conduct inquiry, or the matter may be closed, or the penalty can be imposed, based on the unambiguous, unconditional and unqualified admission by the delinquent employee.
- xi. Passing final order imposing penalty or closing the case, based on the response of the delinquent employee (WSD).
- xii. Appointment of Inquiry Authority and Presenting Officer, where necessary.
- xiii. Taking a view on the request, if any, of the delinquent employee for engagement of a Legal Practitioner as Defense Assistant.
- xiv. Making originals of all the listed documents available to the Presenting Officer so that the same could be presented during the inspection of documents.
- xv. Examination of the inquiry report to decide as to whether the same needs to be remitted back to the inquiry authority.
- xvi. Deciding as to whether the conclusion arrived at by the Inquiring Authority is acceptable and to record reasons for disagreement, if any.
- xvii. Forward the inquiry report to the delinquent employee together with the reasons for disagreement, if any and the recommendations of the CVC where applicable.
- xviii. Considering the response of the delinquent employee to the inquiry report and the reasons for disagreement and taking a view on the quantum of penalty or closure of the case.
- xix. Consultation with UPSC/DoPT where necessary.
- xx. Providing a copy of UPSC advice to the charged officer.
- xxi. Pass final order in the matter.
- xxii. On receipt of copy of the appeal from the penalized employee, prepare comments on the Appeal and forward the same to the Appellate Authority together with relevant records.

### **9.3 IMPORTANT DON'TS FOR DISCIPLINARY AUTHORITY**

DA should avoid the following:-

- i. Frame charges on flimsy grounds.
- ii. Appoint a witness or the complainant as an Inquiry Officer.
- iii. Appoint the Inquiry Officer before statutory time limit for receipt of the reply from the CO is over.
- iv. Subject the Inquiry Officer to direction and control.
- v. Ask subordinate officer to sign and issue the charge sheet and the penalty orders on behalf of DA. (Except the Presidential orders which are signed by the officers designated to sign the same on behalf of the President.)
- vi. Grant extension of time to IA without cogent reasons. Extension of 6 months at a time should be avoided.
- vii. Rely on extraneous material, not brought out in evidence, to disagree with the IA's report.
- viii. Mention new charges in the final penalty order to prove the misconduct.

### **9.4 ROLE AND RESPONSIBILITIES OF INQUIRY OFFICER**

The role of an Inquiry Officer is to hold an in-depth inquiry with the twin purpose-

- i. to bring out correct facts of the case after holding an inquiry in accordance with the prescribed procedure; and
- ii. to ensure an impartial and fair hearing to the charged official.

The main responsibility of IA is to ensure that Departmental inquiry proceedings are completed within six months from the date of his appointment.

### **9.5 FUNCTIONS OF THE INQUIRY OFFICER:**

Broadly speaking the Inquiry Officer has to perform the following functions:-

- i. To bring on record all documents in support of the charges and those permitted for the defense.
- ii. To record oral testimony of the prosecution and the defense witness after subjecting them to cross-examination by the opposite party.



- iii. To examine the Charged Official 'generally' after the evidence has been recorded vide Rule 14(18) of CCS (CCA) Rules. The purpose is to get clarifications from the Charged Official on the evidence against him.
- iv. To analyze the evidence recorded by him and make correct and proper assessment of the effect of total evidence on record.
- v. To write a reasoned report of inquiry giving his pointed findings whether the charges are proved or not proved.

## **9.6 IMPORTANT DO'S FOR AN INQUIRY OFFICER**

- i. Verifying the appointment order and the enclosed documents.
- ii. Check-up that the following documents have been received along with the order of appointment: -
  - a. A copy of the articles of charge and the statement of imputations of misconduct or misbehavior.
  - b. A copy of the written statement of defense, if any, submitted by the charged official.
  - c. A list of documents (RUDs) by which, and a list of witnesses by whom the articles of charge is proposed to be sustained.
  - d. Copies of the statement of witnesses, (if any) recorded in the course of preliminary enquiry/investigation.
  - e. Evidence proving the service of the charge sheet on the Charged Official.
  - f. A Copy of the order appointing the Presenting Officer.
- iii. There is no delay in commencement and conduct of inquiry after receipt of IO and PO appointment orders.
- iv. Send notices of preliminary hearing in the prescribed form. The preliminary hearing shall be fixed within the prescribed time limit.
- v. The date for the preliminary hearing is chosen in such a way so as to provide reasonable opportunity to the parties concerned.
- vi. The charged officer is asked in the notice of preliminary hearing itself to nominate his defense assistant and bring the officer during preliminary hearing.
- vii. Programme for conduct of inquiry is prepared in consultation with prosecution and defense.
- viii. Inspection of listed documents is completed by Presenting Officer immediately after the receipt of appointment order or as ordered by the Inquiring Authority.
- ix. A day for brief hearing is fixed for deciding relevance of defense documents and

witnesses to avoid protracted correspondences.

- x. Hearing is held and completed on day-to-day basis and no adjournment is allowed on frivolous ground.
- xi. See that the notices are served in person on the Charged Official or communicated to them and duly acknowledged.
- xii. Find out if the Charged Official wishes to admit any of the charges in the Preliminary hearing.
- xiii. At the Preliminary hearing, apprise the Charged Official and the Presenting Officer of the procedure of inquiry.
- xiv. Ask the CO to inspect the listed documents and accept the documents for genuineness and obtain certificate of inspection of documents from the charged official.
- xv. Decide relevance of defense documents and witnesses quickly.
- xvi. Record reasons in the Daily Order Sheet for disallowing the defense documents/witnesses.
- xvii. Send requisition for the additional documents to the custodian with whom the documents are available.
- xviii. If necessary, have a second preliminary hearing for the purpose of reducing the number of witnesses and documents in consultation with the Presenting Officer and the CO. This could cut out a lot of delay at a later stage.
- xix. Maintain a Daily Order Sheet folder and record the daily transaction of business therein.
- xx. Send notices to witnesses in the prescribed form. In the case of witnesses who are public servants, requests should be sent to the Head of the Department/office to ensure the attendance of the witnesses concerned.
- xxi. Notice to private witnesses may be sent direct or through the Presenting Officer/Charged Official.
- xxii. Send intimation to the controlling authority in the prescribed form about the officer selected by the Charged official as his Assisting Officer/ Defense Assistant.
- xxiii. Obtain certificate from the defense assistant that he is not having more than two cases on hand in which he is rendering defense assistance.
- xxiv. Reject all requests for adjournments etc. which appear to be meant to obstruct or delay the proceedings, but always record the reasons for such rejections, in the Daily Order Sheet.
- xxv. The parties are not allowed to dominate the proceedings by seeking frequent

adjournments except in case of illness supported by medical certificates or any unavoidable circumstance.

- xxvi. Pre-recorded statements of listed witnesses recorded during the preliminary investigations shall be made available to the charged officer well in time for cross-examination.
- xxvii. The request from the charged officer for providing copies of pre recorded- statement of witnesses recorded during investigation but which are not part of listed documents, may not be entertained.
- xxviii. Summons to witnesses are issued well in advance. Presenting Officer and charged officer should be made responsible personally to ensure the witnesses presence.
- xxix. Ex-parte inquiry may not be held if the charged officer is under suspension and is unable to attend the inquiry proceedings due to non-receipt of subsistence allowance.
- xxx. During examination in-Chief, leading questions are not allowed.
- xxxi. Witness understands the question asked to him during examination/cross-examination and ensure that the answer given in vernacular is properly translated and recorded.
- xxxii. Record the questions disallowed during the cross-examination.
- xxxiii. Witness is recalled for re-examination only if it is absolutely necessary in the interest of justice.
- xxxiv. Production of new evidence to fill up a gap in the evidence is not allowed except when there is an inherent lacuna and defect in the evidence originally produced.
- xxxv. No material from personal knowledge having a bearing on the fact of the case or of extraneous nature which was not part of the Charge Memorandum or in the evidence submitted during inquiry and against which the charged officer has no opportunity to defend himself is imported to case.
- xxxvi. Depositions of the witness(es) should be recorded during the enquiry and the signatures obtained thereon.
- xxxvii. All the witnesses whose statements are relied upon should be examined/ cross-examined.
- xxxviii. If the witness presented by the Prosecution turns hostile, chance should be given to the PO to cross examine them.
- xxxix. If the Charged official has not offered themselves as a witness, he must be questioned generally on the circumstances appearing against him at the end of the inquiry, in compliance with Rule 14(18) of CCS(CCA) Rules.

- xl. The deposition of each witness should be recorded on a separate sheet under dictation and should record a certificate at the end of each deposition as follows:-  
*"Read over to the witness in presence of the Charged Official and admitted correct/objection of witness recorded."*
- xli. Reject any request for permission to introduce new evidence or recall any witness merely to fill up any gap in the evidence.
- xlii. Give article wise clear findings holding the charges proved, not proved or partially proved.
- xlili. The charge sheet is perceived on the basis of the Charge — Fact — Evidence correlation. This will help in analyzing and appreciating evidence.
- xliv. Send a copy of the written brief of the Presenting Officer, if already sent by the PO to the charged employee within 07 days.
- xlvi. Inquiry Report is written and submitted in a fortnight after receipt of written brief.
- xlvi. Submit the report of inquiry to the Disciplinary Authority along with all original records within 6 months of appointment.
- xlvi. To seek timely extension of time to conclude inquiry and submit report from DA based on reasons.
- xlvi. Entire gamut of inquiry should be followed even if the inquiry is held ex-parte.
- xlvi. Inquiry findings are confined to the essence of misconduct attributable to charged official or whether the charge of misconduct is made out against the official or not.
  - I. Findings in the case are not merely based on the written statements submitted by Prosecution and Defense but on the analysis of evidence produced during the inquiry by the parties. The inquiry conclusion is logical and it should not appear as if mind has already been made up.
  - li. The principles of natural justice and reasonable opportunity is followed during conduct of Departmental proceedings.
  - lii. The Inquiry Officer shall ensure, while submitting his Inquiry Report to the CBIC/Ad.V wing, in respect of cases appointed by them, that all requisite documents, complete in all respects, prescribed as per the Check List to the CBIC instruction in F. No.C-14011/07/2016-Ad.V dated 11/07/2018 are submitted.

## 9.7 IMPORTANT DON'TS FOR INQUIRY OFFICERS

### **Inquiry officers should avoid the following :-**

- i. Proceed with the inquiry if have any personal interest is involved. If case any bias is

felt, return the enquiry to the Disciplinary Authority explaining position.

- ii. Summon witnesses merely to prove formal documents whose genuineness and authenticity are admitted by the Charged Official.
- iii. Give publicity since departmental proceedings are in the nature of a domestic enquiry.
- iv. Continue with the proceedings if a representation of the Charged Official alleging bias against the Inquiry Officer is pending consideration.
- v. Postpone preliminary hearing simply because the Charged Official could not arrange defense assistance.
- vi. Call for the documents or examine a witness to decide the question of their relevance.
- vii. Requisition the additional documents from the Disciplinary Authority. (Need to write directly to the authority in whose custody or possession these documents are available.)
- viii. Throw the responsibility of calling defense witnesses on the Charged Official.
- ix. Allow any request from the Charged Official for supply of copies of voluminous documents (They are, however, free to take extracts).
- x. Summon the following documents:-
  - a. Report of preliminary enquiry/investigation
  - b. File dealing with the disciplinary case against the Charged Official
  - c. Advice of the CVC/Ministry.
- xi. Consult others behind the back of the Charged Official.
- xii. Look into unspecified record.
- xiii. Allow the Presenting Officer to insist that the witnesses should be examined in the same order in which they have been listed in the charge-sheet.
- xiv. Allow leading questions, except in cross-examination. Put leading questions to the witnesses, yourself.
- xv. Allow adjournments on flimsy grounds.
- xvi. Allow 'New evidence' to fill up gaps. It should be allowed only if there is an inherent lacuna in the evidence already recorded.
- xvii. Allow the Presenting officer to introduce any new point during the examination of a

witness unless they have convinced you of its necessity and taken prior permission.

- xviii. Put any question yourself to a witness or the Charged Official from your personal knowledge.
- xix. Allow the conduct of the witness to be the subject matter of examination or cross-examination.
- xx. Admit evidence recorded in an earlier inquiry in the subsequent inquiry (in exceptional cases, however, for reasons to be recorded, the evidence rendered in earlier proceedings may be taken on record).
- xxi. Allow defense assistance when the charged employee is appearing as a defense witness or when he is answering the mandatory questions, towards the close of inquiry.
- xxii. Examine a co-accused in common proceedings as a witness against the other co-accused, unless he opts to examine himself.
- xxiii. Allow cross-examination of a defense witness by the other charged officials in a joint trial. Only presenting officer can cross-examine a defense witness.
- xxiv. Go in for local inspection of the site of the incident except when accompanied by the charged officials and the presenting officer.
- xxv. Supply copy of the written brief of the Charged Official to the presenting officer.
- xxvi. Be bound by the rigid limitations regarding the admissibility of evidence and the degree of proof applicable to criminal proceedings.
- xxvii. Import anything extraneous into your report but confine yourself to the facts in issue, as brought out in evidence.
- xxviii. Avoid ambiguous findings.
- xxix. Recommend the penalty to be imposed in your Inquiry report.

## **9.8 ROLE AND RESPONSIBILITIES OF THE PRESENTING OFFICER**

A Presenting Officer is appointed for the purpose of presenting the case of the Disciplinary Authority to find truth in the charge (s) and the charges can be proved in the Inquiry. The proper role for the Presenting Officer is to assist, to the best of his ability, the Inquiring Authority to reach the truth, by presenting before him the case of the Disciplinary Authority in its correct perspective. The DA should carefully appoint a PO since he is representing the case of the Govt. and plays a pivotal role. The PO should be of sufficient seniority, so as to ensure that he cannot be pressurized and can present the case of the

Govt., on merits.

Presenting Officer is required to lead the evidence of the Prosecution logically and forcefully before the Inquiring Authority and satisfactorily answer the contentions raised by the Charged Officer.

Some of the broad responsibilities of the Presenting Officer are: -

- i. Read the case in all its aspects and ramifications and evolve a strategy for presentation of prosecution case;
- ii. Ensure inspection of Listed documents as ordered by Inquiring Authority;
- iii. Produce accepted documents to Inquiring Authority for marking the same as exhibits and for taking them on record;
- iv. Evolve strategy for presentation of listed prosecution documents and witnesses in a logical sequence to prove the charge (s);
- v. Present the prosecution case;
- vi. Ensure attendance of prosecution witness;
- vii. Lead the oral evidence on behalf of the Disciplinary Authority;
- viii. Cross-examine the Defense witness;
- ix. Seek permission of Inquiring Authority to introduce new evidence if considered necessary before conclusion of prosecution case;
- x. Prepare and submit the Written Brief;
- xi. Keep the Disciplinary Authority posted with the progress of Inquiry by sending the brief of work done at the end of each hearing.

## **9.9 FUNCTIONS OF THE PRESENTING OFFICER**

The primary function of the Presenting Officer is to marshal facts before the Inquiry Officer and to examine and cross-examine the witness produced during the inquiry. Thus, he should:

- i. Assist the Inquiry Officer during preliminary hearing to sort out the preliminaries;
- ii. Supply copies of documents in support of the charges and allow inspection of the originals or certified copies to the charged employee when so directed by the Inquiry Officer.
- iii. Supply copies (in full) of the earlier statements of witnesses mentioned in the list of

prosecution witnesses.

- iv. Produce the listed documents before the inquiry officer in the beginning of the regular hearing so that they are brought on record; and to prove the disputed documents by examining the relevant official witness(es).
- v. Lead, in a logical manner, the oral evidence before the Inquiry Officer in support of the charge.
- vi. Where necessary, to make timely request to the Inquiry Officer for production of some new or additional evidence not mentioned in the charge sheet. The right stage for making such a request is after he has examined all the witnesses and before the defense case begins.
- vii. Cross-examine the witnesses produced by defense effectively.
- viii. Submit his written brief, summing up his case, with a copy to the charged official after all evidence has been recorded in the case. Where the rules permit, he may, with permission of the Inquiry Officer, argue the case orally.

#### **9.10 IMPORTANT DO'S FOR PRESENTING OFFICER**

- i. Study all the original records of the case based on which the charges are framed and acquaint himself with all the facts of the case thoroughly including all the elements of misconduct committed by the Charged Official.
- ii. Be in a position to assist the Inquiry Officer to plan the stages of regular hearing purposefully.
- iii. Collect all listed documents and all the statements of witnesses taken during the investigation, if not received already.
- iv. Correlate each item of oral or documentary evidence to the statement of imputation of misconduct and decide what is likely to prove or fails to prove.
- v. Scrutinize the charge sheet and the Defense Statement for giving up unnecessary formal witnesses at the time of preliminary hearing.
- vi. Anticipate what the Charged Official is likely to admit; then, omit the evidence intended to prove admitted facts or which is superfluous.
- vii. If a document is admitted, it can be produced by a person in possession of it. On the other hand, if the contents of any documents are not admitted, the person who prepared it or maintained it must be offered as a witness so that the Charged Official can cross-examine him.
- viii. Be in a position to collect necessary evidence and witnesses for presentation at the



regular hearing with greater precision. Keep all the witnesses present for hearing from day-to-day.

- ix. Before departmental witnesses are examined at the enquiry, it would be desirable to meet them in advance and refresh their memory by referring to their statements recorded at the time of investigation.
- x. Remember the points which are generally raised by the defense, viz. malafides, natural justice and burden of proof and prepare accordingly for effective presentation.
- xi. Have a thorough knowledge of departmental policies and procedures.
- xii. May re-examine the prosecution witnesses.
- xiii. If a prosecution witness turns hostile, then he should be cross examined by the PO.
- xiv. Keep an eye on the procedural aspect at different stages of the disciplinary proceedings and aid the inquiring authority in securing proper compliance of such rules.
- xv. As the enquiry proceeds, take down notes so that all points to be covered during cross-examination/re-examination. This will also help in preparing the brief at the end.
- xvi. Throughout the conduct of the inquiry PO should conduct in such a manner that the Charged Official will have no reason to feel that they have any undue influence over the Inquiry Authority.
- xvii. Lead fresh evidence on behalf of the Disciplinary Authority to further clarify some issues raised in the course of the inquiry.
- xviii. Submit brief in time.

## **9.11 IMPORTANT DON'TS FOR PRESENTING OFFICER**

**Presenting officers should avoid the following :-**

- i. Seek adjournments.
- ii. Assume the role of a public prosecutor.
- iii. Examine witnesses on issues not relevant to the charges.
- iv. Expect the CO to disprove the charges so long as the burden of proving the charges is not discharged by PO.

- v. Put leading questions to the witnesses during examination-in-chief.
  - vi. Delay submission of written brief to the IO.
- .....

*(Refer chapters 2, 13-20, 24-25 of HANDBOOK FOR INQUIRY OFFICERS AND DISCIPLINARY AUTHORITIES, 2013 published by ISTM, DoPT for additional information in Q&A form)*

### **Annexure**

#### **CHECK LIST OF DOCUMENTS TO BE SUBMITTED BY THE INQUIRY OFFICER TO THE DISCIPLINARY AUTHORITY ALONGWITH INQUIRY REPORT**

- i. *Three ink signed copies of the Inquiry Report prepared by the IO as per Rule 14(23)(i) — IO should give findings on each article of charge separately with reasons therefore. He should clearly indicate whether the charge is proved/partly proved or not proved. There should be no ambiguous findings.*
- ii. *Folder containing depositions made by the prosecution witnesses during the course of inquiry - containing details of examination by PO, cross-examination by CO/his Defense Assistant, re-examination by PO and examination, if any, by the IO — Rule 14(14). [The depositions to contain the signature of the CO/his Defense Assistant, PO & IO at the bottom].*
- iii. *Folder containing depositions made by the defense witnesses during the course of inquiry containing examination by CO/his Defense Assistant, cross examination by PO, examination, if any by IO -Rule 14(17). [The depositions to contain the signature of the CO/his Defense Assistant, PO & IO at the bottom].*
- iv. *Daily Order Sheets of all the preliminary/regular hearings held by the IO, duly signed by IO.*
- v. *Correspondence Folder of the IO containing all the correspondence made with the Disciplinary Authority, Presenting Officer, Charged Officer, Witnesses etc. In case of ex-parte inquiry, copies of all the communications sent to the CO including those received back from postal authorities along with envelopes containing remarks of the postal authorities be kept intact in the correspondence folder. [The correspondence made by the IO should establish that the CO was given reasonable opportunity to produce his defense].*
- vi. *Written brief of Presenting Officer — Rule 14(19) Written brief of the Charged Officer -Rule 14(19). The Charged Officer should be given 15 days' time from*

*the date of receipt of PO's brief by the CO, to submit his written brief. If the Charged Officer has failed to submit his written brief, proof of PO's brief having been served to the CO should be invariably furnished.*

- vii. Prosecution Exhibits, including statement of witnesses, if any, recorded during the course of investigation, taken on record by the IA during the course of inquiry duly marked as PE-1, PE-2, PE-3 ...so on, with initials of the IA as token of having taken them on record. If any of the documents listed in Annexure III of the Charged Memorandum is not taken on record, the reasons for the same should be given in the inquiry report.*
- viii. Defense Exhibits taken on record by the IO during the course of inquiry duly marked as DE-1, DE-2, DE-3 ....so on, with initials of the IO as token of having taken them on record.*
- ix. Findings of guilt in respect of those articles of charge to which the CO pleads guilty - Rule 14((9) & (10).*
- x. List of defense documents/witnesses submitted by the CO explaining the relevance thereof - Rule 14(11).*
- xi. Order passed by the disciplinary authority deciding relevance of the defense documents requisitioned by the CO — Rule 14(12).*
- xii. Statement of defense of the Charged Officer, if any, under Rule 14(16).*
- xiii. General examination of the CO under Rule 14(18), if he has not been examined earlier as defense witness.*
- xiv. The inquiry should be conducted and completed strictly in accordance with the provisions of Rule 14(3) to 14(24) of the CCS(CCA) rules, 1965.*

**Note: All the documents should be furnished in original or authenticated copies thereof.**

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## Chapter - X

### PENALTIES AND COMPLIANCE

#### 10.1 TYPES OF PENALTIES

**10.1.1** Penalties under disciplinary proceedings are defined and dealt in Rule 11 of CCS(CCA) Rules 1965. The Rule 11 of said Rules provides for following five **Minor penalties**:

- i. *censure;*
- ii. *withholding of his promotion;*
- iii. *recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders*
- iii.(a) reduction to a lower stage in the time-scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.*
- iv. *Withholding of increments of pay.*

**10.1.2** Similarly, following five **Major Penalties** are provided under said Rule 11:

- i. *save as provided for in clause (iii) (a), reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay:*
- ii. *reduction to lower time-scale of pay, grade, post or Service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time-scale of pay, grade, post or Service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period –*
  - a. *the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and*
  - b. *the Government servant shall regain his original seniority in the higher time scale of pay, grade, post or service.*
- iii. *compulsory retirement;*
- iv. *removal from service which shall not be a disqualification for future employment under the Government;*

- v. *dismissal from service which shall ordinarily be a disqualification for future employment under the Government.*

**10.1.3 Mandatory Major Penalty:** It is important to note that as per proviso to Rule 11, in every case in which the charge of possession of assets disproportionate to known source of income or the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the major penalty of either **Removal from service** or **Dismissal from service** shall be imposed:

In any exceptional case and for special reasons recorded in writing, any other penalty may be imposed.

## 10.2 WHAT SHALL NOT AMOUNT TO PENALTY UNDER RULE 11

The explanation to Rule 11 also clarifies that following shall not amount to be penalty within the meaning of this Rule:

- i. withholding of increment of a government servant for his failure to pass any departmental examination in accordance with the rules or orders
- ii. stoppage of a government servant at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- iii. non-promotion of a government servant, whether in a substantive or officiating capacity, after consideration of his case, to a Service, grade or post for promotion to which he is eligible;
- iv. reversion of a government servant officiating in a higher Service, grade or post to a lower Service, grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade or post or on any administrative ground unconnected with his conduct;
- v. reversion of a government servant, appointed on probation to any other Service, grade or post, to his permanent Service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;
- vi. replacement of the services of a government servant, whose services had been borrowed from a State Government or any authority under the control of a State Government, at the disposal of the State Government or the authority from which the services of such Government servant had been borrowed;
- vii. compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement;

viii. termination of the services -

- a. *of a government servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation, or*
- b. *of a temporary Government servant in accordance with the provisions of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, or*
- c. *of a government servant, employed under an agreement, in accordance with the terms of such agreement.*

ix. any compensation awarded on the recommendation of the Complaints Committee in sexual harassment case.

**10.2.1** Further, the issuance of caution, admonition, administrative warning, reprimands or advisories issued by any authority superior to a Government employee in the event of minor lapses like negligence, carelessness, lack of thoroughness, delay etc is not penalty under the CCS(CCA) Rules. .

*(Refer DoPT's O.M. No. 11012/6/2008-Estt.(A) dated 7th July, 2008)*

### **10.3 WHETHER TO IMPOSE MAJOR PENALTY OR MINOR PENALTY?**

According to the CCS(CCA) Rules 1965, any penalty can be imposed on a government servant for good and sufficient reasons, and there is no classification of delinquencies as major and minor. What is good and sufficient reason is left to the opinion of the Disciplinary Authority. It is open to the Disciplinary authority to impose any penalty whether minor or major at its discretion, for any charges proved against a government servant. The only requirement is that the prescribed procedure should be followed.

However, it has to be borne in mind that the nature of disciplinary action and the quantum of punishment are to be commensurate with the gravity of offence alleged to have been committed.

**10.3.1** CVC Manual 2021 has given illustrations of certain types of vigilance cases in which it may be desirable to start proceedings for imposing a major penalty and are given below:

- i. Cases in which there is a reasonable ground to believe that a penal offence has been committed by a Government servant but the evidence forthcoming is not sufficient for prosecution in a court of law, e.g.,
  - (a) Possession of disproportionate assets;
  - (b) Obtaining or attempting to obtain illegal gratification;

- (c) Misappropriation of Government property, money or stores;
- (d) Obtaining or attempting to obtain any valuable thing or pecuniary advantage without consideration or for a consideration.
- ii. Falsification of Government records;
- iii. Gross irregularity or negligence in the discharge of official duties with a dishonest motive.
- iv. Misuse of official position or power for personal gain;
- v. Disclosure of secret or confidential information even though it does not fall strictly within the scope of the official Secrets Act;
- vi. False claims on the Government like T.A claims, reimbursement claims, etc.

*(Refer Para 7.5.2 of CVC Vigilance Manual 2021)*

#### **10.4 TYPE OF PENALTY TO BE IMPOSED SHOULD BE DECIDED PRIOR TO ISSUE OF CHARGE MEMORANDUM**

The CCS(CCA) rules prescribe different procedures for the two types of penalties. The procedure prescribed for a major penalty proceeding is lengthy involving a detailed inquiry as compared to minor penalty proceedings. Thus, before issuing a charge memorandum, the disciplinary authority has to decide as to which of the two penalties i.e. major or minor is intended to be imposed.

In case of major penalty charge memorandum, after conclusion of the inquiry proceedings, if the Disciplinary Authority is of the opinion that the case warrants only imposition of minor penalty, he may do so in consultation with CVC/CVO. However, the vice-versa is not permitted.

#### **10.5 SOME IMPORTANT ASPECTS RELATED TO PENALTIES**

- i. Action under Rule 11 can be initiated against a government servant in respect of misconduct committed before the employment if the misconduct committed before his employment was of such nature as has rational connection with his present employment and renders him unfit and unsuitable for continuing in service. Thus, a departmental action can be taken against Government servant in respect of misconduct committed before his employment.

*(Refer MHA OM No. 39/1/67-Estts(A) dated 21.02.1967)*

- ii. Employees who are later found ineligible/unqualified for their initial appointment — penalty of removal or dismissal from service to be imposed. In case of probationer or a temporary Government servant, he should be discharged or his service should be terminated.

Such discharge, termination, removal or dismissal from service would however be without prejudice to the right of the government to prosecute such government servants.

*(Refer DOP&T OM No. 11012/7/91-Estt(A), dated 19.05.1993)*

- iii. Where departmental proceedings have been held under the relevant rules, and it is considered that the officer deserves to be punished, **warning should not be issued as a result of such proceedings**. At least "Censure" to be awarded if official to be penalized

*(Refer DOP&T OM No. 22011/2/78-Estt(A), dated 16.02.1979, OM No. 22011/1/79-Estt(A), dated 30.01.1982).*

- iv. Implementation of second penalty imposed during the currency of first penalty — Disciplinary Authority to clearly indicate, whether the two penalties should run concurrently, or subsequent penalty should be implemented only after the expiry of the first penalty. Where no such mention made, the two penalties to run concurrently

*(Refer DGP&T letter No. 154/5/1978-Disc.II, dated 30.07.1981)*

- v. The Minor penalty proceedings instituted against official due for retirement to be finalized before retirement.

*(Refer MHA OM No. 134/17/80-AVDI, dt. 28.02.1981)*

- vi. In cases where penalty of recovery under Rule 11 for any pecuniary loss caused by the government servant, it is not necessary to fix a rigid limit for the purpose of such recovery. The entire loss should be recovered from the delinquent official. There is no limit to quantum or period of recovery. The recovery may be spread over till entire loss is recovered.

*(Refer DOP&T OM No. 11012/1/2000-Estt(A) dt. 06.09.2000)*

- vii. The adequacy of penalty, unless it is malafide, is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or competent authority is based on evidence even, if some of it is found to be irrelevant or extraneous to the matter. If a disproportionate or harsh punishment is imposed by the Disciplinary Authority, it can be corrected either by the Appellate Court or by High Court.

*(Refer DOP&T OM No. 11012/1/90-Estt(A), dated 28.02.1990, DOP&T OM No. 11012/6/94-Estt(A),*



*dated 28.03.1994).*

- viii. The Minor penalties prescribed at (iii) (a) & (iv) and Major Penalties at (v) & (vi) of Rule 11 have a bearing on the pay of the officer.

## **10.6 DIFFERENCE BETWEEN WARNING & CENSURE**

- i. An order of censure is formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or omission for which it has been found necessary to award him a formal punishment, and nothing can amount to a 'censure' unless it is intended to be such a formal punishment and imposed for 'good and sufficient reason; after following the prescribed procedure.
- ii. On the other hand, there may be occasions, when a superior officer may find it necessary to criticize / comment adversely the work of an officer working under him (e.g., point out negligence, carelessness, lack of thoroughness, delay, etc.) or he may call for an explanation for some act or omission and taking all factors into consideration, it may be felt that, while the matter is not serious enough to justify the imposition of the formal punishment of censure, it calls for some formal action, such as, the communication of a written or oral warning, admonition, reprimand or caution. Administration of a warning in such circumstances does not amount to a formal punishment. It is an administrative device in the hands of the superior authority for conveying its criticism and disapproval of the work or conduct of the person warned and for making it known to him that he has done something blame-worthy, with a view to enabling him to make an effort to remedy the defect and generally with a view to toning up efficiency and maintaining discipline.
- iii. Hence, where a Departmental proceeding has been completed and it is considered that the officer concerned deserves to be penalized, he should be awarded any of the statutory penalties mentioned in Rules 11 of the CCS (CCA) Rules, 1965. In such a situation, a recordable warning should not be issued as it would for all practical purposes amount to a "Censure" which is a formal punishment to be imposed by a competent Disciplinary Authority after following the procedure prescribed in the relevant disciplinary rules.
- iv. A warning or reprimand, etc., may also be administered when as a result of a preliminary investigation or inquiry, if the competent Disciplinary Authority comes to the conclusion that the conduct of the official is somewhat blameworthy, though not to the extent calling for the imposition of a formal penalty. These administrative actions, do not constitute any of the penalties specified in Rule 11 of the CCS(CCA) Rules 1965

- v. Since Warning, letter of caution, reprimands or advisories administered to government servants do not amount to penalty and therefore, these do not constitute a bar for consideration of such government servants for promotion.
- vi. Some the important instructions issued by government in this regard are listed below and may be referred to for details:
  - (MHA OM No. 39/21/56-Ests (A) dated 13.12.1956)
  - (DoPT OM No. 22011/2/78-Estt (A) dated 16.02.1979)
  - (DOP&T OM. No. 11012/6/2008-Estt A-III dt. 07.07.2008)
  - (DOP&T OM. No. 11012/12/2016-Estt A-III dt. 06.12.2016)

## 10.7 DISPLEASURE OF GOVERNMENT:

On occasions, an officer may be found to have committed an irregularity or lapse of a character which though not considered serious enough to warrant action being taken for the imposition of a formal penalty or even for the administration of a warning, but the irregularity or lapse is such that it may be considered necessary to convey to the officer concerned the sense of displeasure over it. However, the practice of communicating Government displeasure to a retired public servant should be avoided.

*(Refer Para 7.2.4 of CVC Vigilance Manual 2021)*

## 10.8 REDUCTION OF PENSION

A Government servant ceases to be subject to the disciplinary rules after retirement. The departmental proceedings constituted against a government official before his retirement and which do not get concluded before his retirement, automatically become proceedings under Rule 8 of CCS(Pension) Rules 2021 i.e. erstwhile Rule 9 of CCS(Pension) Rules, 1972.

Pension and Gratuity once sanctioned cannot be reduced, withheld or withdrawn except in accordance with the provisions of Rule 8 of the CCS(Pension) Rules 2021 i.e. erstwhile Rule 9 of CCS(Pension) Rules, 1972, which confers on the President the right to withhold or withdraw the pension or part thereof either permanently or for specified period and to order recovery from the pension of the whole or a part of any pecuniary loss caused to the government, if, in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his service.

## 10.9 DISCIPLINARY AUTHORITIES & PROCEDURE

Rule 12 & 13 of CCS (CCA) Rules, 1965 deal with the Disciplinary authorities and procedure to institute authorities.

**Rule 12** empowers President to impose any of the penalties specified in Rule 11 on any Government servant. Rule 12 (2) & (3) lists out the various categories of the government servants upon whom penalties can be imposed and by what authority. Rule 12(4) provides for the limiting scenarios on imposition of penalties by the disciplinary authorities.

**Rule 13 of the CCS CCA Rules 1965** empowers the President or any other authority empowered by him to institute disciplinary proceedings against any Government servant. The President can also direct a Disciplinary Authority to institute disciplinary proceedings against any Government servant on whom that Disciplinary Authority is competent to impose under these rules any of the penalties specified in Rule 11.

*(Refer Rule 12 & 13 of CCS(CCA) Rules 1965 for details)*

### 10.10. CURRENCY OF PENALTY PERIOD

It has been clarified that unless specified in the penalty order, the two penalty orders against an individual officer, should run concurrently and the higher penalty, even though ordered later, should be implemented immediately. After the expiry of its period, if the currency of the period of earlier punishment still continues then the same may be implemented for the balance period.

*(Refer DG P & T's letter No. 154/5/78-Disc.II dated 30.07.1981)*

### 10.11 MONITORING OF IMPLEMENTATION OF PENALTIES

After completion of Departmental Proceedings, final orders are issued against the Charged Officer (CO) by the competent authority, imposing an appropriate penalty, if the charges against the CO are found to be proved. Hence, it becomes imperative for all concerned authorities to ensure that the penalties imposed vide final orders are duly and immediately implemented otherwise, it will make the whole process of disciplinary proceedings infructuous.

CVC has also started the monitoring of implementation of Final orders issued in respect of each Charged officer, which were found guilty, against whom advice for departmental action by tendered by the Commission. CVC has prescribed for an Annual Compliance report to be furnished by CVO by 30<sup>th</sup> June of every year for the previous calendar year.

*(Refer CVC OM 000/VGL/108/507722 dt. 21.03.2022)*

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## CHAPTER - XI

### APPEAL, REVISION AND REVIEW

#### 11.1 AN INTRODUCTION

The Charged Officer may appeal to the appellate authority against the Order of DA and such appeal shall lie in the following vigilance cases

- Order of suspension or deemed suspension.
- Order imposing penalties by Disciplinary Authority / Appellate Authority / Revisionary Authority.
- Order enhancing any penalty.

It is clarified that, in case of Group A officers or in those cases where orders are issued in the name of President of India, **no appeal lies against such orders** in case of suspension or imposition of penalty.

*(Refer Rule 22 of CCS(CCA) Rules, 1965)*

#### 11.2 APPELLATE AUTHORITIES

**11.2.1** Appellate Authority is determined in accordance with the Rule 24 of CCS( CCA) Rules, 1965.

**11.2.2** As per the office order dated 13.07.2010 issued by CBIC vide F. No C-11016/2/2007-Ad.V , the details of Appellate/Revisionary Authorities are as follows:

Classification of posts	Disciplinary Authority	Appellate Authority	Revisionary Authority	Period of limitation
Group B Officers	Commissioner	Chief Commissioner	President	In case of Appeal, 45 days
Gr. 'C' (including erstwhile Gr. 'D')	Joint Commissioner/ Addl Commr	Commissioner	Chief Commissioner	

Gr.'C' (including erstwhile Gr. 'D)	Where Commissioner has passed an order in a common disciplinary proceeding	Chief Commissioner	Chairman, CBIC, or Member (P&V)	from the date the Order is served which may be extended on sufficient cause by the Appellate authority. [ Rule 25 of CCS (CCA) Rules, 1965]
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### 11.3 APPEAL: RULE 27 OF CCS (CCA) RULES, 1965

- (1) The appellate authority shall consider whether in the light of the provisions of Rule 10 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the suspension order accordingly.
- (2) The appellate authority shall consider on an appeal, against the any order specified in Rule 11
  - (a) whether the procedure laid down in these rules have been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
  - (b) whether the findings of the Disciplinary Authority are warranted by the evidence on the record; and
  - (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;

#### and pass orders-

- i. confirming, enhancing, reducing, or setting aside the penalty; or
- ii. remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

### 11.4 REVISION: RULE 29

**The President of India, Head of the Department, Appellate Authority** (within six months of the date of the order) **and Any other Authority appointed by the President**, by a general or special order, and within such time as may be prescribed in such general or special order, **have the power to** call for the records of any inquiry and revise any order made under these rules, or under the rules repealed by Rule 34 from which an appeal is allowed, but from which no appeal has been

preferred or from which no appeal is allowed, after consultation with the Commission where such consultation is necessary, and may-

- (a) confirm, modify or set aside the order; or
- (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or
- (d) pass such other orders as it may deem fit:

*Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed.*

*No revision proceedings should commence until the expiry of limitation period or disposal of the appeal, if preferred.*

## **11.5 REVIEW: RULE 29-A**

The President can review any case when any new material or evidence which could not be produced or was not available at the time of the passing the order under review and which has the effect of changing the nature of the case. By Review, the President may impose a penalty or enhance the penalty after giving the Charged Officer a reasonable opportunity of making a representation.

## **11.6 DIFFERENCE BETWEEN REVISION AND REVIEW**

i. Power to Review vests only with the President of India while the power to undertake Revision vests with different authorities depending upon the rank of the officer whose case is under Revision.

*(Refer CBIC office order F. No C-11016/2/2007-Ad.V dated 13.07.2010).*

ii. Review can be considered only when any new material or evidence which could not be produced or was not available at the time of the passing the order come into the knowledge which has the effect of changing the nature of the case. While every order passed can be subjected to Revision petition.

*(Refer the judgment of the Delhi High Court in the case of Shri R.K.Gupta Vs. Union of India and another (Civil Writ Petition Nos. 196 of 1978 and 322 of 1979) and MHA, (D/o P&AR) OM No. 11012/1/80-Ests. (A) dated the 3rd September, 1981)*

- iii. *No Authority can review its own order. However, the President can revise his order by exercising power of Review under Rule 29-A of CCS (CCA) Rules, 1965.*

### **11.7 PROCEDURE FOR SUBMISSION OF DOCUMENTS IN REVISION/REVIEW CASES**

As per guidelines issued under F. No. 111016/31/2020-Ad.V dated 29.09.2021, for cases under Rule 29/29A of CCS (CCA) Rules, 1965, the jurisdictional Commissionerate/Directorate shall follow the procedure as prescribed therein and will forward the case records to jurisdictional Zonal Unit of DGoV as per proforma/check list. Jurisdictional unit of DGoV will examine the case records and forward the proposal to CVO for consideration of the President. After decision of President, Ad.V shall issue the order of revision or review as the case may be following due procedure.

*(Refer chapters 29 of HANDBOOK FOR INQUIRY OFFICERS AND DISCIPLINARY AUTHORITIES, 2013 published by ISTM, DoPT for additional information in Q&A form)*

### **11.8 APPEAL IN CASE OF RETIRED OFFICER**

As per Rule 6A of CCS (Pension) Rules, 2021 as amended vide Notification dated 07.10.2022, no appeal lies against any order made by the President under these rules. However, it may be noted that an appeal against an order passed by an authority other than the President, under CCS (Pension) Rules, 2021 lies to the President and the President shall, in consultation with the Union Public Service Commission, pass such orders on the appeal as he deems fit.

*(Refer Rule 6A of CCS (Pension) Rules, 2021 as amended vide Notification dated 07.10.2022)*

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## **CHAPTER – XII**

### **PROCEDURE IN CASES OF CONVICTION**

#### **12.1 Introduction**

Rule 19 provides for summary proceedings in cases of conviction in criminal proceedings, in the interest of national security and non- practicability to hold inquiry after providing an opportunity of making representation.

It may be noted that there may be cases where the departmental proceedings are still pending and charged officer is convicted in the criminal case. In such scenario, the DA needs to take recourse to said Rule 19 and initiate summary proceedings. The show cause notice should be issued and on receipt of representation of CO, without the need to hold inquiry proceedings can straight away issue penalty order. The basis of such procedure is that in criminal proceedings the standard of proof is beyond reasonable doubt while disciplinary proceedings are based on preponderance of probability. Thus, if an employee has been held guilty in a criminal case, the power granted by the Second Proviso to Article 311 may be availed and appropriate penalty may be imposed on the employee.

It must, however, be noted that this provision only grants a power to the Disciplinary Authority to impose the penalty without inquiry when the employee has been convicted in a criminal case. It is not mandatory for the Disciplinary Authority to dismiss the employee whenever he has been convicted in a criminal case. It may be differentiated from mandatory provisions of penalty as discussed in Chapter 10 of this handbook. The authority concerned will have to go through the judgment and take a decision depending upon the circumstances of the case.

*(Refer Rule 19 of CCS(CCA) Rule 1965 and Department of Personnel & Training OM No. 11012/11/85-Estt. Dated the 11th November, 1985)*

*(Also refer Hon'ble SC judgment dated 11.07.85 in the case of Tulsi Ram Patel and others and the subsequent judgment of the Supreme Court dated 12.09 1985 in the case of Satyavir Singh and others).*

It is a pre-requisite to issue a show cause notice on the basis of conviction by the court to the pensioner before imposing any cut in his pension for clear manifestation of principle of natural justice.

[Refer DOP&PW OM No. 38/64/05-P&PW(A), dated 09.11.2006].



## 12.2 ACTION ON CONVICTION

1. *In a case where government servant is convicted in criminal case which renders his further retention in public service undesirable, for example, cases of conviction in possession of disproportionate asset case or bribery case, the DA may issue an order imposing a penalty on government servant on the ground of conduct which has led to his conviction on a criminal charge. Such orders should be issued without waiting for appeal or if an appeal has been filed without waiting for decision of appellate court following consultation with UPSC wherever necessary.*
2. *In cases whenever conviction is not for an offence of the type referred above, the DA should call for examine of copy of judgment with a view of taking departmental action as deemed appropriate.*

*(Refer MHA OM No. F-43/57/64-AVD(III) dated 29.11.66 and DoPT OM No 371/3/74-AVD(III) dated 19.09.75)*

## 12.3 INTIMATION OF CONVICTION TO THE GOVERNMENT

On conviction in criminal cases, the government servant need to promptly communicate his conviction to his official superior as soon as it is possible for him to do so. Failure to do so will be regarded as suppression of material information and will render him liable for disciplinary proceedings on this ground itself apart from grounds on which his conviction was based.

*(Refer MHA OM No. 25/70/49-Estt dated 26.12.1949)*

## 12.4 ISSUE OF CHARGE-SHEET WHERE ACTION IS TAKEN UNDER RULE 19

It will not be correct on the part of the Disciplinary Authority to anticipate such circumstances as those that are likely to arise, possibly later in time, as grounds for holding that it is not reasonably practicable to hold the inquiry and, on that basis, dispense with serving a charge-sheet on the Government servant.

*(Refer Department of Personnel & Training OM No. 11012/11/85-Estt. Dated the 11th November, 1985 and Department of Personnel & Training OM No.11012/11/85-Estt. (A) dated 4th April, 1986)*

## **12.5 CONSULTATION WITH CVC/CVO FOR INITIATION OF PROCEEDINGS UNDER Rule 19(I)**

Consultation with CVC/CVO is not required in the proceedings initiated under rule 19(i) of CCS (CCA) Rules, 1965.

## **12.6 ACTION IN CASE OF STAY OF CONVICTION**

Proceedings under Rule 19(i) to continue even if sentence is stayed by the appellate court. When a person is convicted by a criminal court, the same shall remain in force until and unless it is reversed or set aside by a competent court in appeal. Mere filling of an appeal and or stay of the execution of the sentence do not take away the effect of conviction, unless the appeal is allowed and the conviction is set aside by the appellate court.

The competent Disciplinary Authority may proceed with the institution /completion of disciplinary proceedings, including imposition of penalty as prescribed in the relevant disciplinary rules, on the basis of conviction imposed on the public servant by a criminal court, notwithstanding the fact that the higher court on an appeal filed by the public servant concerned, may order suspension of the "sentence" passed by the Trial Court till the final disposal of the appeal.

*[Refer DoPT's OM No. 371/23/93-AVD.III dated 04.03.1994 )*

When appeal/revision against conviction succeeds, the further action to be taken by DA in accordance with *Rule 10(4) of CCS (CCA) Rule and MHA OM No. F-43/57/64-AVD(III) dated 29.11.66 and DoPT OM No 371/3/74-AVD(III) dated 19.09.75.*

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## **Chapter - XIII**

### **RETIRED AND RETIRING EMPLOYEES**

#### **13.1 PROCEEDINGS PENDING AGAINST RETIRING OFFICERS ON THE DATE OF SUPERANNUATION:**

**13.1.1** The departmental proceedings instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under Rule 8 of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9 of CCS( Pension) Rules, 1972 and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service, provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President

*(Refer CBIC circular F. No. C-11016/5/2010-Ad.V, dated 10.03.2010)*

**13.1.2** All cases where the Disciplinary Authority other than the President, proposes to drop the departmental proceedings against a retired officer, including minor penalty proceedings or on death of the charged officer, such authority should send a report to the President under proviso to Rule 8(2) (a) of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9(2)(a) of CCS(Pension) Rules, 1972 and obtain order of the President as President alone is empowered under Rule 8 of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9(1) to pass a final order

*(Refer CBIC circular F.No. C-11016/05/2010- Ad.V, dated 23.09.2010).*

**13.1.3** The case of deemed proceedings under Rule 8 of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9 of CCS(Pension) Rules, 1972 in respect of Group B & C staff should be submitted for onward decision of the President following the instructions issued by CBIC vide 11016/31/2020-Ad.V dated 29.09.2021.

**13.1.4 Role of Accounts Officer:** In respect of a Government servant, against whom departmental or judicial proceedings are pending, the Accounts Officer shall authorize the provisional pension. However, no gratuity shall be paid until conclusion of the departmental or judicial proceedings and issue of final orders thereon. [Rule 63 of CCS (Pension) Rules, 2021 i.e. erstwhile Rule 69 of CCS (Pension) Rules, 1972].

**13.1.5** Leave encashment should not be withheld in respect of a retiring Government servant because of pendency of departmental or judicial proceedings as a matter of course. The charges against the officer should be carefully considered before deciding whether withholding of the amount of leave encashment due to the employee is necessary keeping in view the nature of charges against the individual. Such charges should refer to or imply a specific loss to the public money because of embezzlement or other acts of misconduct of the officer. Where it is proposed to withhold the leave encashment, the amount so withheld should not exceed the amount of possible recoveries from the charged officer on finalization of the proceedings.

*(Refer CBIC circular F. No. C-14010/2/2010-Ad.V dated 18.01.2011)*

## **13.2 PROCEEDINGS AFTER RETIREMENT:**

**13.2.1** As per Rule 8(2)(c) of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9(2)(b) of CCS(Pension) Rules, 1972, the departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment, -

- i. shall not be instituted save with the sanction of the President,
- ii. shall not be in respect of any event which took place more than four years before such institution, and
- iii. shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

**13.2.2** In cases where, charge memorandum is not issued prior to superannuation of government servant, the concerned field formation will forward the proposal along with prescribed documents to zonal units of DGoV for sanction of President. After due approval of the President, the file will be forwarded to Ad.V and the sanction orders of President in terms of Rule 8(2)(c) of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9(2)(b) of CCS (Pension) Rules, 1972, will be issued by Ad.V section and file will be forwarded to jurisdictional zonal unit of DGoV for further action.

*(Refer CBIC instructions F.No. 111016/31/2020-Ad.V dated 29.09.2021)*

**13.2.3** Therefore, all cases for initiation of departmental proceedings after retirement irrespective of level of the Government servant, need to be sent to the CBIC for seeking sanction of the President for initiation of departmental proceedings.

*(Refer CBIC circular F. No. C-11016/5/2010-Ad.V, dated 10.03.2010)*

**13.2.4** In terms of Rule 8(1)(a) of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9(6)(a) of CCS(Pension) Rules, 1972, departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date.

**13.2.5** Criminal proceedings shall be deemed to be instituted against a Government servant or pensioner on the date on which the complaint or report of the Police Officer, of which the Magistrates cognizance, is made.

*(Refer Rule 8(1)(b)(i) of CCS(Pension) Rules, 2021 i.e. erstwhile Rule 9(6)(b)(i) of CCS(Pension) Rules, 1972).*

**13.2.6** As per amendment to of CCS (Pension) Rules 2021 vide Notification dated 07.10.2022, for retired officers. The Secretary of the Administrative Ministry or Department can issue an order under CCS (Pension) Rules 2021 in case of pensioner who retired from a post for which an authority subordinate to the President is the appointing authority. This effectively means that in cases of retired non Group A pensioners of CBIC, Secretary (Revenue) can issue the order under said rules.

This effectively shall mean that in case of an order passed by the Secretary under CCS (Pension) Rules, 2021, an appeal against such order would lie to the President and the President shall, in consultation with the Union Public Service Commission, pass such orders on the appeal as he deems fit.

*(Refer CCS (Pension) Rules, 2021 as amended vide Notification dated 07.10.2022)*

### **13.3 PROCEEDINGS AFTER DEATH:**

**13.3.1** Where a government servant dies during the pendency of the inquiry i.e. without charges being proved against him, imposition of any of the penalties prescribed under the CCS (CCA)

Rules, 1965, would not be justifiable. Therefore, disciplinary proceedings should be closed immediately on the death of the alleged Government servant.

*(Refer DOP&T OM No. 11012/7/99-Estt. (A) dated 20th October, 1999).*

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## CHAPTER - XIV

### UPSC RELATED MATTERS

#### 14.1 CONSULTATION WITH UPSC

As per Rule 15(3)(a) of CCS(CCA) Rules, 1965 read with the provisions of UPSC (Exemption from Consultation) Regulations, 1958, the UPSC is required to be consulted in every case where the Disciplinary Authority forms a tentative view to impose any of the penalties specified in rule 11 of the said Rules on a Group A officer. Similarly, the UPSC is also required to be consulted in every case where the President proposes to impose a penalty under Rule 8 of CCS (Pension) Rules, 2021 i.e. erstwhile Rule 9 of the CCS(Pension) Rules, 1972 on a retired government servant, irrespective of his status.

#### 14.2 MANNER OF SUBMISSION OF DOCUMENTS TO DGOV

The President of India is empowered to decide the quantum of penalty in respect of the Disciplinary cases for retired officers by virtue of Rule 8 of CCS (Pension) Rules, 2021 i.e. erstwhile Rule 9 of the CCS (Pension) Rules 1972 through the advice of UPSC.

The CBIC has laid down the prescribed procedure F. No. 111016/31/2020-Ad.V dated 29.09.2021 in this regard. The relevant case records shall be forwarded as per the instructions contained in UPSC letter F. No. 39011/08/2016-Estt.(3) dated 28.12.2018 with proforma/check list to be forwarded to the jurisdictional unit of DGoV in case of all Officers other than Group A Officers. While submitting the proposal to zonal unit of DGoV, the case records should be arranged in separate folders as prescribed under the single window system. The following documents to be furnished to the Zonal unit to DGOV unit in this regard:

- i. *Complaint/Report of Preliminary Enquiry etc;*
- ii. *Charge sheet with enclosures etc;*
- iii. *Correspondence Folder of IO;*
- iv. *Daily order sheets, General Examination of CO, Deposition of Witnesses;*
- v. *Prosecution and Defense Exhibits duly marked and initiated by IA*
- vi. *PO Brief, Defense brief, IO Report, Disagreement Note, Representation of CO on Disagreement Note/IO Report, original DA's parawise comments on representation of CO;*
- vii. *Details of pending Court cases*
- viii. *Miscellaneous Acts/Rules/Judgements etc;*
- ix. *APAR folder.*

**The said list /documents are not comprehensive and care should be taken to ensure that every documentary support in connection with the case shall be furnished to DGOV.**

### 14.3 COMMON DEFICIENCIES

Needless to say delay in any form whether arising out of want of documents or out of any other form should be avoided while referring deemed proceedings cases to the CBIC for Presidential order. The common deficiencies pointed out by the UPSC for not accepting a case for Commission's advice, are as under:

- (i) General examination of the charged Officer not done by the Inquiry Officer as per Rule 14(18) of the CCS(CCA) Rules, 1965.
- (ii) Authenticated copies of the documents, as per the check list being not made available.
- (iii) Annexures of documents viz PE report, WSD of CO, PO's brief, CO's brief and RUDs being not available.
- (iv) Annexures to Show Cause Notice issued under the Customs Act, 1962/ CGST Act 2017, Central Excise Act 1944/2017 etc being not available.
- (v) Non-availability of evidence of PO's brief having been served on the CO.
- (vi) The IA having not followed principles of natural justice, particularly where the proceedings are held ex-parte.

### 14.4 TIME REQUIRED FOR UPSC ADVICE

**14.4.1** UPSC to be given at least six months' time to give its advice.

*(Refer DOP&T OM No. 39011/12/2009-Estt(B), dated 10.05.2010 & 23.09.2010).*

**14.4.2** Where there is some time limit fixed by CAT/Courts to pass final order, the Commission (UPSC) to be provided at least 3-4 months' time to give its advice.

*(Refer DOP&T OM No. 39035/0112011-Estt(B), dated 10.05.2011).*

### 14.5 IMPLEMENTATION OF UPSC ADVICE

The DoP&T's.O.M.No.11012/8/2011-Estt.(A) dated 19.11.2014 & Gazette Notification G.S.R. No. 769(E) dated 31.10.2014 stipulates that on receipt of the UPSC's Advice, the Disciplinary Authority shall forward a copy of the Advice to the Charged Officer who should furnish his written representation to the Disciplinary Authority within fifteen days on receipt of the Advice. The Disciplinary Authority shall consider the representation of the Charged Officer and take further action as prescribed in sub-rules 2(A) to (4) of Rule 15 of CCS (CCA) Rules, 1965 before passing final orders.

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## CHAPTER-XV

### VIGILANCE DATABASE

**15.** DGoV (Hqrs.) maintains Vigilance Status of all Group-A Officers for the purpose of providing input to Ad.V Section of CBIC for issuance of Vigilance Clearance for various purposes. Similarly, concerned Commissionerate and/or Zonal unit of DGoV maintain database w.r.t. the officer other than Group-‘A’ officer.

**15.1** However, in most of the cases past Vigilance Status of “Promotee Group-A Officers”, i.e. ‘Vigilance Status’ prior to their promotion to Group-‘A’ are not available with DGoV(Hqrs.) leading to incomplete Vigilance Data. Accordingly, ‘Field Formations’ are required to provide Vigilance Status in the prescribed proforma in respect of all the cases where proceedings for Administrative Warning/ Caution/ Counseling/ Minor Penalty or Major Penalty has been initiated, irrespective of whether such proceedings concluded in favour of the officer, for all such officer who earlier (before promotion to Group-‘A’) worked under their jurisdictional Commissionerates. Details of appeal/litigation and its outcome, if any, are also required to be provided.

**15.1.1** In addition to above, cases where investigation is still going on against any officer, who is presently working as Group-‘A’ for alleged lapse prior to his promotion into Group A, the same is also required to be furnished along-with present status of the case. If any of the officer is having more than one case against him/her, separate vigilance database sheet is required to be provided.

**15.1.2** The data w.r.t. officers is required to be communicated to DGoV (Hq.), as and when the officer is promoted to Group-‘A’ post under CBIC. The desired proforma is as under:-

#### PROFORMA

Sl. No.	Particulars	Status
1	Name of the officer	
2	Designation of the officer at the time of incidence as well as present designation	
3	Date of Birth	
4	Civil ID No. (As per Civil List)	
5	Commissionerate	

6	File No. of the DGoV(Hq.), if any Or File No. of the DGoV (Zone), if any	
7	File No. of the Commissionerate	
8	When Complaint received	
9	Details of CVC advice with date (if any) Both First Stage Advice and Second Stage Advice	
10	Name of the Investigating Agency	
11	Gist of complaint/ allegations/role	
12	Present Status	

**Note for guidance: -**

- a) In the gist of the case, (i) details of CBI reference; (ii) CVC's all advices; (iii) details of FIR; (iv) Charge Memorandum particulars (both number and date); (v) date of appointment of IO/PO; (vi) details of final order (both number and date); (v) details of appeal; (vi) agreed/ODI list status; and (iv) details of police case along-with all other relevant details may also be incorporated; and
- b) The sheet should be speaking one and must **not** carry any enclosures.

**15.1.3** However, such data is required to be routed through Zonal Units of DGoV for proper monitoring.

*(Refer to DGoV(Hq.) letter F.No.V-500/47/2012/Pt.II dated 29.12.2021)*

**15.2** As regard to Non Group-'A' officers Vigilance Status/Database is exclusively maintained at the level of respective Commissionerate/Field Formation. However, in a composite case where both Group-"A" & Non-Group-"A" Officers are involved, database regarding Non-Group-"A" officers is being maintained uniformly. In this regard, the guidelines issued by DGoV (Hq.) vide letter *F.No.V.755/09/2015/Pt.I dated 07.10.2020* and are as follows:

- i. It should be ensured that provisions regarding receipt/registration/ verification/Action of/on complaint set forth in the Complaint Handling Policy of CBIC are strictly complied with whenever a complaint is received against any Non-Group-"A" officer at Commissionerates/Field Formations. Further the said complaint should be intimated immediately to the respective Cadre Controlling Authority and thereafter the Cadre Controlling Offices shall also maintain the database of such officer and closely monitor every stage of the complaint.*

- ii. *It should be ensured that Vigilance Status of Non-Group-"A" officers should be maintained and timely updated at the level of Commissionerate/Field Formation/Cadre Controlling Offices in proforma above.*
- iii. *Further information about complaints maintained as per **CVO-1 Register** as provided in Chapter III of the CVC's Vigilance Manual, 2021 also required to be updated in vigilance databases. All the stages after action taken regarding RDA (CVO/CVC's First Stage Advice, issuance of charge sheet, CO's submission, IO/PO appointment, IA report, DA's recommendation, if deviated from FSA, CVO/CVC's SSA, and Issuance of Final Order) should be entered, maintained and updated on real time basis.*
- iv. *The database should also be maintained & closely monitored at Cadre Controlling Offices by adopting means that are deemed effective and suitable between the Cadre Controlling Offices and the field formations.*
- v. *It should also be ensured that whenever a complaint against Non-Group "A" Officer is received in the field formation, the details right from the receipt of the complaint to finality of the case should be maintained and updated at every stage on real time basis in database as well as CVO-1 register.*
- vi. *In case any Non-Group-"A" officer figuring in composite case involving a Group "A" officer is due for promotion/superannuation and any complaint/ investigation /disciplinary proceedings is pending against him it should be ensured by the concerned Commissionerate/Cadre Controlling Authority to inform about the same to the respective Zonal Unit of DGoV and DGoV(Hqrs) well in advance so that the issues related to vigilance clearance of such officers are dealt with accordingly.*
- vii. *Similarly, whenever a complaint (whether in composite case or non-composite case) against any Non-Group "A" Officer is received at Zonal Units/HQ of DGoV, the same should be informed to the concerned field formation & Cadre Controlling Authority so that necessary entries may be made by them in the database so as to ensure that in event of retirement/promotion/reward disbursal etc. necessary decision/action can be taken.*
- viii. *Moreover, while informing about the complaints/references, the date of superannuation of delinquent officers should be mentioned in the initial reference itself so that the matter may be accorded requisite priority with respect to initiation of RDA if needed.*

**15.2.1** In this regard Zonal Units are also required to sensitize the Cadre Controlling Offices for maintenance of these records and inform the Zonal Units well in advance in cases where officer is due for superannuation and investigation/disciplinary proceedings are pending against them.

**15.3** Zonal Units of this Directorate is also required to keep database of all the cases, which is processed/routed through their Zone.

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## CHAPTER – XVI

### HANDLING OF COURT CASES IN DISCIPLINARY MATTERS

#### 16.1 HANDLING OF COURT CASES ON DISCIPLINARY MATTERS

**16.1.1** Government Servants are likely to seek judicial intervention for the following purposes in matters relating to disciplinary proceedings: (a) Revocation of suspension (b) Enhancement of subsistence allowance (c) Quashing of Charge Sheet (d) Stay of the inquiry (e) Setting aside the order of the Disciplinary Authority or Appellate Authority imposing penalty.

**16.1.2** Handling of court cases on disciplinary matters in Central Administrative Tribunals/High Courts/Supreme Courts is one of the areas of utmost importance to protect the interest of the Government. For effective and timely handling of such court cases following instructions were issued from time to time-

- i. F.No C-18013/15/90/Ad.V dated 24.12.1996
- ii. F.No A-32022/16/96 Ad. IIIA dated 12.12.1997
- iii. F.No C-18013/74/92/Ad.V dated 20.07.1999
- iv. F.No C-18012/6/2013- Ad.IIB dated 09.05.2016
- v. F.No.C-11016/32/2020-Ad.V dated 08.09.2021
- vi. F.No.C-11016/32/2020-Ad.V dated 09.03.2022
- vii. F.No.C-18018/2/2021-Ad.V dated 06.04.2022

**16.1.3** Instructions were issued vide F.No C-18013/15/90/Ad.V dated 24.12.1996, wherein it was requested that order of the CAT in the disciplinary cases may be forwarded to the ministry along with comments and opinion of the head of the department and Government Standing Counsel immediately after receipt of the order from the CAT. The CAT orders in the disciplinary cases adverse to the Government should be implemented in consultation with Ministry.

Further citing CBIC's instructions issued vide F.No A-32022/16/96 Ad.IIIA dated 12.12.1997, it was reiterated that CAT/High Courts judgements may be implemented with the approval of the Ministry vide F.No C-18013/74/92/Ad.V dated 20.07.1999.

Also comprehensive instructions were issued for handling of court cases on administrative and service matters vide F.No C-18012/6/2013- Ad.IIB dated 09.05.2016.

- 16.1.4** CBIC have further issued instructions vide F.No.C-11016/32/2020-Ad.V dated 08.09.2021 and 09.03.2022 for handling of court cases on disciplinary matters. These instructions are comprehensive and cover handling of court cases in disciplinary matters partaking to officers at all levels under the CBIC.
- 16.1.5** Attention is also invited to Office memorandum vide No. 28027/9/99-Estt.(A) dated 01May 2000 issued by DoPT, it is directed that whenever there is any court order against the Government of India instructions on service matters, the administrative department shall consult the department of Legal Affairs, Ministry of Law and the Department of Personnel and Training.

## **16.2 E-SEVA VIVAD PORTAL**

**16.2.1** Vide Ad.IIA letter dated 31.03.2021, e-sevavivad portal was launched in CBIC. Vide Ad.IIA letter dated 26.07.2021, the scope of e-sevavivad portal was widened to include vigilance matters as well. Pursuant to Ad.IIA instructions, the field formations have started uploading documents of legal cases pertaining to Ad.V section. SOP was issued from Ad.IIA dated 01.04.2021 for field formations regarding e-sevavivad portal. For updation of data on e-sevavivad portal in vigilance matters, clarified vide F.No.C-18018/2/2021-Ad.V dated 06.04.2022. It was directed that-

- I. All cases to be uploaded must contain-
  - a. *Brief of the case*
  - b. *Recommendations of the Field formations*
  - c. *Desired action from the CBIC*
  - d. *The case records uploaded on the portal must be complete in all respect i.e it must have all the relevant documents of the concerned legal case like copy of OA, copy of reply Affidavit, Copy of Rejoinder, Copy of reply affidavit to rejoinder, copy of interim orders if any, copy of orders, legal opinion of standing counsel, legal advice of Branch secretariat of DoLA, copy of writ, copy of reply affidavit to writ etc.*
  - e. *Each document uploaded on the portal must be named properly for ease of reference of the CBIC.*

**16.2.2** All the references to CBIC are to be made strictly in compliance of these instructions, any deviations which results in any adverse outcome due to non-adherence to these instructions maybe viewed seriously by the CBIC. For this purpose, a proper mechanism for monitoring of such court cases must be put in place by each concerned Chief Commissioner/Cadre Controlling Authorities under CBIC so as to protect the interest of the Government in Central Administrative

Tribunals/High Courts/Supreme Courts. It is also to be noted that it is primarily the responsibility of the concerned Chief Commissioner/ Cadre Controlling Authority to ensure that timely action is taken at every stage a court case goes through and that a unified stand is adopted on behalf of Government of India at every such stage.

*(Action on receipt of court orders in disciplinary cases is detailed in Chapter 30 of HANDBOOK FOR INQUIRY OFFICERS AND DISCIPLINARY AUTHORITIES, 2013 published by ISTM, DoPT in Q&A form)*

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## CHAPTER - XVII

### PROCEDURE UNDER SECTION 17 A AND SANCTION OF PROSECUTION

#### 17.1 ENQUIRY / INVESTIGATION BY CBI

Enquiry or investigation into complaints alleging corruption and related malpractices is taken up by CBI either after verification of information collected from its own sources or obtained from the members of the public or from public servants, or on the basis of complaints referred to them by the CVC, administrative authorities or the courts.

#### 17.2 SEEKING OF PRIOR APPROVAL FOR CONDUCTING ENQUIRY /INVESTIGATION UNDER SECTION 17A OF PREVENTION OF CORRUPTION ACT

Section 17A of the Prevention of Corruption Act, 1988, has been incorporated by amendment of the Act with effect from 26th July, 2018 and provides that there cannot be any enquiry, inquiry, investigation against a public servant without prior approval.

The provision of section 17A stipulate a mandatory requirement for a Police /CBI officer to seek previous approval for conducting any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under the Prevention of Corruption Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official function or duties.

This means that CBI would now need prior sanction from government at two stages – inquiry and prosecution – in respect of all bureaucrats.

*DOP&T vide Circular No. 428/07/2021-AVD.IV(B) dt 03.09.2021* has laid down the Standard Operating Procedures for processing of cases under section 17A of the PC Act.

**IMPORTANT POINT TO REMEMBER:** Deriving of an undue advantage by the public servant for self or for others is a key ingredient for establishing an offence against him and in absence of fulfillment of this condition any act of omission or commission amounts to an administrative misdemeanor only.



### **17.3 SUO MOTO REFERING CASES BY DEPARTMENT TO CBI FOR INVESTIGATION**

As a general rule, investigation into the allegations of the following types should be entrusted to the CBI:

- i. Allegations involving offences punishable under law which the CBI is authorized to investigate; such as offences involving bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records, possession of assets disproportionate to known sources of income, etc ;
- ii. Cases in which the allegation are such that their truth cannot be ascertained without making inquiries from non-official persons; or those involving examination on non-government records, books of accounts, etc.; and
- iii. Other cases of a complicated nature requiring expert police investigation.

Once a decision has been taken to refer the case to CBI, the complaints, which are to be investigated should be handed over to them at the earliest stage. Apart from other considerations, it is desirable to do so to safeguard against the possibility of the suspect public servant tampering with or destroying incriminating evidence against him.

### **17.4 ACTION ON CBI REPORT**

#### **I. CASES WHERE ACTION BY DEPARTMENT RECOMMENDED**

Cases in which sufficient evidence is not available for launching criminal prosecution, CBI may come to the following conclusion:

- a. The allegations are serious enough to warrant regular department action against the public servant concerned. The CBI report in such cases will be accompanied by (i) draft article(s) of charge(s) in the prescribed form, (ii) a statement of imputations in support of each charge, and (iii) list of documents and witnesses relied upon to prove the charges and imputations ; or
- b. Sufficient proof is not available to justify prosecution or Regular Department Action but there is a reasonable suspicion about the honesty or integrity of the public servant concerned. The CBI report in such cases will seek to bring to the notice of the disciplinary authority, the nature of irregularity or negligence for such action as may be considered feasible or appropriate.

- c. Investigation reports of both types, involving Group A officers will be forwarded by CBI to the CVC, which after considering the administrative authority's report, will advise the disciplinary authority concerned regarding the course of further action to be taken.
- d. Investigation report pertaining to Group 'B' & 'C' employees will be forwarded by CBI to the disciplinary authority concerned, through its CVO. In such cases no further fact finding enquiry should normally be necessary. However, if there is any matter on which the disciplinary authority may desire to have additional information or clarification, the CBI may be requested to furnish required information/clarification. If necessary, the CBI may conduct a further investigation.
- e. In cases where investigation by CBI reveal that there is no substance in allegations, the CBI may decide to close the case. The decision to close the case will be communicated by CBI to the departmental authorities.

*(Refer para 6.6.1 of CVC Vigilance Manual 2021)*

## **II CASES WHERE PROSECUTION RECOMMENDED**

On completion of investigation, if the CBI comes to a conclusion that sufficient evidence is available for launching a criminal prosecution, in case of Group A officer, CBI shall forward its Report to the CVC as previous sanction for prosecution is required under section 19 of PC Act, 1988 to be issued in the name of the President and also to the authority competent to sanction prosecution, through the Pr. DG/CVO, CBIC.

In other cases i.e. Group B and Group C officers, the report will be forwarded to the authority competent to sanction prosecution i.e. Commissioner, through the CVO concerned.

The report, which may be accompanied by the draft sanction order, should give the rank and designation of the authority competent to dismiss the delinquent officer from service and the law or rules under which that authority is competent to do so.

*(Refer CVC Circulars No. 005/VGL/11 dated 12.05.2005, 28.03.2012 and 25.05.2015)*

### **17.5 PREVIOUS SANCTION FOR CRIMINAL PROSECUTION**

**I. Requirement of previous sanction:** Section 19 of the PC Act lays down that no court shall take cognizance of an offence punishable under sections 7, 11, 13 and 15 of Prevention of Corruption Act, 1988 alleged to have been committed by a Public Servant, except with the previous sanction of the authority competent to remove him from his office.

*(Refer Para 6.7.1 of CVC Vigilance Manual 2021)*

**II. Previous sanction required for Retired Officers:** With the amendment of the Prevention of Corruption Act, 1988 in 2018, requirement of previous sanction under section 19 of the Act is also required in respect of retired public servants under the PC Act.

## **17.6 GUIDELINES FOR THE SANCTIONING AUTHORITIES**

While processing a request for grant of previous sanction necessary for prosecution under section 19 of Prevention of Corruption Act, 1988 from the CBI or other investigating agencies, the department is required to decide expeditiously and in accordance with the guidelines issued by the CVC vide Circular No. 005/VGL/11 dated 12.05.2005, 28.03.2012 and 25.05.2015

The Hon'ble Supreme Court has in its judgements in various cases, particularly in the cases of **Vineet Narain & others Vs Union of India, 1997 [1 SCC 226]**, and **CBI Vs Ashok Kumar Agarwal, 2013 [(2014) AIR SC 827]** has laid down detailed guidelines to be observed while considering request for grant of sanction for prosecution.

**I. Time limit for according sanction:** As per the directions of the Apex Court, a time limit of 3 months has been fixed for grant or refusal of sanction for prosecution and 4 months where the opinion of Attorney General or of any other law officer in AG's office is sought.

CVC vide Circular No. 005/VGL/11 dated 12.05.2005, 28.03.2012 and 25.05.2015 has summarised the Supreme Court's guidelines which are to be observed by the administrative authorities while considering request for grant of sanction for prosecution.

**II. The guidelines as summarised in the CVC Circular No. 005/VGL/11 dated 12.05.2005 are hereunder:**

a. 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 constitute the offence.

b. 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.

c. 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 scrutinised by the DIG, IG and

thereafter by DG (CBI). Then the matter is further scrutinised by the concerned Law Officers in CBI.

d. When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinised 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.

e. 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.

f. 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.

g. 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.

### **III. The guidelines issued vide CVC's Circular No. 005/VGL/11 dated 25.05.2015 are hereunder: -**

a. The prosecution must send the entire relevant record to the sanctioning authority including the **FIR disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material**. The record so sent should also contain the material / document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.

b. The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.

c. The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.

d. The order of sanction should make it evident that the authority had been aware of all relevant facts / materials and had applied its mind to all the relevant material.

e. In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.

### **17.7 SEEKING CVC'S ADVICE IN CASES WHERE PRIOR SANCTION FOR PROSECUTION IS SOUGHT**

Para 2 (vii) of GoI Resolution dated 11.02.1964 and the guidelines issued by DoPT vide OM No. 372/6/2017-AVD-III dated 01.03.2019, provide that the Commission tenders advice in cases of prosecution for Presidential appointees i.e Group A officers. DGoV Hqrs seeks CVC advice in cases of prosecution requests received from the CBI along with its recommendations as to whether or not prosecution should be sanctioned. Thereafter, CVC tenders advice, after considering the comments received from DGoV, as to whether or not prosecution should be sanctioned.

In terms of CVC's instructions issued vide Letter No. 98/VGL /7 dated 12.03.1998, the time limit for furnishing comments by the administrative authorities on the CBI report is 30 days.

Further, in terms of the DoPT OM No.399/33/2006-AVD-III dated 06.11.2006 & 20.12.2006 and No. 118/2/2011 dated 31.01.2012 the administrative authorities are required to formulate their tentative views on the report of the CBI within three weeks.

In case the comments of department are not received within three weeks in respect of cases where sanction for prosecution has been recommended, the Commission can tender its advice suo motu. Comments received after three weeks but before 31 days, the Commission would treat it as a reconsideration request. Any comments received after expiry of 31 days shall not be entertained by the Commission and would be referred to DoPT.

*(Refer CVC Circular No. 33/09/10 dated 28.09.2010)*

### **17.8 REQUEST FOR RECONSIDERATION OF COMMISSION'S ADVICE**

In terms of para 2. (ii) & (iii) of DoPT OM No. 399/33/2006-AVD-III dated 06.11.2006 & 20.12.2006, the Department shall formulate their view on the CVC's advice within seven days and may refer the case to the CVC for reconsideration of its advice only in exceptional cases when new facts have come to light. The CVC would then render appropriate advice to the competent authority within a fortnight.

### **17.9 RESOLVING DIFFERENCE OF OPINION BETWEEN THE CBI AND THE COMPETENT AUTHORITY**

In terms of the DoPT guidelines issued vide *OM No. 372/6/2017-AVD-III dated 01.03.2019*, in cases where an authority other than the President (I.e Commissioner in case of Group B & C officers) is competent to sanction prosecution under section 19 of Prevention of Corruption Act, 1988 and the authority does not propose to accord the sanction sought for by the CBI, or the other investigating agency, as the case may be, the case will be reported to the CVC and the authority will take further action after considering the Commission's advice.

#### **17.10 REFERENCE TO DOPT**

In cases where the administrative authorities do not propose to accept the advice of the CVC for grant of sanction or declining grant of prosecution, the cases should be referred to DoPT.

*(Refer DoPT OM No. 372/6/2017-AVD-III dated 01.03.2019)*

#### **17.11 GRANT OF IMMUNITY / PARDON TO APPROVERS**

If during an investigation, the CBI finds that a public servant, against whom the Commission's advice is necessary, has made a full and true disclosure implicating himself and other public servants or members of the public and that such statement is free from malice, the CBI may send its recommendation to the CVC regarding grant of immunity / leniency to such person from the Departmental action or punishment. The CVC will consider the recommendation in consultation with the administrative Ministry / Department concerned and advise that authority regarding the course of further action to be taken.

*(Refer Para 6.8 of CVC Vigilance Manual 2021)*

#### **17.12 ASSISTANCE AND COOPERATION TO CBI IN ENQUIRY / INVESTIGATION**

The administrative authorities and the individual public servants should extend full cooperation to the CBI during the course of investigation.

*(Refer MHA OM NO 371/13/66-AVD.II dated 25.06.1969, DoPT OM No. 371/5/73-AVD.III dated 05.09.1975 and DoPT OM No. 371 / 13 / 87-AVDII dated 11.09.1988.)*

#### **17.13 INSPECTION, SEIZURE & EXAMINATION OF RECORDS AND PROVIDING DOCUMENTS TO DISCIPLINARY AUTHORITIES**

CBI staff are authorized to inspect all kinds of official records at all stages of investigation. The Heads of Departments / Offices, etc. will ensure that the Superintendent of Police of

the CBI, or his authorized representatives, are given full cooperation and facilities to scrutinize all relevant records during investigation, whether preliminary or regular. If the CBI wishes to check the veracity of information in their possession from the official records, even before registration of a PE or RC, they may be allowed to see the records on receipt of a request from the SP, CBI.

CBI necessarily require the original records for purpose of investigation, as the authenticity of attested or photostat copies could be contested by the delinquent officials, thereby hampering the progress of investigation. In asking for original documents, particularly those forming part of current files, the CBI will exercise due consideration so as to ensure that day-to-day work is not impeded.

The departmental authorities may thus ensure that the documents asked for by the CBI are made available to them with the least possible delay. Where necessary, the departmental authorities may keep attested or photostat copies of the records for meeting urgent departmental needs or for disposing of any action that may be pending on the part of the Department, without prejudice to the investigation being carried out by the CBI.

The records required by the CBI should be made available to them ordinarily within a fortnight and positively within a month from the date of receipt of the request. If, for any special reasons, it is not possible to hand over the records within a month, the matter should be brought to the notice of the Superintendent of Police of the Branch concerned, by the authority in possession of the records, pointing out the reasons for not making available the records within the specified period; and also, to the notice of the Chief Vigilance Officer for such further direction as the Chief Vigilance Officer might give.

The request of the C.B.I. for information relating to pay and allowances drawn by the public servants over a certain period, in cases where such public servants are alleged to have possessed disproportionate assets, should be furnished to them within a month of receipt of requisition from the C.B.I. In cases, where it is not possible to supply this information to the Central Bureau of Investigation within the specified period, the position may be suitably indicated to the Central Bureau of Investigation and simultaneously necessary steps taken to obtain and furnish the particulars to them as expeditiously as possible.

**Inspection of Classified / Graded documents:** When the Special Police Establishment desires to see any classified documents / records, sanction of the competent authority to release such documents / records should be obtained promptly by the administrative authority in-charge of records and the records should be made available to the Special Police Establishment in the following manner: -

- i. “Top Secret” documents should be handed over only to a gazetted officer of the Special Police Establishment;
- ii. “Secret” and “Confidential” documents should be given to gazetted officers of the Special Police Establishment, or to an Inspector of Special Police Establishment if he is specially authorized by the Superintendent of Police of the Special Police Establishment to obtain such documents;
- iii. A temporary receipt should be obtained whenever any graded document is handed over to an officer of the S.P.E., who will be asked to comply with the provisions of para 27(a), (b), (c) and (e) of the pamphlet entitled “Classification and Handling of Classified Documents, 1958”;
- iv. Where original documents cannot be made available to the investigating officer for any reason, he should be supplied with photostat copies or attested copies and a certificate should be given by an officer of appropriate rank that the originals are in safe custody and out of reach of the suspect official and will be produced whenever required;
- v. Current files having a bearing on the day-to-day administration will not be handed over to the Special Police Establishment at the preliminary stage of their investigation. However, copies or extracts will be supplied, if necessary.

**17.14 Providing documents for RDA purposed by the CBI:** At times the disciplinary proceedings against the delinquent officer gets delayed due to non -receipt or late receipt by the disciplinary authority of the original documents from the CBI. *Para 6.9(n) and (o) of CVC Vigilance Manual 2021* provides for the steps to be taken by CBI to avoid such delays.

*(Refer para 6.9 of CVC Vigilance Manual 2021)*

Prosecution of departmental officers under Customs Act and CGST Act are different and independent of prosecution under PC Act, 1988 and are sanctioned by Competent Authority as per the prescribed procedure.

*(Refer CBIC's Circular No.12/2020-Customs dated 10.02.2020 vide F.No.394/91/2018-Commr (Inv.- Cus))*

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## **CHAPTER-XVIII**

### **VIGILANCE CLEARANCE AND E-SAJAG PORTAL**

#### **INTRODUCTION**

Vigilance Clearance is very important part of the Department, as the same is required for various purposes, such as:

- i. Promotion, NFU, NFSG;
- ii. Empanelment;
- iii. Deputation;
- iv. NoC for Passport;
- v. Permission for personal travel abroad;
- vi. Disbursement of reward;
- vii. Retirement;
- viii. Resignation;
- ix. Voluntary Retirement Scheme (VRS);
- x. Confirmation of probationers;
- xi. General Election Duty; and
- xii. Nomination of Presidential Award, Commendation Certificates, etc.
- xiii. Pensionary benefits.

#### **18.1 CBIC'S DECISION ON VIGILANCE CLEARANCE**

There are various DoPT's Instructions on the above issues and to streamline the same, CBIC had circulated its Minutes of Meeting dated 03.06.2015 vide OM dated 24.06.2014 from F.No.296/03/2015-CX.9 [BMB-2015].

Subsequently in order to bring more clarity on this issue, particularly to define the 'contemplated cases' another CBIC's Minutes of Meeting dated 27.11.2019 was circulated vide OM dated 01.01.2020 from F.No.296/03/2019-Cx.9 [BMB-2020].

#### **18.2 VIGILANCE CLEARANCE OF PASSPORT**

Ministry of External Affairs *OM No.VI/401/01/05/2014 dated 26.05.2015* prescribes details of provision for issuance of Ordinary Passport to Government Servants.

**18.2.1** MoF, DoR, CBIC, in supersession of Department's letter F.No.C.50/58/99-AD.I dated 8<sup>th</sup> December, 1999, vide a letter *F.No.26014/63/2016-Ad.IIA dated 2013* delegates power for - (i) Receiving "Prior Intimation" letter for applying for ordinary passport: (ii)

Issuing No Objection Certificate (NOC) for passport; (in) Issuing Identity Certificate (IC) for passport; and (iv) according Permission to visit abroad to the following authorities –

- i. Central Board of Indirect Taxes & Customs in respect of officers of the rank of Principal Chief Commissioner/ Principal DG/ Chief Commissioner/ Director General.
- ii. Central Board of Indirect Taxes & Customs in respect of officers holding additional charge of Principal Chief Commissioner/ Principal DG/ Chief Commissioner/ Director General.
- iii. Principal Chief Commissioner/ Principal DG/ Chief Commissioner/ Director General in respect of Group-'A' officers of the rank of Principal Commissioner and below.
- iv. Pr. Commissioner/ Commissioner in respect of Group-'B' and 'C' officers.

**18.2.2** As regard to the issue of 'Grant of Vigilance Clearance for obtaining Passport' the *DoPT's OM dated 18.02.2020 from F.NO.11012/7/2017-Estt.A-III* stipulates that Vigilance clearance can be withheld if (i) the officer is under suspension; and (ii) Charge Memorandum has been filed in a Court by the Investigating Agency in a criminal case or after grant of sanction by the Competent Authority under PC Act or any other criminal matter and taken cognizance of by the Court of Law. CBIC's decision as mentioned in para-18.1 above in this regard for Grant of Vigilance Clearance for obtaining Passport may be ignored.

### **18.3 VIGILANCE CLEARANCE TO VISIT ABROAD**

As regard to requirement of taking prior permission for leaving station/headquarter for visiting abroad while on leave, the relevant *DoPT's OM dated 27.07.2015 from F.No.11013/8/2015-Estt.A-III* empowers Leave Sanctioning Authority to grant permission on the basis of Vigilance Status provided in terms of Clause no.(3) and (5) to Part-B of the proforma attached with DoPT's OM dated 27.07.2015.

### **18.4 VIGILANCE CLEARANCE FOR RESIGNATION/VRS**

Whenever a Group-'A' officer tenders his resignation or opts for Voluntary Retirement, the Concerned Commissionerate is advised, while sending his Application to Ad.II of CBIC, to provide the following information to DGoV (Hq.)

- (i) If any investigation is pending against the officer, which may lead to the disciplinary proceedings; and

- (ii) Current status of the Contemplated Cases, if any to Jurisdictional Zonal Units of this Directorate (Vigilance) and Zonal Unit in turns will forward a consolidated report to DGoV (Hq.) so that a complete Vigilance Status may be provided to Ad.V of CBIC for issuance of Vigilance Clearance.

**18.4.1** Para-1(v) of CBIC's OM *F.No.C-50/04/2018/Ad.II(Pt.) dated 04.04.2022* prescribes w.r.t. Assistant Commissioner that Vigilance Status prior to his/her promotion may also be provided to Ad.II of CBIC, if the officer has opted for Voluntary Retirement from service under Rule 48 or Rule 48-A of the CCS (Pension) Rules, 1972 and Fundamental Rule (F.R.) 56 (K).

While processing Vigilance clearance for VRS, the timelines prescribed under Fundamental Rule 56 (K) may be adhered to.

## **18.5 VIGILANCE CLEARANCE FOR AWARDS**

In case of Nomination for Presidential Award, Commendation Certificates, etc., entire Vigilance Status vis. closed cases, even if, it is closed in favour of officer; live cases; penalty status; Agreed List and/or ODI List status for past and present years is required to be provided to the Authority, who will decide inclusion or otherwise for nomination of Presidential Award, Commendation Certificates etc.

## **18.6 VIGILANCE CLEARANCE IN THE EVENT OF PENDING COMPLAINT**

While issuing Vigilance Clearance, guidelines contained in *CVC OM dated 19.04.2021 from No.021-AIS1(2)* circulated by DGoV (Hq.) vide its letter V-500-47-2012-Pt.II dated 29.11.2021 required be followed. This deals with expeditious disposal of Complaints received against employees having bearing on Vigilance Clearance.

[https://www.cbic.gov.in/resources//htdocs-CBIC/deptt\\_offcr/guidelines%20of%20vigillance.pdf](https://www.cbic.gov.in/resources//htdocs-CBIC/deptt_offcr/guidelines%20of%20vigillance.pdf)

## **18.7 VIGILANCE CLEARANCE IN THE EVENT OF DEATH OF CHARGED OFFICER**

Vide DoPT Office Memorandum dated 20.10.1999 from F.No.11012/7/99-Estt(A), it has been decided that where a Government Servant dies during the pendency of the inquiry i.e. without charges being proved against him, imposition **of any of the penalties** prescribed under the CCS(CCA) Rules, 1965 would not be justifiable. Therefore, disciplinary proceedings should be closed immediately on the death of the alleged Government Servant.

**18.7.1** CBIC's Office Order No.01/2017 dated 28.03.2017 vide F.No.50/10/2005-Ad.1.Vig further prescribes that in respect of disciplinary proceedings of Group-'A' officer of CBIC, on the death of alleged charged Government Servant, the proper Authority to take final decision will be Member (P & V), CBIC.

## **18.8 VIGILANCE CLEARANCE W.R.T GROUP 'A' OFFICER:-**

For Group-'A' Officer, Ad.V of CBIC is the authority to issue 'Vigilance Clearance, whereas for the officer other than Group-'A' Officer, the respective Commissionerate is the proper authority.

**18.8.1** Whenever Vigilance Clearance is required to the 'Field Formations' w.r.t any Group-'A' Officers, the request letter, in this regard, should be addressed to

*"The Deputy Secretary/Under Secretary,  
Office of the Chief Vigilance Officer, Ministry of Finance,  
Department of Revenue, CBIC,  
2<sup>nd</sup> Floor, Hudco Vishala Building, Bhikaji Cama Place,  
R.K. Puram, New Delhi-110066".*

Copy of the said letter should also be endorsed to

*"The ADC/JC, (in charge of Vigilance Clearance Cell),  
Directorate General of Vigilance,  
Indirect taxes and Customs  
3<sup>rd</sup> Floor, Hotel Samrat, Kautilya Marg,  
Chanakya puri, New Delhi-110021".*

The 'Field Formation' is also required to provide email address, so that Vigilance Clearance may be forwarded to them through e-mail. Phone number of a well conversant officer may also be provided therein to resolve issues, if any.

**18.8.2** The said request letter may also be sent through email address at 'ad5-section@gov.in' of Ad.V of CBIC and at 'dg.vig-CBIC@nic.in' of DGoV(Hq.).

**18.8.3** In normal course, 'Vigilance Clearance' for any Group-'A' officer is required by Ad.II of CBIC for the purpose mentioned above at (i), (ii) and (vii) to (xi) and to the Sponsoring Authority for (xii). For other purposes, it is furnished to the Concerned Commissionerate, where the officer is posted. Thus, Ad.II/Commissionerate generates a request to Ad.V, which in turn, before issuance of Vigilance Clearance, requests DGoV (Hq.) to provide Vigilance Status of the officer.

**18.8.4** In DGoV(Hq.), on receipt of a request either from Ad.II of CBIC or from the respective Chief Commissionerate/Commissionerate, Vigilance Status is forwarded to Ad.V of CBIC, where Ad.V include therein the current as well as penalty status and issues Vigilance Clearance after obtaining approval of the Competent Authority and forwards it to requisitioning Authority .

**18.8.5** It may also be noted that the consolidated guidelines for issuance of Vigilance clearance to members of Central Civil Services/Central Civil posts has been prescribed by DoPT vide *Office Memorandum dated 28.09.2022*.

*(Refer DoPT OM F.No 104/76/2022-AVD.IA dated 28.09.2022)*

## **18.9 E-SAJAG**

**18.9.1** The process of issuance of 'Vigilance Clearance' involves multiple steps and the entire exercise is time consuming as lots of time is also lost during communication. E-sajag portal is envisaged to cut time involved in the entire process. This portal is being designed for an end-to-end software application for the purpose of issuance 'Vigilance Clearance' for above listed purposes. However, subsequent to introduction of 'e-Pratiniyukti', it is decided to keep 'Vigilance Clearance' for 'Deputation' out of the purview of e-sajag.

**18.9.2** Initially the e-sajag portal will be used to issue Vigilance Clearance w.r.t 'Disbursement of reward' and 'Permission for personal travel abroad' only and soft launch for the purpose of trail-run of e-sajag for these two purposes has already been done and it will be launched shortly and subsequently, it will be covering other categories of request.

**18.9.3** Initially, in each Chief Commissionerate/Commissionerate, login-id will be provided to one officer at the rank of ADC/JC and one Deputy Commissioner or Assistant Commissioner rank officer. In Ad.II of CBIC the same will be provided to officer as per their requirement. As per requirement, the Chief Commissionerate /Commissionerate/Ad.II will feed the requisite details in the e-sajag portal, which will automatically be forwarded to DGoV(Hq.). Once, the request is processed in DGoV(Hq.)/Ad.V, a Vigilance Clearance Certificate will get forwarded to Chief Commissionerate/Commissionerate/Ad.II.

**18.9.4** Once the e-sajag portal starts functioning smoothly, Vigilance Clearance Certificate will be sent to the respective Chief Commissionerate/ Commissionerate and Ad.II electronically and the same, being system generated, will not require signature of the official of Ad.V.

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## CHAPTER – XIX

### PREVENTIVE VIGILANCE

#### 19.1 Introduction

The Proverb '**Prevention is Better than Cure**' is appropriate in the context of Vigilance Activities, as it is easier to avoid/prevent/stop occurrence of a violation in the first place than to take punitive action and/or repair the damage after it has happened and if it is detected. Thus, the Vigilance activities can broadly be classified in two categories - steps aimed at reducing violations (Preventive Vigilance) and steps aimed at detection of violations and punishment of such violators (Detective and Punitive Vigilance).

**19.1.1** The Para 1.1.6 (a) of the CVC Vigilance Manual mentions that It is the duty of every officer holding a supervisory post in any organization to take all possible steps to ensure the integrity and devotion to duty of all officials for the time being under his control and authority. Therefore, all officers of the organization are responsible for Preventive Vigilance activities within the domain of control exercised by them and/or observed by them.

#### 19.2 SCOPE OF ACTIVITIES

The scope of Preventive Vigilance Activities can be stated under four broad categories:

- (a) Placement of Officers
- (b) Systems and Improvement
- (c) Leveraging IT Systems and
- (d) Training and Awareness.

The CVC Vigilance Manual, 2021 has listed down various preventive Vigilance measures at Paragraph 2.13, Paragraph 2.15 and at Paragraph 10.4 (14 broad measures) for guidance of all officers in public life.

#### 19.3 PLACEMENT OF OFFICERS

**19.3.1** It can be stated that proper placement of officers and their effective management is a crucial requirement of Vigilance Administration. The Transfer/ placement guidelines issued by CBIC vide F.No. 8/B/45/ HRD (HRM)/ 2009 (par-II) dated 08/07/2010 mandates -

- i. classification of different charges in Field Formations as Sensitive or Non-sensitive by the concerned Chief Commissioner (provided an illustrative list);
- ii. strict rotation and adherence to tenure of postings, minimum tenure and rotation between various formations;
- iii. History of postings be put up by Cadre Control Authority in website to promote Transparency.

([https://www.cbic.gov.in/resources//htdocs-CBIC/transfer\\_ord/xfer-policy-gp-b-cx.pdf](https://www.cbic.gov.in/resources//htdocs-CBIC/transfer_ord/xfer-policy-gp-b-cx.pdf))

**19.3.2** The above referred transfer guidelines also mandate that in case where sufficient number of officers are not available due to administrative / vigilance reasons for posting to sensitive charges, officers can be rotated from one sensitive charge to another sensitive charge. The *CVC vide circular 03/09/13 dated 11/9/2013 and Office Memorandum dated 23/8/2018* has also mandated for rotation of officers in sensitive posts and report such compliance to CVC on quarterly basis. A report is also prescribed by DGoV, asking for information about rotation/ retention of officers in sensitive posts and reasons thereof.

**19.3.3** Apart from the above, the mandate of senior officers is to identify the public servants who are of doubtful Integrity and closely watch their activities. In this regard, reference can be made to Paragraph 2.12 (xvii) and (xviii) of CVC manual for detailed guidelines. The Supervisory/ Senior officers, may timely intervene by way of advice/ counseling/ warning to prevent lapses.

## **19.4 SYSTEMS AND IMPROVEMENT**

**19.4.1** The department carries out various functions and to carry them out prescribes processes, procedures, and guidelines, with an aim to carry out the work in a systematic, timely and transparent manner. The stated objective is to put in an efficient system that is easier to administer, transparent and that which does not cause delays. Such systems employ either manual and/or IT based Systems for recording of details, verifications, monitoring and reporting.

**19.4.2** In the context of an effective and efficient System for administration, the mandate is two pronged:

- (i) identification of shortcomings in the System and finding effective solution for such shortcoming;
- (ii) identification of non-observance of procedures prescribed in the System.

**19.4.3** Systems studies are carried out by the various directorates of CBIC to study issues arising in the functioning and implementation of various aspects of tax administration. System Study in any of select area(s) of concern as detailed below, may also be conducted by field formations for detection of shortcomings and for suggesting corrective measures:

- a) **Simplification of Rules:** The purpose of any process is to give effect to a provision of law and/or a Rule/ regulation prescribed. The provision of law (including rule/ provision) that is difficult to administer or resulting in complicated compliance or leaving scope for much discretion, is to be identified and alternatives suggested for modification to the appropriate higher formation through proper channel.
- b) **Simple Procedures:** It is to be ensured that the procedures employed are - simple to follow, easy to administer, and transparent. Processes with excess regulation may result in excess discretion, delays and loss of transparency.
- c) **Different practices across various formations:** Absence of a prescribed procedure or uniform procedure across all formations, results in varied practices, uncertainty, and increased discretion. Instances of such anomalies may also be brought to the attention of the supervisory officers for mitigating such anomalies.
- d) **Deviation from the prescribed procedures:** Although uniform procedure is prescribed, certain formations may deviate, which may result in better or inferior performance.

**19.4.4** Issuing Standard Operating Procedures and preparation of Manuals helps a lot in discharge of functions and provides guidance. Regular updation of such manuals and SoPs needs to be carried out whenever need arises. Study of Best Practices followed can also throw insights into problem areas.

**19.4.5** Apart from System related issues, the following measures can be undertaken for strengthening a Vigilant Administration:

- i. Monitor delays that are occurring in various processes by accurate recording of outcomes and take corrective steps
- ii. Conduct of regular inspection and audit of field formation. The Inspection reports, Audit reports are a good source for identification of - systemic failures, delays that are occurring, effectiveness of internal-control processes and deviations from prescribed procedures.
- iii. Carry out regular and Surprise checks in sensitive areas. The element of surprise in a check can be both with regard to the time and nature of sensitive formation.



Surprise checks indicate the effectiveness of internal controls, maintenance of the prescribed procedures.

- iv. Proper Complaint handling mechanism and taking corrective measures in timely manner. Complaints indicate areas of concern of trade & public and about officers who may be misusing their discretion. An effective Grievance Redressal also serves the purpose of identification of areas of concern. Wherever required the officers and staff of the formations should be given the required training for bridging the gap between the goal and the preparedness of the team to deliver.

**19.4.6 Infrastructure Development:** Providing good infrastructure facilities like convenient accommodation with comfortable connectivity, good (neat & clean, modern) office working environment, beneficial staff welfare measures will help in building a dedicated workforce.

## **19.5 LEVERAGE OF IT SYSTEMS**

**19.5.1** The CBIC has been a pioneer in taking many e-Governance initiatives. In order to fulfill the Mission of a robust, transparent and technology-driven Indirect Tax and Border Control Administration, CBIC has deployed several initiatives. Such initiatives include innovative use of technology and techniques for revenue mobilization, detection of leakage of revenue, to provide maximum trade facilitation, enhanced transparency, improved accountability & minimal interventions.

**19.5.2** Although, the CBIC has been employing IT Systems for more than 25 years, the scope of improvement is still immense. The field formations can contribute in effective implementation of IT Systems in the following manner:

- i. Lack of ownership in user involvement by the field formations will result in partial-success/failure of IT System Projects. It is important to address passive or negative attitudes of the officers towards use of IT Systems and enable/ encourage all users.
- ii. Ensure use of all System Modules deployed, entry of accurate data at appropriate outcomes, generation and use of reports from the System for Performance monitoring.
- iii. It may be difficult to consult all field formations at the time of formulation of System Requirements at the time of initiation of projects, however once a System is developed& set up, it is responsibility of the field formations to check whether all process requirements are met. The field formations would be in better position to provide useful feedback about shortcomings in the IT System, scope for further expansion and specify clear Statement of Requirements.

- iv. The field formations can also provide feedback on processes that can be modified/ simplified for better delivery of the required results.

**19.5.3** The field formations can make constant efforts to improve performance by active application/ extension of the following Projects that are already implemented:

- i. Procurement of all goods & Services by all field formations is mandated to be carried out by e-Tendering process in Central Public Procurement Portal as well as in Government e-Marketplace (GeM)
- ii. All payments (salary as well as vendor bills) by the department are carried out electronically through payment and accounting module of PFMS only.
- iii. Information dissemination by the department is done through CBIC website as well as websites managed at field level by CCOs and Commissionerates. Regular updation of information in these websites may be undertaken to bring transparency and provide 'information services'.
- iv. Implementation of e-office across all formation and ministry, wherein majority of work/ file movement is carried out through web based portal.
- v. Active use of Intelligence inputs provided by DGARM by Big Data Analytics and making suggestions for improvements or suggesting scenarios for development of Intelligence.

**19.5.4 Adoption of Best practices and local initiatives:** It is also known that in many instances projects initiated and implemented and local initiatives by field formations have become best practices, which were later taken up for all India implementation. Therefore, projects relevant for specific needs can be identified, developed and showcased.

## **19.6 Scrutiny of Immovable Property statement**

Each public servant is mandated to submit Annual statement of Immovable Property. It is desirable that each statement is put up to competent Authority for perusal and acceptance. If any marked deviation is observed during such exercise, necessary action may be undertaken.

**19.6.1** In this regard, kind attention is invited to Para 3.1 (c) and (d) of CVC Vigilance Manual 2021 regarding scrutiny of Annual IPRs and transactions reported under the Conduct Rules. Further attention is invited to explanation I to section 13 (I) of PC Act 1988 regarding possession of pecuniary resources.

**19.6.2** The CVC has also mandated that the Vigilance wings of administrative department undertakes scrutiny of IPRs as a part of Vigilance Audits.

**19.7** Training and awareness is covered in separate chapter of this Handbook.

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## CHAPTER – XX

### TRAINING AND AWARENESS IN VIGILANCE

#### 20.1 RECOMMENDATIONS OF SANTHANAM COMMITTEE

*“Corruption cannot be eliminated or even significantly reduced unless preventive measures are planned and implemented in a sustained and effective manner. Preventive action must include administrative, legal, social, economic and educative measures” (Santhanam Committee Report, 1964).*

The Administrative and Legal measures of Preventive Actions are discussed in Chapter 19 above. Educative measures have to be addressed through Training and Awareness of various stakeholders for achieving the stated goals of the organization. The Social & Economic measures are beyond the scope of the Department, however humble efforts can be made by certain Awareness measures.

**20.2** Training plays an important role in building & sustaining Capacity of the organization and improves capabilities & confidence of its employees. In the context of Vigilance Administration, it is desirable that lapses of officers do not happen due to lack of training/ technical knowledge/ information. Indeed training is desirable/ mandated, whenever an officer is inducted into service or when promoted to handle higher responsibility. In certain instances specific circulars were issued to train officers when posted to certain charges. The importance of Training and Awareness including Mid-career training is explained at paragraph 10.4 (k) and (k)(a) of the CVC Vigilance Manual 2021. The iGOT project under the Mission Karma Yogi will be step in a right direction towards providing an effective and continued training to the departmental officers and other stakeholders.

**20.3** Defining work in detail at each level is a significant requirement for better Performance Management. In the absence of a mandated framework of actions that are suggested at each level, there is likelihood of misplaced priorities even when officers are promoted to senior levels, wherein Changing role of officer with each responsibility is not recognised. While Revenue collection & detecting of Revenue leakage is the main function (thrust) of the organization, certain important incidental activities are to be managed at the senior levels which may include - Capacity Building of organization, effective Vigilance Administration, enabling enthusiastic workforce, Good Infrastructural set up. The work place need a process/system for evaluation of skills needed at all levels at various points of time and such skills are provided. The concept that ‘each office is a training institute’ may have to be adopted as a mandate.

**20.4** Officers spend a significant part of their life (nearly half of waking hours) carrying out work in the offices. It is also a fact that quality of work output is better when employee work with Purpose, Mindfulness, and Enthusiasm. It is in the interest of the employer and employee that they spend the time with a positive, healthy & joyful state of mind in office and at home. Therefore, officers may be provided with training on - interpersonal life skills,

Management of stress with Positive values, understand how to have a mindful and meaningful Living etc.

## **20.5 AWARENESS**

**20.5.1** The Moral and Ethical behavior of employee in an organization is reflection of morality of the Society. Foundations of morals are formed at childhood. It is desirable that department may carry out outreach programs in schools about Vigilant India, Swachhata by conducting competitions and undertaking suitable projects. The Public may also be informed about efforts carried out by the department on special occasions. The importance of Public awareness and inculcating moral values is explained at paragraph 10.4 (m) and (n) and at paragraph 2.13 (v) and (xiv) of the CVC Vigilance Manual 2021.

**20.5.2 Vigilance Awareness Week:** Celebration of Vigilance Awareness Week is such an opportunity, wherein field formations can reach out to General Public to spread Awareness. It provides for an exclusive opportunity to field formations as well as the organization to undertake various preventive vigilance and awareness measures. The department may also interact with all stake holders like tax payers, associations, trade bodies, Customs Brokers Associations, participating Government Departments to spread awareness. Measures for Public participation are also elaborated at paragraph 11.5 of the CVC Vigilance Manual 2021.

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## CHAPTER - XXI

### MONITORING OF VIGILANCE CASES

- 21.1** The whole work of vigilance process is time bound and involves multiple and complex stages of disciplinary proceedings (DP). The disciplinary proceedings are initiated under the CCS (CCA) Rules, 1965 for violation of CCS (Conduct) Rules, 1964. The proceedings are undertaken under said rules and follow various clarifications, instructions, Office memorandum issued from time to time by various organizations like DoPT, CVC.
- 21.2** Besides vigilance processes, department also deals with criminal cases and related action like investigations, prosecution under Prevention of Corruption Act, 1988, summary proceedings upon conviction under Rule 19 of the CCS (CCA) Rules, 1965 etc. This involves continuous co-ordination with CVC, UPSC, DoPT, UPSC and CBI.
- 21.3** In CBIC, for Group A officers, **DIRECTORATE GENERAL OF VIGILANCE** and **Ad.V section** and for non Group A officers, zonal units of DGoV and Commissionerate (specified as Disciplinary Authority) along with cadre Controlling Authorities constitute the vigilance edifice of CBIC and perform the task from receipt of complaints to issuance of final order.
- 21.4** CVC and DoPT vide various circulars and OMs have prescribed time lines for finalization of investigation, inquiry and Disciplinary proceedings. Further, same has been reinforced vide judgements in various court cases. Thus it has become vital to closely monitor disciplinary cases for timely completion.
- 21.5** As the disciplinary proceedings are time bound and involves co-ordination with various agencies, also it has huge impact on the officers concerned, there is continuous monitoring of disciplinary matters for timely completion at various level within CBIC ie at the level of Commissionerate, CCAs, DGoV and CBIC and also outside CBIC by CVC, UPSC, CBI and DoPT. This requires continuous monitoring of various vigilance proceedings.
- 21.6** The following reports /Databases are presently being used/maintained for monitoring of Vigilance cases.

#### **A. DGOV, Hqrs New Delhi:-**

- QPR as per CVC Format
- Probity Report

- Prosecution Report
- Complaints database
- Vigilance Database
- Agreed List
- ODI List

**B. Ad.V :-**

- QPR as per CVC format
- Inquiries pending submission of IR - beyond 6 months/one year/two years etc.
- Inquiries pending finalization beyond 6 months/one year/two years etc.
- Rules-9 cases pending for (say) more than six months – since date of receipt
- Appeals pending for (say) more than six months – since date of receipt
- Revision cases pending for (say) more than six months – since date of receipt
- Review cases pending for (say) more than six months – since date of receipt
- Cases with linked legal cases along with status of each case
- DP cases databases
- Probity Report
- Prosecution Report

**C. Zonal units of DGoV, CCAs and Commissionerates:-**

Monthly / Quarterly Reports

- Prosecution Report
- Pending Disciplinary cases
- Comprehensive Database of Disciplinary cases
- Officers due to retire shortly,
- CVO to CVC report
- Updation of CVC List
- QPR
- Monthly report in Proforma I to VII
- Report on Convictions
- Report on Suspensions
- Scrutiny of Audit Reports
- FSA and SSA implementation report
- Progress of pending inquiries
- Cases of deviation from CVC's advice

- List of officers posted without timely rotation
- Pending Disciplinary proceedings in CC zone

**21.7** It may also be noted that in disciplinary matters, various legal matter also arises like proceedings in CAT, High Court, and Supreme Courts. For protection of the interest of the government, it is imperative to closely monitor such legal cases arising out of vigilance proceedings.

**21.8** Attention is also invited to *DoPT OM dated 29.11.2012 vide F.No 425/04/2012-AVD-IV(A)* where guidelines for monitoring for expeditious disposal of disciplinary proceedings cases are provided.

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## CHAPTER – XXII

### LIST OF CIRCULARS

**For the convenience of the departmental officers following list of circulars, instructions, OMs etc are provided –**

S.No	Subject	Circular No.	Date
1	Recommendations of the Pay Commission regarding disciplinary proceedings	<a href="#">DoPT Circular No 6-26-60-Estt(A)</a>	16/02/1961
2	Not appropriate to bring in past bad records in deciding the penalty, unless it is made the subject matter to specific charge of the charge sheet itself.	DoPT Circular No 134-20-68-AVD	28/08/1968
2A	Confidential Reports – Preparation and maintenance of.	DoPT Circular No. 51/5/72 Ests. (A)	20/05/1972
3	Departmental inquiries against Government servants - appointment of Inquiring Authority.	DoPT Circular No 39-40-70-Estt(A)	09/11/1972
4	Admissibility, during oral inquiry, of statements made by the delinquent officers and the witnesses at the stage of preliminary inquiry/investigation.	DoP&AR Circular No 134-7-75-AVDI	01/06/1976
5	Inquiry by the Disciplinary authority - Item raised in the meeting of the National Council (JCM) held in Nov. 1975.	DoPT Circular No 35014-1-76-Estt(A)	29/07/1976
6	CCS(CCA) Rules, 1965 - procedure to be followed under Rule 14(19) thereof.	DoPT Circular No 11012-18-77-Estt(A)	02/09/1978
7	Central Vigilance Commission - Case of differences from/ non-acceptance of the advice of - Procedure for consultation with the Department of Personnel & AR.	DoPT Circular No 118-2-78-AVD(I)	28/09/1978
8	Promotion to a higher grade or post-clarification in regard to sealed cover procedure - Effect of warning, censure etc. on promotion.	DoPT Circular No 22011-2-78-Estt(A)	16/02/1979
9	Self contained, speaking and reasoned order to be passed and to issue over signature of prescribed Disciplinary / Appellate / Reviewing Authority.	DoPT Circular No 134-01-81-AVD I	13/07/1981
10	Promotion of officers in whose case "the sealed cover procedure" has been followed but against whom disciplinary/court proceedings are pending for a long time.	DoPT Circular No 22011-1-79-Estt A	30/01/1982

S.No	Subject	Circular No.	Date
11	Promotion to a higher grade or post - clarification in regard to sealed cover procedure - effect of warning, censure etc. on promotion.	DoP&AR Circular No 22011-2-82-Estt(A)	21/05/1982
12	Guidelines for expeditious disposal of Disciplinary Proceedings	DoPT DO No 134-2-83-AVD I	02/04/1985
13	Rule 16(1) holding of inquiry in specific circumstances - Recommendations of Committee of National Council (JCM)	DoPT Circular No 11012-18-85 Estt(A)	28/10/1985
14	Jurisdiction of the CAT in the matter of disciplinary action against Government servants - Supreme Court judgement in case of Parma Nanda Vs. State of Haryana and others.	DoPT Circular No 11012-1-90 Estt(A)	28/02/1990
15	Action against Government servants to be taken if they are later found ineligible or unqualified for their initial recruitment.	DoPT Circular No 11012-7-91 Estt(A)	19/05/1993
16	Legally speaking, when a person is convicted by Criminal Court, the same shall remain in force until and unless it is reversed or set aside by a competent court in appeal.	DoPT Circular No 371-23-92-AVD III	04/03/1994
17	Timely forwarding of CAT's order for instructions.	Board Circular No C-18013-15-90-Adv	24/12/1996
18	Reducing Delays in Departmental Inquiries.	CVC Circular No 8(1)(g)-99(2)	19/02/1999
19	Time limits for departmental inquiries	CVC Circular No 8(1)(g)-99(3)	03/03/1999
20	Implementation of CAT's/Court's judgements - Prior approval of Board.	Board Circular No C-18013-74-92-Adv	22/07/1999
21	Utilising the services of retired officers for conducting departmental inquiries.	CVC Circular No 98-MS-23	16/09/1999
22	CCS(CCA) Rules, 1965 - procedure regarding closing of disciplinary cases in the event of death of the charged official.	DoPT Circular No 11012-7-99 Estt(A)	20/10/1999
23	Court orders against Government of India instructions on service matters - consultation with Ministry of Law and DoP&T on the question of filing appeals, before implementation of Court's orders.	DoPT Circular No 28027-9-99-Estt(A)	01/05/2000

S.No	Subject	Circular No.	Date
24	Consultation with CVC - Making available a copy of the CVC's advice to the concerned employee.	CVC Circular No 99-VGL-66	28/09/2000
25	CCS(CCA) Rules, 1965 - retired government servants appearing as Defence Assistants - conditions.	DoPT Circular No 11012-11-2002 Estt(A)	05/02/2003
26	Honorarium for retired government servants as inquiry officers in individual disciplinary cases.	DoPT Circular No 134-4-99-AVD I	07/04/2003
27	Streamlining of Conduct of Disciplinary proceedings to reduce delay.	DoPT Circular No 141-5-2003-AVD I	06/04/2004
28	Consultation with the CVC in cases where action taken under Rule 19(i) of the CCS(CCA) Rules, 1965.	DoPT Circular No 118-1-2005-AVD III	08/04/2005
28A	Jurisdiction of the Central Vigilance Commission in relation to the officers of the level of Group- B, Gazetted.	CVC office order no. 26/4/04	16/04/2004
29	Reducing delay in departmental proceedings - ensuring availability of documents.	CVC Circular No 006-VGL-5	18/01/2006
30	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.	CVC Circular No 006-PRC-1	13/03/2006
31	Delay in completion of departmental proceedings.	CVC Circular No 006-PRC-1	21/09/2006
32	Difference in opinion with CVC's advice regarding quantum of penalty, etc.	CVC Circular No 006-VGL-098	10/10/2006
33	Consultation with Union Public Service Commission (UPSC) Procedure to be followed while disagreeing with the advice of the commission.	DoPT Circular No 39023-02-2006-Estt(B)	05/12/2006
34	Simultaneous action of prosecution in a court and initiation of departmental proceedings.	DoPT Circular No 11012-6-2007-Estt(A)	01/08/2007
35	Expeditious disposal of cases involving public servants due to retire shortly.	CVC Circular No 007-VGL-052	27/09/2007

S.No	Subject	Circular No.	Date
36	Reference to the Commission for reconsideration of its advice.	CVC Circular No 008-VGL-027	24/04/2008
37	Central Administrative Tribunal, Principal Bench, New Delhi Order dated 03.12.2008 in OA No. 1818/2008 in case of Dr. Anil Mehra vs GNCT of Delhi.	CAT PB New Delhi Order in OA No 1818-2008 Dr Anil Mehra Vs GNCT of Delhi	03/12/2008
38	Reference to the Commission for advice - information to be enclosed alongwith organisations' recommendations.	CVC Circular No 006-PRC-1	18/02/2009
39	Withdrawal/withholding/recovery of pension/gratuity in the case of minor penalty proceedings.	DoPT Circular No 110-9-2003-AVD I	13/04/2009
40	Grant of Honorarium to Inquiry Officers/Presenting Officers.	DoPT Circular No 142-20-2008-AVD I	27/07/2009
41	Departmental proceedings against Government servants - Procedure for consultation with the UPSC.	DoPT Circular No 39034-1-2009-Estt(B)	12/01/2010
42	Timely completion of departmental inquiries - Improving Vigilance Administration.	CVC Circular No 009-VGL-067	09/03/2010
43	Disciplinary proceedings against Retired Government Servants - clarification regarding.	Board Circular No C-11016-5-2010-AdV	10/03/2010
44	Decentralization of functions of Disciplinary authorities of Delhi Zone in terms of CCS(CCA) Rules.	DGoV Order No V-500-105-09	16/03/2010
45	Departmental proceedings against Government servants - Procedure for consultation with the UPSC.	DoPT Circular No 39011-12-2009-Estt(B)	10/05/2010
45A	Disciplinary Authority, Appellate Authority and Revisionary Authority under CCS (CCA) Rules, 1965 for various Gr. 'B' 'C' and erstwhile Gr 'D' category of posts.	Board Circular no. C-11016/2/2007-Ad.V	13/07/2010
46	Consultation of UPSC - requirements to be made for sending a complete and timely reference on disciplinary matters.	Board Circular No C-11016-22-2010-AdV	07/10/2010

S.No	Subject	Circular No.	Date
47	Communicating tentative reasons for disagreement under Rule 15(2) of the CCS (CCA) Rules, 1965.	DoPT Circular No 11012-12-2010-Estt(A)	12/11/2010
48	Departmental proceedings under CCS(CCA) Rules, 1965 - requirements of adherence to provisions of Rule 15(2) of CCS(CCA) Rules, 1965 and other Rules and instructions.	Board Circular No C-14010-1-2010-AdV	07/01/2011
49	Appointment of IO/PO in cases where disciplinary proceedings have not been initiated under Rule 18 of CCS(CCA) Rules, 1965.	Board Circular No C-14010-60-2005-AdV	14/01/2011
50	Release of leave encashment under Rule 39(3) of CCS(Leave) rules, to retiring employees.	Board Circular No C-14010-2-2010-AdV	18/01/2011
51	Xerox copies in departmental inquiry under CCS(CCA) Rules, 1965.	Board Circular No C-14010-3-2011-AdV	24/02/2011
52	Departmental inquiry under CCS(CCA) Rules, 1965 - consideration of statements recorded earlier in preliminary inquiry or under Customs Act, 1962.	Board Circular No C-14010-5-2011-AdV	24/02/2011
53	Disciplinary Authority - clarification regarding.	Board Circular No C-11016-02-2007-AdV	18/04/2011
54	Departmental proceedings against Government servants' consultation with UPSC for advice.	DoPT Circular No 39035-01-2011-Estt(B)	10/05/2011
55	Disciplinary/Appellate and Revisionary Authorities for Group 'B' and 'C' (including erstwhile Group 'D' staff working in Central Board of Excise and Customs.	Board Order No C-11016-02-2007-AdV	13/06/2011
56	Dispensing with second stage consultation with the CVC in disciplinary cases.	DoPT Circular No 372-19-2011-AVD III(PtI)	26/09/2011
57	Permission to initiate investigation by the CBI in respect of officers of the rank of Joint Secretary and above serving the Central Government - Provisions of section 6A of the Delhi Special Police Establishment (DSPE) Act, 1946 - recommendations of the Group of Ministers.	DoPT Circular No 372-19-2011-AVD III(PtI)	26/09/2011

S.No	Subject	Circular No.	Date
58	Appointment of Inquiry officer (IOs) and Presenting Officers (POs) in disciplinary cases.	DoPT Circular No 372-19-2011-AVD III(PtI)	26/09/2011
59	Strengthening of Vigilance setup in Ministries/Departments.	DoPT Circular No 372-19-2011-AVD III(PtI)	26/09/2011
60	Grant of Honorarium to Inquiry Officers (IO)/ Presenting Officers (PO) - Consolidated instructions.	DoPT Circular No 142-15-2010-AVD I	31/07/2012
61	Guidelines for monitoring and expeditious disposal of the disciplinary proceedings cases.	DoPT Circular No 425-04-2012-AVD IV(A)	29/11/2012
62	Second stage consultation with the CVC in disciplinary cases involving consultation with UPSC - Amendment to the Vigilance Manual.	CVC Circular No 010-VGL-095	07/12/2012
63	Instructions regarding Preventive Vigilance.	Board Circular No C-14014-2-2013-Vig	23/01/2013
64	Recommendation of the Committee of Experts on Disciplinary & Vigilance Inquiries (Hota Committee) - Para 48 of the Committee's Report on conclusion of major penalty proceedings within a period of 18 months - Acceptance by Government.	DoPT Circular No 372-3-2007-AVD III(Vol10)	14/10/2013
65	Recommendation of the Committee of Experts on Disciplinary & Vigilance Inquiries (Hota Committee) - Para 135 of the Committee's Report on submission of draft charge sheet while seeking first stage advice of CVC etc. - Acceptance by Government.	DoPT Circular No 372-3-2007-AVD III(Vol10)	14/10/2013
66	Guidelines regarding handling of complaints in Ministries / Departments.	DoPT Circular No 104-76-2011-AVDI	18/10/2013
67	Directions of Hon'ble High Court, New Delhi in WP© No. 3510/2013 in the matter of Sh. K.K.S. Sirohi & Ors. Vs. UOI.	DoPT Circular No 11012-16-2013-Estt A	15/01/2014
68	Supply of copy of UPSC advice to the charged officer.	DoPT Circular No 11012-8-2011-Estt A	05/03/2014

S.No	Subject	Circular No.	Date
69	Need for self contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.	CVC Circular No 003-DSP-3	19/05/2014
70	Central Civil Services (Classification, Control and Appeal) Rules, 1965 - Advice of the Union Public Service Commission (UPSC) to be communicated to the delinquent Government servant - Amendment.	DoPT Circular No 11012-8-2011-Estt A	19/11/2014
71	Second stage consultation with the CVC in disciplinary cases - Amendment to the Vigilance Manual.	CVC Circular No 014-VGL-061	03/12/2014
72	Importance of following the due process in disciplinary proceedings.	DoPT Circular No 11012-3-2015-Estt A-III	18/02/2015
73	Corrigendum regarding specifying Disciplinary Authority, Appellate Authority and Revisionary Authority for Group 'B' and 'C' (including erstwhile Group 'D') posts in CBEC.	Board Circular No C-11016-2-2007-AdV	22/12/2015
74	Procedure for empanelment of retired officers as the Inquiry Officers for conducting Departmental Inquiries.	DoPT Circular No 142-40-2015-AVD I	07/01/2016
75	Timely completion of disciplinary proceedings / departmental inquiry proceedings - improving vigilance administration.	CVC Circular No 000-VGL-18	18/01/2016
76	Work relating to giving 1st stage/ 2nd stage advice of the CVO, CBEC in respect of certain categories of cases pertaining to Gr. 'B' officers or below, will be looked after by the Pr. Additional Director General (Vig.)/ Additional Director General (Vig.), as the case may be, of the Zonal units of the Directorate General of Vigilance, CBEC.	DGoV Office Order No V-500-84-2014-Pt	05/02/2016
77	1st & 2nd stage advice of CVO, CBEC in respect of Gr. 'B' officers.	DGoV Circular No V-500-84-2014-PtI	05/02/2016
78	Importance of following the due process in disciplinary proceedings.	Board Circular No C-14011-07-2016-AdV	18/02/2016
79	Consultation with Union Public Service Commission (UPSC) Procedure to be followed while disagreeing with the advice of the commission.	DoPT Circular No 39023-02-2006-Estt(B)	02/03/2016

S.No	Subject	Circular No.	Date
80	Court orders against Government of India instructions on service matters - consultation with Ministry of Law and DoP&T on question of filing appeals.	DoPT Circular No 28027-1-2016-Estt A-III	16/03/2016
81	Instructions for effective and timely handling of court cases on Administrative/Service matters to protect the interest of the Government in Central Administrative Tribunals/High Courts.	Board Circular No C-18012-6-2013-AdII B	09/05/2016
82	Single Window System in CBEC for submitting proceedings (including deemed to be proceedings) under Rule 9 of CCS (Pension) rules, 1972 in respect of retired officer other than Group A.	Board Circular No C-11016-03-2016-AdV	23/06/2016
83	Filing of Special Leave Petition under Article 136 of the Constitution of India before the Supreme Court.	DoR Legal Cell Instruction No 276-72-2016-CX-8A	18/07/2016
84	Simultaneous action of prosecution and initiation of departmental proceedings.	DoPT Circular No 11012-6-2007-Estt (A-III)	21/07/2016
85	Revised procedure for decision making in respect of vigilance/disciplinary cases of Group 'A' officers under both the Boards i.e. CBEC & CBDT.	DoR Office Order No 50-10-2005-AdI-Vig	27/10/2016
85A	Court orders against Government of India instruction on service matters – consultation with Ministry of Law and Department of Personnel and Training on question of filing appeals.	DoPT Circular no. 28027/1/2016-Estt.A-III	09/12/2016
86	1st & 2nd stage advice for Inspector of Central Excise (Group 'B' Non-Gazetted).	DGoV Circular No V-500-84-2014-Pt	26/12/2016
87	Procedure for decision making in respect of disciplinary proceedings of Group 'A' officers under both the Boards i.e. CBDT & CBEC and Department of Revenue (DoR), on the death of the alleged/charged Government Servant.	DoR Office Order No 01-2017 (50-10-2005-AdI-Vig)	28/03/2017
88	Timely implementation of penalty order passed on conclusion of the disciplinary proceedings.	Board Circular No C-11016-05-2018-AdV	04/04/2018
89	Second stage consultation with CVOs of Departments/ Organizations in disciplinary cases of Category 'B' officers.	CVC Circular No 05-07-18 (018-VGL-038)	10/07/2018



S.No	Subject	Circular No.	Date
90	Timely completion of departmental inquiries.	Board Circular No C-14011-07-2016-AdV	11/07/2018
91	Rotation of officers working in sensitive posts.	CVC Circular No 18-Misc-02	23/08/2018
92	Government of India Resolution on Public Interest Disclosure & Protection of Informers.	CVC Circular No 12-09-18	28/09/2018
93	Procedure to be followed - at admission stage - in Civil Appeals/SLPs filed by Parties in the Hon'ble Supreme Court of India.	DoLA Circular No 1080-55-DLA-SC-2018	19/11/2018
93A	SOPs for upkeep of RUDs in Disciplinary matters	Board Circular no. C-11016/19/2010-Ad.V	17/12/2018
94	Online portal for processing Vigilance Clearance - e-SAJAG.	DGoV Circular No 01-2019 (500-159-2018-PtI)	23/01/2019
95	Procedure for handing disciplinary cases not involving vigilance angle.	Board Circular No C-14011-08-2017-AdV	25/02/2019
95A	Procedure for handling disciplinary cases not involving vigilance angle	Board Circular no. C-14011/08/2017-Ad.V	04/04/2019
95B	Regulation of pay on imposition of penalty under CCs (CCA) rules, 1965.	DoPT Circular no. 11012/15/2016-Estt A-III	18/06/2019
96	Guidelines regarding the Competent Authority to approve the 2nd stage advice proposal to CVC in respect of Group B officers, which were otherwise composite cases, involving Group A officers at First stage level.	CVC Circular No 019-VGL-044	10/12/2019
97	Drafting of Charge Sheets by DGoV/Zonal Units - Instructions.	Board Circular No C-11016-38-2019-AdV	08/01/2020
97A	Reconsideration of CVC/CVO advice/passing of Orders at variance with CVCs/CVOs 1 <sup>st</sup> /2 <sup>nd</sup> Stage Advice.	DGoV F. No. 656/01/2016	29/01/2020

S.No	Subject	Circular No.	Date
97B	Sanction of Prosecution of Group –‘A’ officers in some cases	CBIC Circular No. 12/2020-Customs	10/02/2020
98	Guidelines for referring matters to CBI under Prevention of Corruption Act, 1988.	DGoV Circular No V-599-06-2016	10/07/2020
99	Forwarding Guidelines for maintenance of vigilance database in respect of Non Group 'A' officers.	DGoV Office Order No V-755-09-2015-PtI	07/09/2020
100	Action on anonymous / pseudonymous complaints.	CVC Circular No 12-09-20	24/09/2020
101	Invocation of Departmental Inquiries (Enforcement of Attendance of Witnesses & Production of Documents) Act, 1972 by the Inquiring Authorities in Departmental Inquiries.	Board Circular No C-11016-01-2019-Adv	29/01/2021
102	Expeditious disposal of complaints received against employees, having bearing on Vigilance Clearance - Suitable monitoring mechanism.	CVC Circular No 021-AIS-1(2)	19/04/2021
103	Standard Operating Procedures (SOPs) for processing of cases under section 17A of the Prevention of Corruption Act, 1988.	DoPT Circular No 428-07-2021-AVD-IV(B)	03/09/2021
104	Instructions for effectively and timely handling of court cases on disciplinary matters in Central Administrative Tribunals/High Courts/Supreme Courts to protect the interest of the Government.	Board Circular No C-11016-32-2020-Adv	08/09/2021
105	Aid to processing of departmental proceedings under the CCS(CCA) Rules, 1965 - Simplification regarding.	DoPT Circular No 43020-14-2021-EsttA-III	08/11/2021
106	Timely implementation of Final Orders on conclusion of the disciplinary proceedings.	Board Circular No C-11016-05-2018-Adv	06/12/2021
106A	Instruction for effective and timely handling of court cases on disciplinary matters in Central Administrative Tribunals/High Courts/Supreme Courts to protect the interest of the Government.	Board instruction F. No. C-11016/32/2020-Ad.V/1903	09/03/2022
107	Revised proforma for furnishing details of officers by the Cadre Controlling Authorities while seeking vigilance clearance - modification of Point No.13.	CVC Circular No 021-AIS-1(2)	16/03/2022
108	Implementation of final penalty orders issued by the competent authority and submission of compliance report.	CVC Circular No 11-03-22 (000-VGL-018)	21/03/2022

<b>S.No</b>	<b>Subject</b>	<b>Circular No.</b>	<b>Date</b>
109	Updation of data on e-seva vivad portal in Vigilance matters.	Board Circular No. C-18018/2/2021-Ad.V/3207	06/04/2022
110	Consolidated Guidelines regarding handling of complaints in Ministries/Departments.	DoPT Circular no. 104/76/2022-AVD.IA	28/09/2022
111	Consolidated Guidelines regarding grant of 'Vigilance Clearance' to AIS officers & Central Civil Services/Central Civil posts.	DoPT Circular no. 104/76/2022-AVD.IA	28/09/2022
112	Central Civil Services (Pension) Amendment Rules, 2022	Gazette Notification No. 684	07/10/2022

Note: In e-version available on departmental website, the copies of all OM/instructions/guidelines are enclosed and hyperlinked for convenience of officers.

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**Directorate General of Vigilance**  
**Indirect Taxes and Customs**  
**Ministry of Finance**  
**New Delhi**