

रक्षा लेखा महानियंत्रक
Controller General of Defence Accounts
उलन बटार मार्ग, पालम, दिल्ली छावनी-110010
Ulan Batar Road, Palam, Delhi Cantt 110010

No. AN/XIII/13006/Vol-XXII

Dated 19.09.2018

To

All PCsDA/CsDA

(Through Website)

Sub: CVC Circulars-reg.

A copy of CVC Circular no. 09/07/18 dated 27.07.2018 and 08/07/2018 dated 31.07.2018, are forwarded herewith for information, guidance, compliance and notice of all concerned.


(Mustaq Ahmad)
Dy. CGDA (AN)

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सत्यमेव जयते



केन्द्रीय सतर्कता आयोग CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
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सं / No. 018/VGL/044 - 390291

दिनांक / Dated. 27.07.2018

Circular No. 09/07/18

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

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

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

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

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रक्षा लेखा उप यार्फ रॉड (आ.)
Dy. C.G.D.A. (आ.)
जायरी सं / Dy. No. 369
दि / Date. 27/8/18

रक्षा लेखा संयुक्त सचिवालय (आ.)
Jt. C.G.D.A. (आ.)
जायरी सं / Dy. No. 777/दि / Date. 27/8/18


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

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

5. This issues with the approval of the Commission.


(M. A. Khan)
Officer on Special Duty

To

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

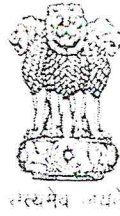
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केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

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सं / No. 99/VGL/087-389176

दिनांक / Date: 31 July 2016

Circular No 08/07/2016

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

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

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

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

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

रक्षा लेखा संयुक्त महानियंत्रक (प्र. ड. नि.)
Jt. C.G.D.A. (HF/1)

जायरी सं० / Dy. No. 271 दि० / Date: 29/8/18

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28/8/18

Ay (G.D.A. (AN))

29/8/18

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रक्षा लेखा उप महानियंत्रक (प्र. ड. नि.)
Dy. C.G.D.A. (AN)

जायरी सं० / Dy. No. 271
दि० / Date: 29/8/18

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

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

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

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


(M.A. Khan)

Officer on Special Duty

To

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