

VIGILANCE PROCEDURE

IN

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

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VIGILANCE PROCEDURE

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VIGILANCE PROCEDURE IN AICTE

CHAPTER – I

1. Introduction :

1.1 Responsibility for maintenance of purity, integrity and efficiency in the management of an organization vests in the Disciplinary Authority. It is the over-all responsibility of the Disciplinary Authority to look into the misconducts alleged against or committed by the public servants within its control and to take appropriate preventive measures so as to prevent commission of misconducts/ malpractices by the employees under its control and jurisdiction. The Disciplinary Authority is assisted by the Chief Vigilance Officer in the discharge of functions related to vigilance matter.

2. Vigilance Division:

2.1 Each organization must set up a Vigilance Unit headed by the Chief Vigilance Officer (CVO)

3. Role and functions of CVO:

3.1 As stated above, the CVO heads the Vigilance Division of the organization. He acts as a Special Assistant/Adviser to the Chief Executive in all matters pertaining to vigilance. He also provides a link between his organization and the Central Vigilance Commission and between his organization and the Central Bureau of Investigation. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence about the corrupt practices committed or likely to be committed by the employees of his organization, investigating or causing an investigation to be made into verifiable allegations reported to him, processing investigation reports for further consideration of the Disciplinary Authority concerned, referring the matters to the CVC for advice wherever necessary taking steps to prevent commission of improper practices/misconducts, etc. Thus, the

CVO's functions can be broadly divided into three parts, as under:-

- (i) Preventive Vigilance.
- (ii) Punitive Vigilance
- (iii) Surveillance and detection.

3.2 While “surveillance” and “punitive action” for commission of misconduct and other malpractices is certainly important, the “preventive measures” to be taken by the CVO are comparatively more important as these are likely to reduce the number of vigilance cases considerably. Thus, the predominant role of the CVO should be preventive.

4. What is a Vigilance angel?

4.1 Vigilance angle is obvious in the following acts:-

- (i) Demanding and / or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or where he can exert influence.
- (iii) 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.
- (iv) Possession of assets disproportionate to his known sources of income.
- (v) Cases of misappropriation, forgery or cheating or other similar criminal offences.
- (vi) Irregularities, which may put an officer's integrity in doubt, such as gross or willful negligence; recklessness in decision – making; blatant violations of system and procedures, exercise of discretion in excess, etc.

4.2 The raison d'etre of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organization. Therefore, every loss, pecuniary or non-pecuniary,

need not necessarily become the subject matter of vigilance inquiry.

4.3 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 have to be dealt with appropriately as per disciplinary procedure under the service rules.

CHAPTER - II

Vigilance – an aid to efficient management.

1. Role of vigilance:

1.1 Vigilance is generally considered as an instrument for dealing with erring public servants by punitive measures. There is a wrong notion that the vigilance is there to punish the employees including those who happen to commit irregularities inadvertently or unknowingly. This is a narrow approach and does not truly reflect the objective of vigilance.

1.2 The correct role of vigilance is an aid to efficient management. Vigilance is a part of the over-all scheme of things, a make public service a reality. Vigilance is not simply a police function. It is also a management function, as the entire reputation of an organization depends upon the reputation of its members and their conduct. The primary concern of vigilance is the compliance of established rules and prescribed laws.

2. Setting up of organized vigilance set up

2.1 The first organized governmental effort, which highlighted the message of anti-corruption and vigilance administration, was the report of the Santhanam Committee. It made a number of recommendations to the Government. As a result of its recommendations an apex level advisory body called Central Vigilance Commission was set up. It also recommended that each individual organization should have a Vigilance Unit headed by a Chief Vigilance Officer. His job is to keep watch on the erring officials. He was charged with the responsibility of maintaining integrity in the organization.

3. Safeguards to public servants

3.1 Article 311 of the Constitution of India provides safeguards of public servants against arbitrary or whimsical punishments. It also provides for reasonable opportunities before any action is taken. Each organization has codified the conduct and disciplinary rules. For civil servants, any violation is to be dealt with in accordance with the CCS(CCA)Rules, 1965.

4. Points to be kept in view, while carrying out various vigilance functions

4.1 The vigilance set up should keep the following considerations in view while carrying out its assigned duties:-

- (a) Fault finding for the sake of fault finding should not be the aim of vigilance. Such an approach is not only incorrect but will also raise a barrier of prejudice and resistance.
- (b) Every mistake or an incorrect decision does not mean that it has been done for monetary gain. A clear distinction needs to be made between mistakes with malafide intention and those made in good faith or inadvertently. Any act done in a willful deliberate and designed manner to cause wrongful loss to the organization would be a malafide act or misconduct. An action involving lack of integrity would be malafide. What constitutes "misconduct" has been amplified in CCS (Conduct) Rules, 1964.
- (c) The occurrence of loss in a transaction need not always attract disciplinary action. Occurrence of loss cannot be the criterion to determine initiation of a vigilance case unless lack of integrity or malafide is established. If the procedure prescribed in the rules has been followed and the proposals have been scrutinized objectively before taking action the blame cannot always be laid on the officers.

- (d) In any case of irregularity, all the facts, figures and the material should be collected before initiating any action. Witch-hunt should not be the aid or objective of vigilance. The correct perspective of the situation is essential to determine whether the person alleged has committed any misconduct.
- (e) Vigilance should not perform the negative role of punishing public servants but also protect honest public servants. It has to protect the interests of those who are targets of vilification or unjustified and unsupported complaints. Motivated complaints should be viewed with circumspection.
- (f) Sometimes anonymous/pseudonymous complaints are received against persons of intercity on the eve of their promotion. Keeping in view of the point made out at (e) above, CVC has ordered vide their Circular No.3(v)/99/2 dated 29th June, 1999 that no action need be taken on anonymous/pseudonymous complaints, which should be filed. A copy of this Circular is available at Appendix -I
- (g) Another facet of vigilance which is equally important is the preventive aspect. The work "vigilance" itself includes prevention in it. The preventive vigilance aims at reducing possibilities of indulgence in corruption. The measures envisaged include simplification of rules, procedures, practices, strengthening redressal of public grievances machinery, enforcement of surprise/regular inspections and identifying sensitive spots. Preventive vigilance is also an effective management tools to secure its objectives and increase efficiency.

- (h) An honest public servant having intelligence, knowledge, competence, sense of fair play and integrity stands above others and takes decision in the interest of the organization for furtherance of its objectives. Such decisions increase the productivity and improve the image of the organization. On the contrary, any decision in a colorable exercise of power goes against the interest of the organization. Hence, there is a need to regard vigilance as tool of management, like inventory control, personnel management, etc.
- (i) While consideration of protection and preventive vigilance should be kept in view, there should be no hesitation in taking action against persons indulging in corruption or misconduct, irrespective of the level. Quite often, the corrupt are either not touched or are left of the hook. This generates and encourages other towards corruption. It also leads to inefficiency and erosion of over-all functioning. A good management can ill-effort to over-look this. This essence of vigilance is, therefore, as a management tool to punish the guilty and to protect the honest.
- (J) A vigilance unit cannot be all pervasive. It may not, on its own, always know the existing short-comings, defects and deficiencies in the system or other vulnerable areas. The concerned officers may be fully aware of the same. As such, it should be the duty of every conscientious person to suggest measures for improvement.
- (k) Vigilance set up should be aware of the functioning, philosophy, aims and objectives of the organization in which it is functioning. The decision making in any organization is often a complex matter. The difference between a corrupt practice and a bold decision is sometimes very thin and indecipherable. Without a

thorough understanding of the organization and its work culture, vigilance therein can be counter-productive.

- (l) Vigilance sometimes gets maligned because of the fear complex and for policing the defects in the organization. The officers dealing with vigilance matters should therefore strive to be impartial, unprejudiced and judicious. No room should be left for fear or mistrust. Only then they will command respect of their colleagues and seniors.

- (m) Vigilance is not an inconvenient critic or a hostile outsider. It is a part of and an essential aid to management. It helps to improve managerial and financial practices and working procedures. It assists in better performance and greater public satisfaction.

CHAPTER-III

Preventive Vigilance – Need of the Hour

The phrase “Prevention is better than cure” has stood the testimony of time since centuries. It has not only been effectively proved in the medical history but has now become essential in the field of combating war against corruption in modern day – to –day life. It is difficult to eliminate corruption altogether or even significantly reduce it unless preventive steps to tackle or combat the root causes of corruption are planned and implemented by the Vigilance Unit in a sustained and effective manner.

2. The preventive vigilance aspect is not a new one. Way back in 1964 the Santhanam Committee had recommended that preventive measures should be taken to reduce corruption and suggest suitable measures for producing a social climate in which corruption would not flourish.

3. An urgent need of the hour is to identify the corruption prone areas in every sphere of an organization and to take effective measures to eliminate the same by implementing the existing rules and regulations in true letter and spirit. Surprise vigilance inspections must be intensified and follow up action taken to see that all the corruption prone loopholes existing in the organization are plugged. Presence of the Vigilance Wing in the organization has to be felt by all the officers/employees working therein and its functioning should be effective.

4. The punitive vigilance is by and large “specialized” in nature. It deals with actual vigilance cases. A complaint is received from various sources. After investigation a decision is taken by the competent authority to initiate disciplinary proceedings. An oral inquiry is conducted and finally a formal penalty is imposed if the charged officer is found guilty of any misconduct. In fact, punitive vigilance is like conducting a “ post-mortem” of the misconduct or misdemeanor already committed by a public servant.

5. On the other hand, preventive vigilance is not much specialized. It had never got adequate attention in the past. Preventive vigilance is rather more effective than punitive vigilance and detective vigilance. Preventive Vigilance is a fore-warning to all concerned in the organization that any misconduct or malpractice will have serious repercussions.

6. The following measures could be effectively considered from preventive vigilance angle:
- (a) The rules, regulations, procedures and systems should be periodically reviewed and improved keeping in view the charges occurring from time to time.
 - (b) The duties and responsibilities of each employee should be unambiguously defined clearly highlighting the role expected from each one of them.
 - (c) Corruption – prone areas should be identified and earmarked so that special surveillance could be ensured.
 - (d) Sensitive posts should be identified and the officials rotated after 3-4 years to ensure that they do not develop vested interests. Suspected officers of doubtful integrity should be kept away from the sensitive posts.
 - (e) Outside interference and influence should be curbed in administration and personnel management as highlighted in Conduct Rules.
 - (f) Areas of discretion should be reduced to the minimum which should be clearly identified.
 - (g) A close watch should be kept on the activities of officials with “doubtful integrity” and those whose names figure in the “Agreed List”.
 - (h) Premature retirement of persons with doubtful integrity should be considered as per the existing rules on the subject.
 - (i) Wide publicity should be given to the guilty employees so that other employees refrain from such activities.
 - (j) Surprise inspections should be conducted by senior officers to ensure that the loop holes in the system are plugged.
 - (k) There should be proper monitoring of disposal of receipts/cases with a view of checking delays in the processing of cases.
 - (l) Following notice board should be displayed at a prominent place in the organization:
“Do not pay bribes. If anybody of this office asks for bribe or if you have any information on corruption in this office or if you are a victim of corruption in this office you can complain to the Head of this office or the Chief Vigilance Commission” (Name, complete address and telephone numbers have to be given against each).

The above preventive measures will surely tone-up the functioning of the Vigilance Wing and enhance the efficiency and productivity of the organization.

CHAPTER-IV

Complaints and Preliminary Investigation

1. Various sources from which complaints are received.

1.1 Information about corruption, malpractices or misconduct on the part of the public servants may come to light from any of the following sources:-

- a) Complaints received directly by the concerned administrative authority.
- b) Complaints received in Central Vigilance Commission.
- c) Complaints received or intelligence gathered by the Central Bureau of Investigation or by the Police authorities.
- d) Departmental inspection and stock verification reports.
- e) Scrutiny of Annual Property Report.
- f) Scrutiny of transactions reported under the Conduct Rules.
- g) Complaints and allegations appearing in the press, etc.
- h) Complaints received from subordinates of suspected public servants or other public servants.
- i) Anonymous / pseudonymous complaints.
- j) Reports of any irregularities in the accounts revealed in the statutory audit reports and the routine audit of accounts. e.g. tampering with records, over-payment, misappropriation of money or material, etc.
- k) Reports of various Parliamentary Committees, like the Estimates Committee, etc.
- l) Proceedings of the two Houses of Parliament.

2. Action to be taken on a complaint received from subordinates of public servants or other public servants.

2.1 Normally, a public servant should send communications through proper channel. However, there is no objection to direct entertaining of complaints or communications giving information about corruption or other kinds of malpractices. While genuine complainants should be afforded protection against harassment or victimization, serious notice should be taken if a complaint is, after verification found to be false and malicious. There should be no hesitation in taking severe departmental action or launching criminal prosecution against such complainants.

3. Initial action on complaints

3.1 Vigilance Unit will maintain a vigilance complaints register in Form CVO-I (Annexure-II) in two separate parts for Category 'A' and Category 'B' employees. Category 'A' includes such employees against whom advice of CVC is required and Category 'B' includes such employees whom CVC advice is not required. If the complaint involves both the categories it should be registered in Category 'A'. Entries of such complaints only should be made in the register as contain an allegation of corruption or improper motive or if the alleged facts prime facie indicate an element or potentiality of a vigilance angle. Complaints relating to purely administrative matters or technical lapses, such as late attendance, disobedience, technical irregularities etc. should not be entered in the register and should be dealt with separately.

3.2 Each complaint will be examined by the CVO to see whether there is any substance in the allegations made in it to merit looking into. Where the allegations are vague and general and prima facie unverifiable the CVO may decide, with the approval of the Head of the organization, considered necessary, that where action is not necessary and the complaint should be dropped and filed. However, in respect of such complaints pertaining to officers in whose case advice of CVC is necessary, all the papers together with the views of the administrative authority, will be forwarded to the CVC for advice as to whether the complaint may be filed. Any information passed on by the CBI regarding the conduct of any of its officers should also be treated in the same way.

3.3 Where the complaint seems to give information definite enough to require a further check, a preliminary inquiry/investigation will need to be made to verify the allegations so as to decide whether, or not, the public servant concerned should be proceeded against departmentally or in a court of law or both. If considered necessary, the CVO may have a quick look into the relevant records and examine them to satisfy himself about the need for further inquiry into the allegations made in the complaint.

4. Time limit for completion of an inquiry into a complaint forwarded by CVC.

4.1 The report of investigation into the complaint forwarded by the CVC should normally be sent to the commission within three months. However, if due to some avoidable reasons, it is not possible to complete the investigation within the specified

period, the CVO should personally look into the matter and send an interim report to the CVO giving the progress of the investigation, reasons for delay and the likely date of completion of the investigation.

5. Circumstances when a departmental investigation can be ordered

5.1 A departmental investigation may be ordered where allegations relate to :

- (i) a misconduct other than an offence;
- (ii) a departmental irregularity.
- (iii) breach of orders, rules, regulations, administrative instructions or accepted procedure;
- (iv) negligence ; and
- (v) where alleged facts can be verified departmentally.

(Departmentally verifiable facts are those facts which can be verified either from the documents available in the department itself or from another organization, department).

6. Who should investigate departmentally?

6.1 Normally, the CVO should himself hold the preliminary inquiry in cases in which vigilance angle is involved. As soon as it is decided to make preliminary investigation into a complaint, the CVO may suggest to the administrative authority to entrust the preliminary investigation to any other officer, considered suitable, in particular circumstances of the case. Where the preliminary investigation is entrusted to an officer of the department other than the CVO or specially designated Investigating Officer, it should be entrusted to an officer of sufficiently higher status if the public servant complained against is of a senior rank.

**7. Action on Anonymous/
Pseudonymous complaints.**

- 7.1** As per the instructions issued by the CVC no action is to be taken by the administrative authorities, as a general rule, on anonymous/pseudonymous complaints. When in doubt, the pseudonymous character of a complaint may be verified by enquiring from the signatory of the complaint whether it had actually been sent by him. If he cannot be contacted at the address given in the complaint, or if no reply is received from him within a reasonable time, it should be presumed that the complaint is pseudonymous and should be ignored. However, if it is proposed to look into the verifiable facts alleged in such complaints, the matter may be referred to the CVC seeking its concurrence, through the CVO or the Head of the organization, irrespective of the level of employees involved therein.
- 7.2** In the event of the CVC decided to make an inquiry into an anonymous/pseudonymous complaint, the CVO concerned advised to look into the complaint, should make necessary investigation and report the result of investigation to the Commission for further course of action. Such a complaint should be treated as a reference received from the CVC.
- 7.3** Sometimes the administrative authority may conduct investigation into a pseudonymous complaint under the belief that it is a genuine signed complaint, or for any reason, the commission need not be consulted if it is found that the allegations are without any substance. However, if some substance is found, the Commission should be consulted as to the further course of action if the complaints pertain to Category 'A' employee.

CHAPTER - V

Prescribed Time-Schedule for Preliminary Investigation and Departmental Inquiries

Prolonged departmental inquiries not only delay justice to the honest persons but also help the guilty to breathe freely. CVC has stipulated the following model time schedule for conducting preliminary investigation and departmental inquiries with a view to accelerate the process of holding and completion of inquiries.

Model Time Limits / Schedule

| Sl.No. | State of investigation / inquiry | Time limit |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| (i) | Decision as to whether the complaint involves a vigilance angle | One month from the receipt of the complaint. |
| (ii) | 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 administrative authority for necessary action. | One month from the receipt of the complaint. |
| (iii) | Conducting investigation and submission of report | Three months. |
| (iv) | Department's comments on CBI reports in case requiring CVC's advice | One month from the date of receipt of CBI's report. |
| (v) | Referring departmental investigation reports to the Commission for advice | One month from the receipt of investigation report. |
| (vi) | Recommendation of the Commission's advice, if required | One month from the date of receipt of the Commission's advice. |
| (vii) | Issue of charge-sheet, if required. | a) One month from the date of receipt of Commission's advice. b) Two months from the date of receipt of investigation report. |
| (viii) | Time for submission of defence statement | Ordinarily ten days or as specified in CCS (CCA) Rules, 1965. |
| (ix) | Consideration of defence statement | Fifteen days. |

| Sl.No. | State of investigation / inquiry | Time limit |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| (x) | Issue of final orders in minor penalty cases | Two months from the receipt of defence statement. |
| (xi) | Appointment of IO/PO in major Penalty cases | Immediately after receipt and consideration of defence statement. |
| (xii) | <p>Conducting departmental inquiry and submission of report</p> <p>a) Fixing date of preliminary hearing and inspection of listed documents, submission of lists of Defence documents/witnesses and nomination of a Defence Assistant (DA), if not nominated already.</p> <p>b) Inspection of relied upon documents/submission of list of Defence witnesses / Defence documents/ Examination of relevance of Defence documents /Defence witnesses, procuring the additional documents and submission of certificates confirming inspection of additional documents by C.O./D.A.;</p> <p>c) Issue of summons to the witnesses, fixing the date for Regular Hearing and arrangements for participation of witness in the Regular Hearing; and</p> <p>d) Regular Hearing on day to day basis</p> <p>e) Submission of written Brief by P.O. to C.O./I.O.</p> <p>f) Submission of written Brief by C.O. to I.O.</p> <p>g) Submission of Inquiry Report from the date of receipt of written Briefs by P.O./C.O.</p> | <p>One month.</p> <p>(b), (c) & (d) Three months.</p> <p>Fifteen days.</p> <p>Fifteen days.</p> <p>One month.</p> |

| | | |
|--------|----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (xiii) | Sending a copy of the I.O.'s report to the C.O. for his representation, if any. | <p>a) Fifteen days of the receipt of I.O.'s report, if any, if the Articles of charge has been held as proved.</p> <p>b) Fifteen days if all charges held as not proved. (Reasons for disagreement with I.O.'s findings to be communicated).</p> |
| (xiv) | Consideration of C.O.'s representation and forwarding I.O.'s report to the commission for second stage advice. | One month from the date of receipt of representation. |
| (xv) | Issuance of orders on the Inquiry Report in major penalty cases | <p>a) One month from the date of the Commission's advice.</p> <p>b) Two months from the date of receipt if Commission's advice was not required.</p> |

CHAPTER – VI

Action against persons/public servants for making false complaints

1. Section 182 of I.P.C. provides prosecution of a person making a false complaint. Therefore, if a complaint against a public servant is found to be malicious, vexatious or unfounded, serious action should be considered against the complainant. Besides, under Section 195 (I) (e) Cr. P.C. a person making a false complaint can be prosecuted on the complaint lodged with a Court of competent jurisdiction by the public servant to whom the false complaint was made or by some other public servant to whom he is subordinate.

2. If the complainant is a public servant it may also be considered whether departmental action should be taken against him or in addition he may be prosecuted under law. When the CVC comes across any such complaint in the normal course of its functioning, it would advise the administrative authority concerned about the appropriate action to be taken on its own initiative. However, in respect of cases which do not fall within CVC' s jurisdiction, the organization concerned may decide the matter on its own as it may deem fit.

CHAPTER - VII

Recognized Penalties

1. Minor Penalties laid down in CCS(CCA) Rules, 1965:

- 1.1** There are four minor penalties that can be imposed on a public servant. These are:
- (i) Censure;
 - (ii) Withholding of his promotion.
 - (iii) (a) Recovery from his pay the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of order;
(b) Reduction to a lower stage in the time scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his pension; and
 - (iv) Withholding of increments of pay.

2. Major Penalties:

- 2.1** There are the following five major penalties that can be imposed on a public servant:
- (i) Save as provided for in clause, (iii)(b) of minor penalty, reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the public 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 pay;
 - (ii) Reduction to lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the public servant to the time scale of pay, grade, post or service from which he was reduced, with or without further directions regarding

condition of restoration to the grade or post of service from which he was reduced and his seniority and pay on such restoration to that grade, post or service;

- (iii) Compulsory retirement.
- (iv) Removal from service which shall not be disqualification for future employment under the Government; and
- (v) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

3. Types of cases which merit action for imposing major penalty:

3.1 Broadly, the following cases merit action for imposing a major penalty:

- (a) Cases in which there is a reasonable ground to believe that a penal offence has been committed by a public servant but the evidence forthcoming is not sufficient for prosecution in a Court of Law, e.g.;
 - possession of disproportionate assets;
 - obtaining or attempting to obtain illegal gratification;
 - misappropriation of Government property, money or stores; and
 - obtaining or attempting to obtain any valuable thing or pecuniary advantage without consideration or for a consideration which is not adequate.
- (b) Falsification of Government records.
- (c) Gross irregularity or negligence in the discharge of official duties with a dishonest motive;
- (d) Misuse of official position or power for personal gain;

- (e) Disclosure of secret or confidential information even though it does not fall strictly within the scope of Official Secrets Act; and
- (f) False claims like T.A. claim; reimbursement claim, etc.

4. Difference between ‘Censure’ and ‘Warning’.

4.1 An order of "Censure" is formal and 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. The fact that he has been "censured" will have its bearing on the assessment of his merit or suitability for promotion to higher post(s).

4.2 However, case for "warning" is made when an explanation is called for some act of omission or commission and taking all circumstances into consideration, it is felt that, while the matter is not serious enough to justify the imposition of the formal punishment of "Censure", it calls for some informal action such as communication of a written warning, admonition or reprimand. If the circumstances justify it, a mention may also be made of such a warning, etc. in the officer's C.R. However, the mere fact that is so mentioned in the C.R. does not convert the warning into a "Censure".

5. **Least Penalty that can be imposed:**

Where a departmental proceeding has been completed and it is considered that the officer concerned deserves to be penalized, he should be awarded one of the recognized statutory penalties, the least being "Censure".

[GOI, MHA, DPA&R O.M.No.22016/2/78-Est.(A) dated 16/2/1979]

6. **Stiff/severe major penalty:**

The term Stiff/severe major penalty means "removal/dismissal/compulsory retirement."

[CVC's instruction No.99/DSP/1 dated 19/2/1999]

7. **Can two penalties be imposed for one lapse/offence:**

While normally there will be no need to impose two statutory penalties at a time, the penalty of recovery from pay the whole or part of any loss caused by an official to the Government by negligence or breach of order can be imposed alongwith another penalty. The punishing authority should, however, bear in mind that when more than one penalty is imposed, one of which is recovery from pay of the whole or part of loss caused to the Government, the net cumulative effect on the public servant should not be of such a severity so as to make it impossible for him to bear the strain.

8. **Whether a lower Disciplinary Authority can issue an order for minor penalty in respect of proceedings instituted by higher Disciplinary Authority:**

When proceedings are instituted by a higher Disciplinary Authority, final order should also be passed by such "higher Disciplinary Authority" and the case should not be remitted to the lower Disciplinary Authority, on the ground that on merits of the case it is sufficient to impose a minor penalty and such minor penalty can be imposed by a lower Disciplinary Authority.

[GOI, MHA O.M. No.6/26/60-Ests (A) dated 18/06/1962].

9. **Whether dismissal form**

retrospective effect possible:

An order of dismissal cannot be given effect to retrospectively. It becomes effective from the date on which the order of dismissal is passed.

10. **Competent Authority to**

communicate the final order:

Ordinarily, the officer who has recorded his findings in a disciplinary case, should, as far as possible, communicate the order under his own signature. However, in exceptional cases in which this has not been possible the successor has to communicate the decision as taken by his predecessor without modification or alteration in any manner.

CHAPTER –VIII

SUSPENSION

1. Meaning of suspension and its purposes:

- 1.1. Suspension is an executive action whereby a Government servant is kept out of duty temporarily pending final action being taken against him for acts of indiscipline, delinquency, misdemeanor, etc.
- 1.2. A Government servant can be suspended as a first step even before any charges are framed against him, when allegations of serious nature are received against him and it is decided to initiate inquiries into such allegations.
- 1.3. Suspension pending departmental enquiry is a safeguard against the Government official interfering with and hampering the preliminary investigation and tempering with material evidence – oral or documentary.
- 1.4. Suspension is also ordered as a deterrent to exhibit the firm determination of the administrative authority to root out corruption or other grave misconduct.
- 1.5. Suspension also provides enough time to the C.P. to prepare himself adequately for the inquiry and to clear himself of the charges leveled against him.

2. When resorted to:

- 2.1. A public servant may be placed under suspension under Rule 10(1) of the CCS(CCA) Rules, 1965 in the following circumstances:
 - a) When a disciplinary proceeding against him is contemplated or is pending; or
 - b) When a case against him in respect of any criminal offence is under investigation, inquiry or trial ; or
 - c) When in the opinion of the Competent Authority he has engaged himself in activities prejudicial to the interests of the security of the state.

- 2.2** Suspension can be ordered when following a preliminary enquiry, the Competent Authority is satisfied that a prima facie case has been made out for departmental proceedings. Framing of definite charges and communication thereof to the officer concerned is not a condition precedent.
- 2.3** A Government servant against whom proceedings have been initiated on a criminal charge but who is not actually detained in a custody may also be placed under suspension.
- 2.4** Even in cases where any criminal offence is under investigation by the police or under inquiry, the Government servant may be placed under suspension. However, he stands charged with any offence contemplating such investigations, the police files a charge sheet against him and criminal court takes cognizance of that offence.
- 2.5** A Government servant may also be suspended in cases in which the Appellate or Reviewing Authority while setting aside the order imposing the penalty or dismissal, removal or compulsory retirement directs that a de-novo enquiry should be held.
- 2.6** Suspension should not, however, be resorted to for petty offences not related to morality or the official duties of the Government servant.

**3. Authorities competent to order/
revoke suspension:**

- 3.1** Under Rule 10(1) of the CCS(CCA) Rules, 1965 the following authorities are only competent to place a Government servant under suspension:
- a) The "Appointing Authority" as defined in Rule 2(a);
 - b) Any authority to which the Appointing Authority is subordinate;
 - c) The "Disciplinary Authority" as defined in Rule 2(g);
and
 - d) Any other authority empowered in that behalf by general or special order.

3.2 Under Rule 10(5) (c) *ibid*, the authority which made or is deemed to have made the order of suspension or any authority to which it is subordinate, can revoke the order.

4. Competent Authority in case of deputationists:

4.1 In the case of a Government servant whose services are lent by one department to another or borrowed from or lent to a State Government, or an authority subordinate thereto, or to a local or other authority, the borrowing authority exercising the powers of the Appointing Authority, can place him under suspension under Rule 20(1) *ibid*, simultaneously informing the lending authority of the circumstances leading to the order as provided under proviso to Rule 20(i) and Rule 21(1) *ibid*.

5. Guiding principles to be kept in view while placing a Government servant under suspension

5.1 While public interest is to be the guiding factor in deciding to place a Government servant under suspension, the Competent Authority should take all factors into account and exercise his discretion with due course. While taking such action even when the matter is under investigation and before a *prima facie* case is established, the following circumstances may be considered appropriate to place a Government servant under suspension:-

- a) Whether his continuation in office will prejudice investigation, trial or any enquiry;
- b) Whether his continuation in office is likely to subvert discipline in the office in which he is working;
- c) Whether his continuation in office will be against the wider public interest;
- d) Whether a preliminary enquiry revealed a *prima facie* case justifying criminal or departmental proceedings which are likely to lead to his conviction and / or dismissal, removal or compulsory retirement from service;

- e) Whether he is suspected to have engaged himself in activities prejudicial to the interest of security of the state.

5.2 Certain types of misdemeanor where suspension may be desirable in the circumstances mentioned above are indicated below:

- (i) an offence or conduct involving moral turpitude;
- (ii) corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gains.
- (iii) serious negligence and dereliction of duty resulting in considerable loss to the organization/Government;
- (iv) Desertion of duty; and
- (v) Refusal or deliberate failure to carry out written orders of superior officers.

**6. Date of effect of suspension
other than deemed suspension**

- 6.1** An order of suspension takes effect from the date on which it is made or subsequently and not retrospectively.
- 6.2** When a Government servant has performed his prescribed hours of duty on any particular day, suspension can take effect from the subsequent day.
- 6.3** In case the officer placed under suspension is on tour or is holding the charge of stores, cash, etc. the suspension has to be effected from a suitable date taking into circumstances of the case.

**7. Effective date of “deemed
suspension”**

- 7.1** Deemed suspension can be effective from:
 - a) the date of detention in the case of detention for a period exceeding forty-eight hours;
 - b) the date of conviction in the event of conviction for an offence and sentence to a term of imprisonment exceeding 48 hours;

- c) the date of original order of dismissal/ removal/compulsory retirement, in the case of such penalty having been set aside by the Appellate/Reviewing Authority/decision of a Court of Law;
- d) when the Government servant is on leave or absent without prior intimation/permission, the order of suspension, if nay, should normally be given effect to only from the date the said official returns from leave or desires to resume duty.

8. Effect of suspension on the Government servant

8.1 Suspension does not put an end to the service of the suspended official. It is not a punishment and does not amount to “reduction in rank”. The suspended official continues to be subject of the same discipline and penalties and the Conduct Rules continue to apply to him. He continues to remain bound to follow the lawful directions of his superiors during the period of suspension. He retains a lien on the permanent post held by him immediately before suspension.

8.2 However, suspension may cause a lasting damage to the officer’s reputation even if he is exonerated or is ultimately found guilty of a minor misconduct. Further, it constitutes a great hardship for the affected officer/official as he is not allowed to earn his salary and is paid at reduced rates during the period of suspension. Therefore, utmost precaution should be used while placing an employee under suspension. The power of suspension is to be sparingly exercised and only for valid reasons and not for extraneous considerations.

9. Revocation of suspension

9.1 Under Rule 10(5) (c) *ibid*, an order of suspension made or deemed to have been made may at any time, be revoked

by the Competent Authority in the following circumstances:-

(a) Departmental proceedings:

- (i) If it is decided that no formal proceedings need be drawn up with a view to impose a penalty of dismissal, removal or compulsory retirement, or reduction in rank;
- (ii) Where the final order passed is other than dismissal, removal or compulsory retirement.
- (iii) Where the Government servant is exonerated of the charges against him; and
- (iv) In appeal or revision, the order is modified into one other than dismissal, removal or compulsory retirement and no further enquiry is ordered to be held.

(b) Criminal Offence:

- (i) In arrest and detention cases, when it is decided not to proceed further against the Government servant by filing a charge-sheet in the court;
- (ii) In appeal/revision against acquittal in the higher court fails;
- (iii) If acquitted in trial court or if an appeal/revision in higher court against the conviction succeeds and he is ultimately acquitted and when it is not proposed to continue him under suspension even though departmental proceedings may be initiated against him.

9.2 An order of revocation takes effect from the date of issue. However, where it is not practicable to reinstate with immediate effect, the order of revocation should be expressed as taking effect from a date to be specified.

CHAPTER- IX

REINSTATEMENT

1. What is reinstatement?

1.1 Reinstatement is resumption of office by a person who has been dismissed/removed from service or whose services have been terminated or who is under suspension.

2. Types of cases where reinstatement is possible:

2.1 Reinstatement in service of a Government servant is possible in the following types of cases:

- (i) If he had been placed under suspension pending criminal proceedings against him and is acquitted by the Court of Law and it is decided that no departmental proceedings need be initiated on the basis of facts which led to the launching of prosecution in the Court of Law;
- (ii) If the penalty of compulsory retirement, removal or dismissal from service imposed upon him is set aside by a Court of Law/Central Administrative Tribunal.
- (iii) If he had been placed under suspension pending departmental proceedings against him and if the departmental proceedings instituted against him are withdrawn for any reason or if he is exonerated or is awarded a penalty other than that of compulsory retirement, removal or dismissal from service;
- (iv) If the penalty of compulsory retirement, removal or dismissal from service imposed upon him is set aside by the Appellate/Reviewing Authority.

CHAPTER – XII

Further references

For detailed information about rules, instructions, procedure, etc. the following compilations may be consulted:

- (i) Swamy's compilation of CCS (Conduct) Rules, 1964.
- (ii) Swamy's compilation of CCA(CCS) Rules, 1965.
- (iii) Central Vigilance Commission's Vigilance Manual.

NO.3 (v)/99/2

CENTRAL VIGILANCE COMMISSION

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

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

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

2. One of the facts of life in today's administration is the widespread use of anonymous and pseudonymous petitions by disgruntled elements to blackmail honest officials. Under the existing orders, issued by Department of Personnel & Training letter No.321/4/91-AVD.III dated 29/9/92, no action should be taken on anonymous and pseudonymous complaints and should be ignored and only filed. However, there is a provision available in this order that in case such complaints contain verifiable details, they may be enquired into in accordance with existing instructions. It is, however, seen that the exception provided in this order has become a convenient loophole for blackmailing. The public servants who receive the anonymous/pseudonymous complaints, generally, follow the path of least resistance and order inquiries on these complaints. A peculiar feature of these complaints is that these are resorted to especially when a public servant's promotion is due or when an executive is likely to be called by the Public Enterprises Selection Board for interview for a post of Director/CMD etc. If nothing else, the anonymous/pseudonymous petition achieves the objective of delaying the promotion if not denying the promotion. These complaints demoralize many honest public servants.

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

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

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

Under CVC's order No.8 (l) (h) (l) dated 18/11/98, even junior officers can complain to the CVC in cases of corruption against the seniors;

The CVC has issued instructions that the name of the complainant will not be revealed when the complaint is sent to the appropriate authorities for getting their comments or launching inquiries; Under CVC Order No.8 (1) (g)/99/(4) dated 12th March 1999, in every office there should be public notice displayed directing that no bribe should be paid. If any bribe is demanded, the complaint should be made to the appropriate authority like CVO, CVC, etc.; and

The CVC is now available on web – <http://cvc.nic.in>. If anybody wants to complain they can easily lodge complaints on the website of CVC and also through e-mail – vigilance@hub.nic.in

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

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

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

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

(N.VITTAL)

Central Vigilance Commissioner

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

| A.No. | Source of Complaint (See N.B.1) | Date of Receipt | Name and 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 the following types:

(a) filed without enquiry (b) Filed after enquiry (c) Passed on to another sections as having no vigilance angle (d) 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 chare-sheet issued, wherever necessary.

Abbreviations commonly used in Vigilance/Disciplinary matters

| Sl.No. | Abbreviation | Stands for |
|---------------|---------------------|----------------------------------------------------------------|
| 1. | CAT | Central Administrative Tribunal |
| 2. | CBI | Central Bureau of Investigation |
| 3. | CCS(CCA) Rules | Central Civil Service (Classification, Control & Appeal) Rules |
| 4. | CDI | Commissioner of Departmental Inquiry |
| 5. | C.O. | Charged Officer |
| 6. | CR/ACR | Confidential Report /Annual Character Roll |
| 7. | Cr. P.C. | Criminal Procedure Code |
| 8. | CS | Charge Sheet |
| 9. | CVC | Chief Vigilance Commissioner/Central Vigilance Commission |
| 10. | CVO | Chief Vigilance Officer |
| 11. | DA | Defence Assistant/Disciplinary Authority/Daily Allowance |
| 12. | FIR | First Information Report |
| 13. | I.A. | Inquiring Authority |
| 14. | I.O. | Inquiry Officer/ Investigation Officer |
| 15. | I.P.C. | Indian Penal Code |
| 16. | I.R. | Inquiry Report |
| 17. | PCA | Prevention of Corruption Act |
| 18. | PE | Preliminary Enquiry |
| 19. | PH | Preliminary Hearing |
| 20. | PMO | Prime Minister's Office |
| 21. | P.O. | Presenting Officer |
| 22. | RC | Registered Case |
| 23. | RDA | Regular Departmental Action |
| 24. | RH | Regular Hearing |
| 25. | SPE | Special Police Establishment |
| 26. | SPS | Suspected Public Servant |
| 27. | V.O | Vigilance Officer |
| 28. | WSD | Written Statement of Defence |

Words of Foreign origin commonly used in Vigilance and Allied matters

| Sl.No. | Word | Meaning |
|---------------|-----------------------|--------------------------------------------------------------------|
| 1. | Ab-initio | From the very beginning |
| 2 | Ad-hoc | As a temporary measure, stop gap arrangement |
| 3. | Ad-interim | For the meantime |
| 4. | Ad-verbum | Verbally, pertaining to words. |
| 5. | Ad-virtum antculpam | Till the misconduct is proved |
| 6. | Alter idem | Another precisely similar |
| 7. | Amicus Curie | Friend of the Court |
| 8. | Audi alteram partem | Hear the other side |
| 9. | Bona fide | In good faith, implying the absence of all fraud or unfair dealing |
| 10. | Criman Falsi | Crime of perjury. |
| 11. | De-Die-in-Diem | From day to day |
| 12. | De facto | Actual, really, from the fact |
| 13. | De-novo | From the beginning, afresh |
| 14. | Dies –non | A non-duty day, a day of absence |
| 15 | En-masse | Universally, all |
| 16. | Example Gratia (e.g.) | For instance |
| 17. | Ex-curia | Out of court. |
| 18. | Ex-gratia | As an act of grace, without award |
| 19. | Ex-parte | One sided. |
| 20. | Ex-post-facto | Retrospective. |
| 21 | Fait accompli | A thing already done. |
| 22. | Inter-alia | Among other things. |
| 23. | In toto | In totality. |
| 24. | Ipso-facto | Virtually, in the fact itself. |
| 25. | Lex-scripte | Statute Law. |
| 26. | Locus-standi | A place of standing. |
| 27. | Me-judice | In my opinion. |
| 28. | Modus operandi | Mode of operation. |
| 29 | Person non-grata | Person who is not acceptable. |
| 30. | Prima-facie | On the first view. |
| 31. | Pro-tem | Temporary. |

| Sl.No. | Word | Meaning |
|---------------|----------------|-------------------------------------|
| 32 | Sine-Die | Indefinitely. |
| 33. | Status quo | The state in which things are/were. |
| 34 | Sub-judice | Under judicial consideration. |
| 35. | Terminus a quo | The stating point. |

