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Subject :- Amendment to CDA Rules of PSUs to enable imposition of penalty on Public Sector Employees after their retirement - reg.

The Commission has been seriously concerned that as Public Sector Undertakings (PSUs) are non-pensionable establishments, there is no possibility of imposing any penalty on such deviant employees after their retirement, who might have committed serious lapses while in service, just before their retirement. The gratuity amount also could not be withheld unless the person had been terminated consequent to disciplinary proceedings and the question of terminating an employee or imposing a penalty retrospectively, after retirement is not legally tenable. There was a situation that even disciplinary proceedings could not be continued against them beyond the retirement.

2. The Commission had earlier advised Public Sector Enterprises to make a provision in their CDA Rules to allow continuation of departmental proceedings after retirement of an employee. There is a need to incorporate a suitable provision to enable the imposition of penalty on delinquent employees on conclusion of such departmental proceedings continued beyond the date of their superannuation.

3. It is observed that the Public Sector Banks have incorporated a provision in their CDA Rules for deemed continuation of service for this purpose. The said provision reads as under:

"The officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned officer will not receive any pay and other allowance after the date of superannuation. He will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed therein except his own contribution to CPF."

4. The Hon'ble Supreme Court of India has recently upheld the punishment of dismissal on a retired Bank employee on conclusion of departmental proceedings after his retirement, on the basis of the above provision, thus validating its legality. In its judgement dated 18.2.07 in the case of Shri Ramesh Chandra Sharma Vs Punjab National Bank, it has further noted that -

"...it may be true that the question of imposition of dismissal of the delinquent officer from service when he has already reached the age of superannuation
would not ordinarily arise. However, as the consequences of such an order is provided for in the service rule, in our opinion, it would not be correct to contend that imposition of such a punishment would be wholly impermissible in law.”

5. The Supreme Court has further held that—

“The said Regulation clearly envisages continuation of a disciplinary proceeding despite the officer ceasing to be in service on the date of superannuation. For the said purpose a legal fiction has been created providing that the delinquent officer would be deemed to be in service until the proceedings are concluded and final order is passed thereon. The said Regulation being statutory in nature should be given full effect.”

“The effect of a legal fiction is well-known. When a legal fiction is created under a statute, it must be given its full effect, as has been observed in East End Dwellings Co. Ltd. v. Finsbury Borough Council 1951 (2) All E.R. 587 as under.....”

6. As the legality of the above provision has been upheld by the Supreme Court, all Public Sector Undertakings are advised to amend their CDA Rules in order to incorporate a similar provision. The receipt of this circular may be acknowledged and action taken to amend the CDA Rules along with a copy of the amended rules, may be sent to the Commission by 20.01.2008.

[Signature]
Deputy Secretary

To
1. The Secretary, Department of Personnel & Training
2. The Secretary, Department of Public Enterprises
3. The Secretary, Department of Administrative Reforms & Public Grievances
4. All Secretaries to the Ministries/Departments of the Government of India
5. The Chairman, SCOPE
6. All Chief Executives of Public Sector Enterprises
7. All CVOs of Ministers/Departments/PSEs
Circular No.25/7/06

Sub: Vigilance Administration – Role of CVO - regarding.

The Commission has issued a number of instructions on different aspects of vigilance administration and the CVO’s role in the same. During the Annual Zonal Meetings and interactive sessions with the CVOs, a number of issues were raised on most subjects, on which, though already instructions exist, the Commission has felt the need to reiterate/clarify and focus on some of the select issues raised in these meetings. Accordingly, the following guidelines are laid down:-

i) Complaints.

Meaningful and prompt investigation of complaints with desired follow up action is an important aspect of effective vigilance administration. Inordinate delay in investigation of the complaint sent by the Commission for investigation and report, reflects poorly on the performance of the CVO. Therefore, complaints need to be attended to promptly. Any anonymous complaint sent by the Commission for investigation, needs to be treated as source information and duly investigated, and report sent to the Commission.

It is also seen that in many a case, the complainant is not able to clearly articulate his allegations. In such cases, the CVO should contact the complainant for such additional information/clarification that the complainant could provide so that investigation, if need be, could be undertaken on serious allegations, in a focused manner. Further, wherever the complainant is addressed either for verification or for additional information, in order to avoid delay, the CVO should simultaneously call for the records of the case, scrutinize the same in the light of the allegations made, and take necessary action.

The Commission’s prior approval is necessary to take up any anonymous/pseudonymous complaint for investigation. Even though such complaints apparently contain verifiable information, the CVO is expected to conduct a preliminary enquiry and if it is considered that a detailed investigation is called for, then the Commission should be approached for seeking its approval.

While complaints against Board level officials are within the purview of the administrative Ministry’s CVO, if it is referred to the CVO of the organisation under the Ministry, he should gather all factual information and submit the same to the Ministry’s CVO. He is not required to make analysis or draw conclusions. A copy of his report, whenever called by the Ministry CVO should be sent to the Commission for information. It is also reiterated that no vigilance complaint against any official
under the Commission's jurisdiction should be closed without the prior approval of the Commission.

On receipt of any complaint containing allegations against any tender in process, the tender process need not be stopped. However, the allegations should be brought to the notice of the competent authority, including the purchase committee, tender committee, negotiation committee, etc, and the complaint should be taken up for investigation independently.

It should be borne in mind that if a CVO fails to notice a serious irregularity or to take necessary follow up action, and if such an irregularity is unearthed on investigation of a complaint received by the Commission, it would reflect poorly on the performance of the CVO, and he would need to explain in this regard.

ii) Consultation with CVOs.

The CVO has an important role in effective vigilance administration and functions as an extension of the Commission. While the Commission's jurisdiction is confined to Group 'A' officers and other officials of and above the level notified, and the Commission's advice is only to the Disciplinary Authority, there is no such restriction on the CVOs. They are required to be consulted by the Disciplinary Authority/Appellate Authority, irrespective of the level of officers involved. Wherever the Appellate Authority has disagreed with the Commission's advice, which was accepted by the Disciplinary Authority, the CVOs should scrutinise the matter carefully to take up the matter with the reviewing authority and also report such cases to the Commission. In respect of officials not under the jurisdiction of the Commission, where the Disciplinary Authority has disagreed with the CVO's advice, such cases should be specifically brought to the notice of the Board.

While CVOs may be consulted by the management in formulating a policy, to provide for necessary checks and balances as a preventive vigilance measure, they should not get involved in decisions in individual cases like works/procurement, etc, having financial implications.

The Commission further directs that the CVOs should not be given any operational duties. If any such duty with financial implications is assigned to him, the CVO should promptly bring it to the notice of the Commission for its intervention.

iii) Review of Vigilance work by Board

The Commission's instructions vide No.98/VGL/51 dated 9/12/2003 requires that the Board of Directors review the Vigilance Work in the organisation and the CVO should send a copy of such review to the Commission. It has been observed that in a number of organisations, the CVOs are not invited to the Board Meeting. In the absence of the CVO, the review of the vigilance work by the Board would not be meaningful. The Commission has, therefore, decided that the CMDs/CEOs should ensure that the CVO of the organisation is invited and remains present at the time of the review of vigilance work by the Board.
iv) Monthly/Quarterly/Annual Report of the CVOs

The CVOs should take utmost care in sending the monthly report, which enables the Commission to assess their performance. They can attach additional sheets if they want to bring any special vigilance related issue to the notice of the Commission. A statement should also be enclosed along with the monthly report giving details of complaints/vigilance cases relating to officials falling under the Commission's jurisdiction, which are pending for more than a year, giving reasons for delay.

The QPR should contain details of all projects and progress relating thereto and the CVO would be responsible for its accuracy. As the annual reports of CVOs form the basis for certain incorporations in the Commission's Annual Report, the CVOs should ensure that their Annual Reports are sent positively by 31st January of the year following the completed calendar year.

v) Reference to the Commission

The Commission has issued detailed instructions regarding the manner of seeking the advice of the Commission. The CVOs should invariably ensure that the reference to the Commission for seeking first stage/second stage advice is made along with the views of the Disciplinary Authority, etc. However, in respect of such officials where the President is the Disciplinary Authority, the case could be referred to the Commission for seeking first stage advice with the views of the Secretary of the concerned administrative department.

vi) Disciplinary Cases

The CVOs should ensure that charg-sheets are carefully drafted covering all lapses. It is seen that in some CBI cases, there is delay in obtaining the documents. It should be ensured that the listed documents are obtained from the CBI before issuing the chargesheet and, where parallel proceedings are to be initiated, a set of listed documents, duly certified, is obtained from the CBI.

vii) Irregularities in Recruitment:

The Commission has been seriously concerned with certain instances of irregularities in recruitment. Every organisation is expected to have a recruitment policy and proper recruitment rules in keeping with the guidelines of the GOI. The CVOs should monitor and take up for necessary action, any case of recruitment in violation of the laid down rules and procedures, and wherever necessary, report the matter to the Commission.

(V.Kannan)
Director

To
All CVOs
All CMDs/CEOs
Officer Order No. 45/9/03

To

All Chief Executives of PSUs

Subject:- Chief Vigilance Officers - status & perquisites in Public Sector Undertakings.


Sir/Madam,

The Commission in the past had examined the role and functions of Chief Vigilance Officers in PSUs and to ensure their authority and functional independence, had issued instructions regarding their status and perquisites. It was envisaged that officers of Joint Secretary level joining as CVO would be accorded the status and perks of a functional director of board and officers of Director/Deputy Secretary level joining as CVO would be provided the status and perks of Executive Director.

2. Recently some CVOs have brought it to the notice of the Commission that the instructions of the Commission on the status and perks are not being implemented by PSUs for one reason or another. The Commission has considered the matter in detail and has observed that the basic reason for the problem is absence of categorization of CVO's post at the requisite level. Therefore as a first step towards implementation of its instructions, the post of CVO may be created at the functional director level in schedule "A" PSUs and at one level below the board in schedule "B", "C", and "D" PSUs. Once the posts are created at the requisite level, the status and perks will be automatically available to the incumbent joining as CVO.

3. The Commission desires that PSUs may take suitable action along the above lines at the earliest while keeping it advised of the progress.

4. The above instructions will not apply in the case of CVOs of public sector banks where the post of the CVO has already been appropriately categorized.

5. Kindly acknowledge receipt.

Yours faithfully,

Sd/-
(Mange Lal)
Deputy Secretary
Telefax - 24651010
Dated the 24th July 2003

Office Order No. 33/7/03

All Chief Vigilance Officers
All Chief Executives of PSEs/PSBs/FIs

Subject: Commission’s jurisdiction over the employees of Organizations which have 50% or less Government’s equity.

Sir/Madam,

The Commission has received a number of queries from different Ministries/Departments regarding question of CVC’s jurisdiction as well as purview over the employees of the organizations in which the Central Government (including entities owned by Central Government) has 50% or less equity.

2. The jurisdiction of the Commission extends to the Central Government, Corporations established by or under any Central Act, Government companies, Societies and local authorities owned or controlled by the Central Government. Accordingly, the Commission has considered the issue and has decided that its jurisdiction will continue over any organization, irrespective of the shareholding pattern, so long as the administrative Ministry/Department of the Central Government continues to exercise administrative control over these organizations including appointment of Chief Executives, board members, etc. The Chief Vigilance Officers may accordingly review the situation and report to the Commission the organizations which will come under the purview of the Commission and those which will not.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary
OFFICE MEMORANDUM

Sub: Exchange of information between PSBs and PSUs.

During the institutional coordination committee meeting as envisaged in the Special Chapter on Vigilance Management in Public Sector Banks held on 10.10.2001, the issue of exchange of information and documents between PSU/PSB where such information was required to facilitate investigations into cases of financial irregularities/frauds was discussed. It was agreed that such information may be parted within strict confidence after a written request from the concerned CVO is received and the Commission may issue suitable instructions in this regard.

2. Now, therefore, the Commission directs that all the Public Sector Undertaking and the Public Sector Banks may, henceforth, mutually or severally exchange, in strict confidence, any information or documents as may be required to facilitate investigation into financial irregularities/frauds. Such exchange may be made only after a written request from the concerned CVO is made.

(C.J. Mathew)
Deputy Secretary

To
1. All CVOs and CMDs of PSUs/PSEs/PSBs
2. RBI
3. Banking Division
Office Order No.59/12/03

To

(i) The Secretary, Department of Personnel & Training
(ii) The Secretary, Department of Public Enterprises
(iii) The Secretary, Department of Administrative Reforms & Public Grievances
(iv) All Secretaries to the Ministries/Departments of the Govt. of India
(v) The Director, CBI
(vi) The Chairman, SCOPE
(vii) All Chief Executives of Public Sector Enterprises
(viii) All CVOs of Ministries/Departments/PSEs

Subject: Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC-Amendment to Para 32.3 thereof.

Sir/Madam,

Special Chapter on Vigilance Management in Public Sector Enterprises, notified by the Commission vide No. 3(v)/99/3 dated 7.7.1999 provide for review of vigilance matters in PSEs by Board of Directors. The provision for review of progress of vigilance work by the Board of Directors of PSEs was withdrawn by the Commission vide circular letter No. 98/VGL/51 dated the 28th March, 2002 because too many reviews were felt uncalled for.

2. The matter has been once again reviewed and the Commission has decided that the Board of Directors should review the vigilance work once in six months and CVO will send a copy of the review done by the Board to the Commission. Necessary provision of Special Chapter on Vigilance Management in PSEs relating to review of vigilance matters stands amended to that extent.

3. The report sent by the Chief Vigilance Officer to the Commission would be in the following format. A copy of the Memorandum put up to the Board reviewing vigilance cases should also be endorsed to the report of the CVO.

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<th>Period of Review</th>
<th>No. of cases reviewed</th>
<th>Specific remarks, if any</th>
</tr>
</thead>
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Yours faithfully,

Sd/-

(Anjana Dube)
Deputy Secretary
No.98/VGL/51
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 21st June 2001

To

(1) The Secretary, Department of Personnel & Training
(2) The Secretary, Department of Public Enterprises
(3) The Secretary, Department of Administrative Reforms & PG
(4) The Secretaries of the Ministries/Departments of Government of India
(5) The Director, CBI
(6) The Chairman, SCOPE
(7) All Chief Executives of Public Sector Enterprises
(8) All CVOs of Ministries/Departments/PSEs

Subject: Special Chapter on Vigilance Management in Public Sector Enterprises
and the Role and Functions of the CVC - Clarification on para 32.3 of the
Chapter.

Sir/Madam,

The undersigned has been directed to refer to the Commission's letter
No.3(v)/99/3 dated 07.07.1999, notifying the Special Chapter on Vigilance Management in
public sector enterprises, and to say that a clarification has been sought from the Commission
as to whether, in terms of para 32.3 of the Special Chapter, the vigilance work/disciplinary
cases involving Board level appointees of the PSEs, should be reviewed in the vigilance
review to be undertaken by the Board of Directors of the concerned PSE. In this regard, kind
attention is invited to para 15 of the Special Chapter, which stipulates that the complaints
involving Board-level appointees of the PSEs are to be handled by the CVOs of the
concerned administrative Ministries/Departments. Moreover, it would be quite embarrassing
for the Directors to find one or more of themselves being discussed in a meeting in which
they are participating. It is thus clarified that the Board of Directors level vigilance review,
envisaged in para 32.3 of the Special Chapter, would relate to the complaints/cases involving
the employees who are below the Board level. So far as complaints/cases involving Board
level appointees are concerned, it would be for the administrative Ministry to do such reviews
periodically.

Yours faithfully,

Sd/-

(K.L. Ahuja)
Officer on Special Duty

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The Commission has notified the Special Chapter on Vigilance Management in Public Sector Enterprises vide letter No.3(v)/99/3 dated 7/7/99. In Para 3.2 of the Chapter, the jurisdiction of the Commission over the officers of PSEs has been mentioned.

2. It is clarified that the existing jurisdiction of the Commission over the Board level appointees of PSEs has been extended to two levels below the Board level as per Para 3.2 of the Chapter. Therefore, from the date the Special Chapter has come into force i.e. 15/7/99, all cases involving vigilance angle in respect of all officials of Board level as well as two levels below the Board level will have to be referred to the Commission for its advice.

3. A doubt has arisen with regard to the last sentence of Para 3.2 of the Chapter which prescribes that "cases involving vigilance angle in respect of all employees two levels below the Board level may not ordinarily be referred to the Commission". It is clarified that cases involving vigilance angle in respect of all employees other than three categories namely, Board level, First and second levels below the Board level, may not ordinarily be referred to the Commission unless due to special reasons the Commission has called for a report or in cases where the PSE may like to seek the advice of the Commission.

4. This issues with the approval of Central Vigilance Commissioner.

Yours faithfully,

(P.S. Fatehullah)
Director
To

All Chief Vigilance Officers,
Public Sector Undertakings,

Subject:- Voluntary Retirement Scheme/Voluntary Separation Scheme for the employees of Public Enterprises.

The undersigned is directed to forward herewith the copies of the following OMs of the Department of Public Sector Undertaking on the aforesaid subject: for information and further necessary action.


Yours faithfully,

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

Encl: As above.
OFFICE MEMORANDUM

Subject: Voluntary Retirement Scheme/Voluntary Separation Scheme for the employees of Public Enterprises.

The parameters on the basis of which the VRS could be formulated by the PSUs for their employees have been spelt out in this Department’s OM of even number dated 5.5.2000. However, there are certain points on which clarifications have been solicited by the PSEs as well as the administrative Ministries/Departments. These points have been examined in the Government. The Points as well as the clarifications are given hereunder.

1. Whether allowances like Personal Pay, HRA, NPA, Family Planning increment are to be included for computation of ex-gratia?

   Basis pay plus Disciplinary Authority only is to be taken into account for computation of ex-gratia under VRS.

2. Whether the post of the employee who has taken VRS is to be abolished?

   There shall be no recruitment against vacancies arising out of VRS.

3. Whether any arrears of ex-gratia are to be paid in the event of pay revision being sanctioned subsequent to voluntary separation?

   Ex-gratia will be re-calculated on the basis of revised pay scale and the difference be paid.

4. Can notice pay in lieu of notice and TA for settling in the Home Town or elsewhere be paid to the employees who are to opt or have opted for VRS?

   One month/three months notice pay (as per service conditions application to the employees) may be paid. TA for the employee and family would also be admissible to the place where he intends to settle down after taking VRS. For this purpose, the entitlement will include transportation cost of personal effects and traveling cost of self and family members, as admissible under the entitled classes.

5. Under the Gujarat pattern, will the compensation for the balance service be calculated @ 25 days for every year of service left?

   Compensation under VRS modeled on the Gujarat pattern will consist of salary of 35 days for every year of service completed and 25 days for every year of service left until superannuation.

6. Under VSS, will the employee be entitled for 60 months salary even if he has not completed 30 years of service?

   No
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<td>7. 60 months salary as ex-gratia is permissible under VSS scheme of Deptt. of Heavy Industry. If the VSS scheme is modeled on Gujarat pattern (para 5 of OM dated 5.5.2000), will the employee be still entitled for 60 months salary if he has completed 30 years or more service?</td>
<td>Sixty months salary as compensation is attached to VSS package of the Department of Heavy Industry only and not under the Gujarat model.</td>
</tr>
<tr>
<td>8. Whether PF, leave encashment, gratuity, notice pay, LTC are payable to employees in case of Voluntary retirement?</td>
<td>There are to be paid to the employees opting for VRS as per the provisions of the relevant statutes and the service conditions. These are outside the computation of ex-gratia on voluntary retirement.</td>
</tr>
<tr>
<td>9. Is any minimum qualifying service necessary for opting for VRS?</td>
<td>No age bar or minimum qualifying service is prescribed.</td>
</tr>
<tr>
<td>10. Do the companies have the choice to opt for either the Gujarat model or VSS on DHI model for the sick and unviable units?</td>
<td>The Boards of the sick and unviable PSUs are obliged to offer VSS on DHI pattern to the employees. The Board have the option to offer, in addition, VRS on Gujarat pattern, in which event the employees will have a choice between the two schemes.</td>
</tr>
<tr>
<td>11. The managements have the right to reject the VR application of certain employees as they have to ensure that the company is not denuded of talents. In that case, what would be the treatment given to such employees who have been retained by the management in case of PSU is closed. Will they be offered VSS in case of PSU is closed. Will they be offered VSS even after a lapse of three months or will they be paid retrenchment compensation under ID Act?</td>
<td>The cases of such employees will be covered under the final settlement on closure of the unit. If the benefit of VSS is extended on closure, such employees will also receive it.</td>
</tr>
<tr>
<td>12. Whether Casual Leave may be encashed up to the date of notification of VRS or actual date of relief of employee?</td>
<td>CL may be encashed on pro-rate basis up to the date of relief of employee.</td>
</tr>
<tr>
<td>13. What would be the compensation payable in case where the balance of service left under superannuation is less than 250 days and sum of the salary for the balance period is less than Rs. 25000/-</td>
<td>The computation is explained in the enclosure.</td>
</tr>
<tr>
<td>14. Whether the notice period pay is to be paid in addition to</td>
<td>If the application of an employee for voluntary retirement is accepted instantaneously and payment is</td>
</tr>
<tr>
<td>Question</td>
<td>Answer</td>
</tr>
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<tr>
<td>60 months salary as compensation in case an employee has completed 30 years of service and the remaining period of service is 75 months.</td>
<td>arranged by the management on the same day, the concerned individual would be entitled to payment of ex-gratia along with the notice period pay. It is, however, clarified that payment of ex-gratia for service rendered or left over service before superannuation as well as the amount payable for the notice period should not exceed the basic pay plus D.A. that would have been paid to the employee who has opted for voluntary retirement till the date of superannuation. For example, if an employee opts for voluntary retirement a few months before the date of superannuation, say at 57 years and 10 months, the payment should be restricted to 2 months basic pay plus Dearness Allowance. In circumstances where the management takes time to take a decision about the acceptance of an application submitted by the employee for voluntary retirement and allows the notice period to lapse or the individual concerned has drawn full salary during the notice period served by him, in these cases notice period pay would not be admissible as the individual has already drawn the salary during the notice period.</td>
</tr>
<tr>
<td>15. Whether it is mandatory to introduce new VR Scheme or continue with the existing scheme?</td>
<td>The new scheme has been introduced in supersession of the old scheme.</td>
</tr>
<tr>
<td>16. If the VRS is implemented in the middle of any particular month, whether full months salary is to be computed for VRS purpose?</td>
<td>An employee is entitled to payment of salary till the date of voluntary retirement, regardless of the date of implementation of the VRS. As for computing the completed years and months of service for the purpose of ex-gratia, the datum will be the date on which the employee in question had joined service.</td>
</tr>
<tr>
<td>17. If the employee has completed 20 years service whether he will be paid compensation for 20 years service or compensation for 20 years of service plus proportionate days salary for the nine months service also?</td>
<td>The calculation would have to be based on every completed year of service or part thereof. The part of the complete year served shall be entitled for ex-gratia on pro-rata basis.</td>
</tr>
<tr>
<td>18. Whether service rendered in other PSEs would be taken into account for purpose of computation of VRS from the latter employing organization.</td>
<td>This would be taken into account only on transfer of cash equivalent of Earned Leave and Provident Fund. Gratuity would be as per the provisions of the Act.</td>
</tr>
<tr>
<td>19. Will notional pay revision from 1992 and 1997 be taken for computation of VRS/VSS benefits?</td>
<td>In the new VRS/VSS scheme, there is no scope for computation of the ex-gratia on notional salary revision.</td>
</tr>
<tr>
<td>20. Will encashment of sick leave at the time of taking VRS/VSS be permissible?</td>
<td>Encashment of sick leave has nothing to do with VRS/VSS. Its encashment will depend on the management decision, based on the service conditions.</td>
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<td>21. Will the casual workers be</td>
<td>Casual workers will not be entitled for VRS/VSS.</td>
</tr>
<tr>
<td>Question</td>
<td>Response</td>
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<td>included for the purpose of VRS/VSS who have completed more than 20 years of service?</td>
<td>Refer to para 9 of OM dated 5.5.2000.</td>
</tr>
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<td>22. Whether the contract employees appointed on contract basis can be considered as temporary employees for purposes of VRS? If yes, how the compensations would be calculated?</td>
<td>Contract employees are outside the purview of VRS.</td>
</tr>
<tr>
<td>23. How would the computation of ex-gratia (VRS) under Gujarat pattern be done?</td>
<td>As per enclosure.</td>
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All the administrative Ministries/Departments of Government of India are requested to bring the foregoing clarifications to the notice of the Public Enterprises under the administrative control for their information and necessary action.

Sd/-
(A.K. Rath)
Joint Secretary to the Govt. of India
Subject: Uniformity in designation of Heads of Vigilance in Public Sector Enterprises (PSEs).

Uniformity in the work culture is one of the factors, which affects the overall functioning of any organisation. The nomenclature of the Heads of Vigilance in PSEs is one of the areas which lacks uniformity at present. Officers who are of same and equivalent rank are designated as Director (Vigilance) in some PSEs and as Executive Director (Vigilance) in others. This anomaly has caused a lot of heartburning and misunderstanding between the CVOs and in the PSEs itself.

2. In order to promote uniformity in the work culture, in exercise of powers conferred on CVC vide 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 Commission has decided that with immediate effect that all Heads of Vigilance Divisions in the PSEs will be designated only as "Chief Vigilance Officer" irrespective of their status in the parent organisation. However, those Chief Vigilance Officers who are of the level of Joint Secretary to the Government of India and above would be given a status, facilities and perquisites equivalent to that of a functional director in that PSE as has been provided in the DPE's O.M. No. 16(48)87-GM dated 2/8/96. The Chief Vigilance Officers, who are below the level of Joint Secretary to the Govt. of India will get status, facilities and perquisites as that of Executive Director in the concerned PSEs.

3. All the Administrative Ministries/Department concerned with the PSEs may take necessary action to implement the above decisions of the Commission and also advise all the PSEs under their administrative control accordingly.
4. This order is also available on web site of the CVC at http://cvc.nic.in

(N. Vittal) 24.7.93
CENTRAL VIGILANCE COMMISSIONER

1. The Secretaries of All the Administrative Ministries/Departments
2. The Secretary, Department of Public Enterprises, Enterprises Bhavan, CGO Complex, Lodhi Road, New Delhi
3. All Chief Executive of Central PSEs
4. All CVOs of Central PSEs
5. Shri D.C. Gupta, Additional Secretary (S&V), Department of Personnel and Training, North Block, New Delhi
6. The Establishment Officer, Department of Personnel and Training, North Block, New Delhi. He is requested that in all future appointments, the designation in the appointment orders may be made only as CVO and not as Executive Director (Vigilance) etc. while getting the approval of ACC.
No. 3(v)/99/4
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 12th July 1999

Subject: Guidelines for obtaining vigilance clearance from the Commission in respect of candidate(s) recommended for Board Level appointment(s) in Public Sector Enterprises.

The Central Vigilance Commission is empowered to exercise superintendence over the vigilance administration of the various Ministries of the Central Government or Corporations established under any Central Act, Government Companies, Societies and local authorities owned or controlled by that Government in terms of the powers invested in it 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.

2. By virtue of these powers, the Commission has been taking various measures to improve the vigilance administration in the Organisations/Departments under its purview. One of the ways which the Commission considers appropriate for achieving this objective is to ensure that the top level posts in the PSEs are occupied by persons with exemplary service records and clean vigilance track records. It is in this context, that a system has been evolved for according vigilance clearance, in particular, after the instructions of DOPT's OM No. 27(5)-EO/88(ACC) dated 4th August 1988. In keeping with this instruction, the Commission is consulted for vigilance clearance in respect of those officers, who are already holding board level posts and are being considered for some other board/higher board level posts. In respect of those candidates, who are holding posts below the board level and are recommended by PESB for board level post, vigilance clearance from the Commission is not being obtained. There are many instances, in which officers with adverse vigilance history have managed to occupy Board level positions in PSEs without obtaining vigilance clearance from the Commission, merely because of the fact that they were holding a post below the board level.

3. In order to remedy the defects arising from the existing procedure it has been decided that vigilance clearance should be obtained from the Commission in respect of all candidates/officers recommended by the PESB for appointment to any Board level position in PSEs, irrespective of their holding a board level or below board level post at that point of time.
4. CVOs of all Ministries/Departments must ensure strict compliance of these instructions with immediate effect.

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

To

i) The Secretaries of All Ministries/Departments of Government of India
ii) All Chief Vigilance Officers in the Ministries/Departments/PSEs
iii) Establishment Officer, O/o Establishment Officer, DOPT, New Delhi
iv) Secretary, PESB, New Delhi
v) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO
SPECIAL CHAPTER
ON
VIGILANCE MANAGEMENT IN PUBLIC SECTOR ENTERPRISES
AND
THE ROLE AND FUNCTIONS OF THE CVC

Government of India
CENTRAL VIGILANCE COMMISSION
JULY, 1999
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1. INTRODUCTION

1.1 This Chapter deals with the application of the principles of vigilance to Public Sector Enterprises (PSEs). Its objective is to apply and supplement rather than substitute the material contained in the earlier chapters of the Vigilance Manual (Vol. I) (Fifth Edition). To that extent, it is not and should not be construed as a self-sufficient code. This Chapter is therefore a part of the Vigilance Manual. If there is any inconsistency between the provisions of this Chapter and the provisions of the Vigilance Manual, the matter should be referred to the CVC for decision.

2. CENTRAL VIGILANCE COMMISSION

2.1 The Central Vigilance Commission (hereinafter referred to as the Commission) was set up by the Government of India by its Resolution dated 11.2.1964 in pursuance of the recommendation made by the Committee on Prevention of Corruption (popularly known as the Santhanam Committee). The Commission acts as the apex body for exercising general superintendence and control over vigilance matters in administration and probity in public life. In compliance with the judgement of the Hon'ble Supreme Court of India in CWP 340-343 of 1993-Vineet Narain and others Vs. Union of India, the Commission was accorded statutory status with effect from 25.8.1998 through “The Central Vigilance Commission Ordinance, 1998”. Since the CVC Bill was passed by the House of the People and was pending before the Council of States and since the CVC Ordinance, 1999 was to expire on 5th April, 1999, the Government of India (Department of Personnel & Training) passed a Resolution (dated 4th April, 1999) to continue the Commission beyond 5th April, 1999. Thus, the Commission would continue to discharge its duties and exercise its powers under this Resolution.

3. JURISDICTION OF CVC

3.1 The Commission’s jurisdiction is co-terminus with the executive powers of the Union. It can undertake any inquiry into any transaction in which a public servant is suspected or alleged to have acted for an improper or corrupt purpose; or cause such an inquiry or investigation to be made into any complaint of corruption, gross negligence, misconduct, recklessness, lack of integrity or other kinds of mal-practices
or misdemeanours on the part of a public servant. The Commission tenders appropriate advice to the concerned disciplinary authorities in all such matters.

3.2 Prior to 27th October, 1986, the CVC had the jurisdiction over employees of PSEs who were then placed in pay scales whose minimum was not less than Rs. 1800/- p.m. The Government decided on 27.10.86 that vigilance cases of only Board-level appointees of PSEs need be referred to the CVC for advice as they were appointed by the Government. As regards others, no reference ordinarily need be made to the CVC as the responsibility for initiating disciplinary proceedings against them rests either with the Board of Directors or an authority subordinate to it. This position was reviewed in consultation with PSEs and it was decided that as decision-making in most of the PSEs is related to two levels - below the Board level, the CVC's jurisdiction may be restricted, to begin with, only to that level. Therefore, cases involving vigilance angle in respect of all employees two levels below the Board level may not ordinarily be referred to the Commission.

4. OBJECTIVES AND FUNCTIONING OF PSEs

4.1 Currently, PSEs account for a public investment of Rs. 2,04,054/- crores, spread over 240 Enterprises. The original purposes, for which these Enterprises were set up, varied and included such objectives as:

(a) setting up of an infrastructure for rapid industrial growth;
(b) creation of additional employment opportunities;
(c) facilitation of balanced regional development;
(d) generation of surplus funds for further investment for economic development; and
(e) reduction in disparities in income and wealth through prevention of concentration of economic power in private hands.

4.2 Over the years, the focus has shifted towards providing greater autonomy and ensuring greater transparency within the functioning of these enterprises. Current thinking stresses the importance of these Units becoming self-reliant and profitable ventures and building themselves around their strengths to face competitive challenges from the private sector.
4.3 In the ultimate analysis, the vigilance function should not be organised so as to detract from, impair, or inhibit commercial decision-making within these Enterprises.

4.4 In the changed economic scenario, the vigilance function itself has thus become complex. The Commission has, as part of its proactive role, been urging PSEs to codify their systems and procedures. It is noticed, however, that in many PSEs adhocism still continues to characterise management decision-making and the style of functioning lends itself to charges of lack of transparency and accountability. Questions are often raised with regard to consistency and credibility of decisions. In this context, it is important that all PSEs should codify their rules, procedures, norms and systems in key areas such as purchases, stores, operations, finance, award of contracts and personnel management.

4.5 Vigilance is basically and admittedly a managerial function and, therefore, it is an integral part of the duties of an executive. Vigilance departments of PSEs should work in cooperation with other Divisions/Units of the Corporation at all levels. Besides, the vigilance departments of PSEs should also work in coordination with the CVC, the administrative ministry and the CBI. The role of CVOs has been fully explained in Chapter XVIII of Vigilance Manual (Vol. I). The primary responsibility for the maintenance of purity, integrity and efficiency in a PSE vests in the CMDs/MDs/Head of the PSEs. The CVO would act as his special adviser in all matters pertaining to vigilance. He would provide a link between the administrative Ministry/Department and the CVC. CVC’s interface with the PSE would be through the CVO.

5. WHAT IS A VIGILANCE ANGLE?

5.1 The Chief Vigilance Officers (CVOs) in the organisations have been authorised to decide upon the existence of a vigilance angle in a particular case, at the time of registration of the complaint. Once a complaint has been registered as a vigilance case, it will have to be treated as such till its conclusion, irrespective of the outcome of the investigation. Although formulation of a precise definition is not possible, generally such an angle could be perceptible in cases characterised by:

(i) commission of criminal offences like demand and acceptance of illegal gratification, possession of disproportionate assets, forgery, cheating, abuse of official position with a view to obtaining pecuniary advantage for self or for any other person; or
(ii) irregularities reflecting adversely on the integrity of the public servant; or

(iii) lapses involving any of the following:
(a) gross negligence;
(b) recklessness;
(c) failure to report to competent authorities, exercise of discretion/powers without or in excess of powers/jurisdiction;
(d) cause of undue loss or a concomitant gain to an individual or a set of individuals/a party or parties; and
(e) flagrant violation of systems and procedures.

6. **VIGILANCE CASES IN PSEs**

6.1 As in other organisations, vigilance activity in PSEs should form an integral part of the managerial function. The raison d'être of such activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. It would be quite unfair to use the benefit of hind-sight to question the technical merits of managerial decisions from the vigilance point of view. At the same time, it would be unfair to ignore motivated or reckless decisions, which have caused damage to the interests of the organisation. Therefore, a distinction has to be drawn between a business loss which has arisen as a consequence of a bona-fide commercial/operational decision, and an extraordinary loss which has occurred due to any mala fide, motivated or reckless performance of duties. While the former has to be accepted as a normal part of business and ignored from the vigilance point of view, the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.

6.2 Whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial/operational interests of the organisation is one possible criterion for determining the bona fides of the case. A positive response to this question may indicate the existence of bona fides. A negative reply, on the other hand, might indicate their absence. It follows that vigilance investigation on a complaint would not be called for on the basis of a mere difference of opinion/perception or an error of judgement simpliciter or lack of efficiency or failure to attain exemplary devotion in the performance of duties. (Union of India vs. J. Ahmed AIR 1979 SC 1022). Such failures
may be a matter of serious concern to the organisation but not from the vigilance point of view. They have to be dealt with separately.

6.3 Administrative misconduct, such as, unpunctuality, drunken behaviour at work, insubordination etc. would again 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 right to initiate appropriate penalty proceedings against such erring employees.

6.4 However, once a vigilance angle is evident, it becomes necessary to determine through an impartial investigation as to what went wrong and who is accountable.

7. ADVISORY BOARD

7.1 Considering the complexities involved in commercial decisions of the PSE, the CBI may find it worthwhile to obtain the benefit of expert advice from various disciplines before registration of PE/RC. A Central Advisory Board may be constituted to assist CBI for this purpose. Appointments on the Board would be made from the panel of names approved by the CVC. The Board would give its considered opinion within one month from the date of reference before registration of PE/RC, failing which the CBI would be competent to decide the matter without advice. Advice of the Board will not be binding on the CBI.

8. INVESTIGATION BY THE CBI

8.1 The Special Police Establishment, Central Bureau of Investigation, was constituted by the Government of India, under the DSPE Act, 1946. It inquires and investigates into offences pertaining to corruption and other malpractices involving public servants. The SPE takes up cases for investigation on the basis of the information collected by them from their own sources or received from members of the public. It also investigates cases referred to them by the Commission and the administrative authorities. If the information discloses, prima facie, commission of a cognizable offence, a regular case (RC) is registered u/s 154 Cr.P.C. But if the information prima facie discloses commission of irregularities, which call for further enquiry, a preliminary enquiry (PE) is first registered. If the PE reveals commission of a cognizable offence, a regular case is registered for further investigation. As soon as a PE or a RC is registered, a copy thereof is sent to the Head of Department and/or the administrative ministry. A copy of PE/RC (i.e. FIR/Registration Report) is also sent to the Commission if the public servant concerned comes within
the advisory jurisdiction of the Commission. The SPE generally does not take up inquiries into or register a case where minor procedural flaws are involved. They are also expected to take note of an individual officer’s positive achievements while recommending RDA so that a single procedural error does not cancel out a life time’s good work.

9. **INTERACTION/ COOPERATION WITH THE CBI**

9.1 The CVOs in PSEs and the concerned officer in the CBI should interact as frequently as possible with reference to exigencies of work. However, there should be a quarterly meeting between the CBI and CVO at the level of Zonal Joint Director of CBI to monitor and to take stock of the cases and exchange information for expeditious investigation and preparation of the 'Agreed List'.

9.2 Standard tender procedure, policy guidelines and manuals may be supplied to the CBI so that transactions under investigation/inquiry could be examined to find out whether criminal or departmental misconduct is made out or not. Such standardised procedures and guidelines should also be updated periodically as compilations of extant procedures make it easier to form a view about criminal liability, misconduct or innocence of an official in a particular case.

9.3 The CVO should screen all the complaints before sending the same to the CBI - whether the complaint should be forwarded to CBI or be dealt with departmentally, as per provisions contained in paras 11.2 and 11.3 (a) infra.

9.4 CBI should ordinarily be sent only cases involving transactions not less than Rs. 25 lakhs or otherwise possessing national or international ramifications. Other cases may be sent to the local police.

9.5 Full cooperation and facilities should be extended by the Public Sector Enterprises to the CBI during the course of investigation. This would include making available to them the requisite documents with the least possible delay, directing such employees as are to be examined to appear before the investigating officer and making suitable transport/accommodation in the PSE's guest houses, available to touring officers (subject to availability), in accordance with their entitlement and on payment of the prescribed charges. Assistance of technical experts to the Investigating Officer, if considered necessary, may also be provided to the extent possible in accordance with extant instructions on the subject.
9.6 When PSEs make reference to the CBI for investigation, they should also make available duly certified photocopies of all relevant documents along with the complaint so that there is no delay in initiating action on the part of the CBI. The originals may be handed over to them only at the time of the actual registration of the case. Similarly, when CBI seizes documents, authenticated copies of all the documents, should within four days of the seizure, be made available to the CVO of the PSE.

10. INVESTIGATION REPORTS RECEIVED FROM THE CBI

10.1 On completion of their investigation, the CBI forwards a copy of the SP’s report to the concerned CVO for further action. A copy of the SP’s report is also endorsed to the Commission in cases in which the Commission’s advice is necessary.

10.2 The CBI generally recommends prosecution in cases of bribery, corruption or other criminal misconduct; it also considers making similar recommendations in cases involving a substantial loss to the Government or a public body. The Commission’s advice for prosecution, however, is required only if the sanction for prosecution is necessary under any law promulgated in the name of the President. In such cases, CVOs should furnish the department’s comments within a month of the receipt of the CBI report by the competent authority. In other cases, as directed by the Supreme Court, the matter should be processed expeditiously to ensure that the required sanction is issued within a period of three months (the instructions issued by the Department of Personnel & Training vide O.M. No. 142/10/97-AVD.I dated 14.01.1998 also refer). However, in case of difference of opinion between the CBI and the competent authority in the PSE, the matter may be referred to the Commission for its advice irrespective of the level of the official involved.

10.3 Prosecution proposals should be able to meet the legal and technical requirements laid down by the Courts. Apart from adequate evidence to establish that an offence has been committed under the relevant provision of the law, there should be some facts on record from which it should be possible to infer or presume a criminal or guilty intention behind the omission or commission. In the absence of mens rea violation of rules or codal formalities could at worst be considered as transgressions of systems and procedures of the organisation and the same would, as such, be more suitable as the subject matter of regular departmental action (RDA) rather than criminal prosecution.
10.4 In cases, where the CBI recommends RDA for major/minor penalty action or ‘such action as deemed fit’ against the officials and the Commission is to be consulted, the CVO should ensure that the comments of the department/PSE on the CBI report are furnished to the Commission within one month of the receipt of the CBI’s investigation report, failing which the CVC will proceed to examine the case and tender advice. Further action in such cases may be taken as per the Commission’s advice. In other cases, the CVO should take expeditious action to ensure that charge-sheets, if necessary, are issued within two months of the receipt of the investigation report from the CBI. It would not be necessary for the CBI to follow up the matter in such cases after the disciplinary authority has initiated action for RDA against the concerned officials in accordance with their recommendations. However, in case of difference of opinion between the CBI and administrative authorities, the matter would be referred to the Commission for advice irrespective of the level of the official involved. The organisation would take further action in accordance therewith.

10.5 The law of the land permits prosecution as well as RDA to proceed simultaneously (Jang Bahadur Singh v/s Baijnath Tewari, 1969 SCR, 134).

10.6 Where the suspect officer is primarily accountable for conduct which legitimately lends itself to both criminal prosecution in a court of law as well as RDA, as a general rule, both should be launched simultaneously after consultation with the CBI or other investigating agencies charged with conducting the prosecution. Such simultaneous conduct of RDA and criminal prosecution should be resorted to especially if the prosecution case is not likely to be adversely affected by the simultaneous conduct of RDA. Keeping RDA in abeyance should be an exception rather than rule. Copies of all the relevant documents authenticated by the competent authority may be retained, for the purpose of RDA, before the original documents are sent to the Court. If the documents have already been sent to a Court of Law for the purpose of criminal proceedings, certified copies may be procured for the purpose of RDA. Care, however, should be taken to draft the charge-sheet for the purpose of RDA in such a manner that it makes the suspect official accountable for violation of various provisions of CDA Rules without reference to criminal misconduct.

11. **ACTION ON COMPLAINTS**

11.1 Information about corruption, malpractices or misconduct on the part of public servants may come to the CVO’s notice through various sources, such as, (i) the complaints received from the public, or through the administrative Ministry, CBI and the CVC; (ii) departmental inspection
reports and stock verification surveys, (iii) scrutiny of property returns and the transactions reported by the concerned employee under the CDA Rules, (iv) audit reports, (v) reports of parliamentary committees, etc. Information received verbally should be reduced to writing and dealt with similarly.

11.2 In the first instance, the decision with regard to the existence of a vigilance angle in a case may be taken by the CVO. The CMD or his nominee, may, if there are valid reasons, within a period of 15 days, differ from the CVO. In case of difference between CVO and CMD, the matter may be referred to the Commission. After registering the information as a complaint in the Vigilance Complaint Register, he would then process the matter further to decide as to whether the allegations are general or vague and deserve to be filed/ or the matter requires further investigation. In the latter case, he would also have to decide as to whether the investigation into the allegations should be entrusted to the CBI or local police or taken up departmentally.

11.3.1 The case may, with the approval of the CMD, be entrusted to the CBI, if the allegations:

(i) are criminal in nature (e.g. bribery, corruption, forgery, criminal breach of trust, possession of assets disproportionate to known sources of income, cheating, etc.; or

(ii) require inquiries to be made from non-official persons; or

(iii) involve examination of private records; or

(iv) need expert police investigation for arriving at a conclusion; or

(v) need investigation abroad.

11.3.2 A decision in this regard may be taken by the CMD within 15 days from the date on which papers are received by him for consideration and decision.

11.4 In exercise of its extraordinary jurisdiction, the Commission has the power to call for a report in respect of any case with a vigilance angle in so far as it relates to any public servant belonging to an organisation falling within its jurisdiction.

11.5 A complaint involving a Board-level appointee, alone or with others, may be forwarded to the CVO of the administrative ministry, who, in the first instance, would decide whether the information involves a vigilance angle or not. If so, he would register that as a complaint in the
Vigilance Complaint Register and would process the matter further to
decide whether the allegations are general in nature or vague and deserve to
be filed, or the matter requires further investigation. In the latter case, he
would also decide as to whether the investigation into the allegations should
be entrusted to the CBI or taken up departmentally.

12. **INVESTIGATION BY CVO**

12.1 **ANONYMOUS/PSEUDONYMOUS COMPLAINTS**

12.1.1 It has been 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 be taken on any
anonymous or pseudonymous complaints. They must be filed. (Ref: CVC's
Order No. 3 (v)/99/2 dated 29th June, 1999.

12.2 **OTHER COMPLAINTS**

12.2.1 After it has been decided that the allegations contained in a
complaint should be looked into departmentally, the CVO should proceed
to make a preliminary enquiry (generally termed as investigation). He may
conduct the preliminary enquiry himself or entrust it to one of the Vigilance
Officers. He may also suggest to the administrative authority to entrust the
investigation to any other officer considered suitable for the purpose in the
particular circumstances. The purpose of such an enquiry is to determine
whether, prima-facie, there is some substance in the allegations.

12.2.2 The preliminary enquiry may be made in several ways
depending upon the nature of allegations and the judgment of the
investigating officer, e.g.

(a) If the allegation contain information, which can be verified from documents, files or other departmental
records, the investigating officer should, without loss of
time, secure such records etc. for personal inspection. If
any paper is found to contain evidence supporting the
allegations, it should be taken over by him for retention
in his personal custody to guard against the possibility
of the available evidence being tampered with later on.
If the papers in question are required for any current
action, it may be considered whether the purpose would
be served by substituting authenticated copies of the
relevant portions of the record, the originals being
retained by the investigating officer in his custody. If
that is not feasible, 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.

(b) In cases where the alleged facts are likely to be known to any other employee of the department, the investigating officer should interrogate them orally or ask for their written statement. In case of oral interrogation, a full record of interrogation may be kept and the person interrogated may be asked to sign as a token of his confirmation of his statement.

(c) Wherever necessary, important facts disclosed during oral interrogation or in written statements should be sought to be corroborated.

(d) If it is necessary to make enquiries from the employees of any other government department or organisation or PSE or Bank, the investigating officer should seek the assistance of the CVO/nodal authority concerned for providing the necessary facilities.

12.2.3 During the course of preliminary enquiry, the concerned employee may as a fundamental administrative requirement also be given an opportunity to tender his version of the facts so as to find out if he has any plausible explanation. In the absence of such an explanation, the concerned employee may be proceeded against unjustifiably. There is, however, no question of making available to him any document at this stage. Such an opportunity need not be given in cases in which a decision to institute department proceedings is to be taken without any loss of time, e.g. in cases in which the public servant is due to superannuate soon and it is necessary to issue the charge-sheet to him before his retirement.

12.2.4 After the preliminary enquiry has been completed, the investigating officer should prepare a self-contained report, containing inter alia the material to controvert the defence, and his own recommendations.

12.2.5 Where a case involves both criminal misconduct as well as flagrant violation of systems and procedures of the organisation, further investigation into the former should be left to the CBI. The PSE concerned however may simultaneously consider the latter and initiate appropriate disciplinary proceedings, in accordance with the prescribed procedure, if required. The CVO of the PSE and the DIG concerned of the CBI should
coordinate their efforts to ensure that violation of rules, regulations and PSE norms which are best covered under RDA are left to the disciplinary authority to deal with; the CBI on the other hand should focus their investigation on the criminal aspects of the case.

12.2.6 CVOs of the subsidiary companies should keep CVOs of the holding companies informed of the position of vigilance cases. CVOs of the holding companies will accord their approval within 15 days from the date of receipt of reference from the subsidiary company.

13. **INVESTIGATION/INQUIRY REPORT**

13.1 The Investigating Officer (IO) should indicate the allegations contained in the complaint in the first paragraph of his report. The next paragraph should contain the gist of the investigation carried out by him as well as documentary and oral evidence that he has relied upon. The IO should then detail the procedure and guidelines which the Suspected Public Servant (SPS) was required to follow/comply with. After reporting the SPS's explanation, the same along with evidence on record should be discussed and assessed by the IO. Finally, he should give his findings in the last paragraph of the report clearly bringing out the accountabilities of the officials. Seized documents and statements of the witnesses and the SPS recorded during the investigation should accompany the investigation report.

13.2 The report of the IO should thus be comprehensive, and completely documented so as to enable the CVO and DA to form an opinion whether any disciplinary or any other action is called for or not.

13.3 The report should be forwarded to the disciplinary authority through the CVO. The disciplinary authority/CVO should make a meticulous evaluation of the actions of various officials with reference to the nature of their duties. They are also required to assess the gap between what the managers at different levels of the decision-making hierarchy actually did and what they were required to do in accordance with manuals/guidelines/orders. They may follow the following criteria for the purpose and highlight in their reports if the answer to any of the questions is in the affirmative:-

(a) Can mala fide be inferred or presumed from the actions of any of the concerned officials?
(b) Could any of the officials be said to have engaged in a misconduct or misdemeanour?
(c) Was the conduct of any of the officials reflective of lack of integrity?
(d) Did the official(s) act in excess of their delegated powers/jurisdiction and failed to report the same to the competent authority?
(e) Did they or any of them show any gross neglect of their official functions?
(f) Is their any material to indicate that any of them acted recklessly?
(g) Has the impugned decision caused any undue loss to the organisation?
(h) Has any person/party or a set of persons/parties either within the organisation or outside it been caused any undue benefit?
(i) Have the norms or systems and procedures of the organisation been flagrantly violated?

13.4 Timeliness in the conduct of the preliminary inquiry cannot be over-emphasised. Both the courts as well as administrative instructions have indicated that there should not be an inordinate delay between the occurrence of the impugned events and the issue of the charge-sheet. The current instructions of the Government are that the preliminary inquiry should be completed within three months. In the State of M.P. Vs. Bani Singh, 1990 Suppl. S.C.C. 738 it was held that an inordinate and inexplicable delay in finalisation of the charge sheet can itself be a ground for quashing of the same on the ground of denial of reasonable opportunity. Similarly, delayed charge sheets can also be legally challenged on grounds of staleness. Further, in State of Punjab Vs. Chaman Lal Goyal SLR (1995) (1) 700 S.C. it was held that in the case of inordinate delay the burden of proving that the delay was due to a reasonable cause would be on the department. Thus, although it may not be desirable to indicate a time limit for staff accountability, the need to ensure that the same is done at the earliest, needs to be reiterated.

14. INVESTIGATION OF COMPLAINTS AGAINST VIGILANCE PERSONNEL IN PSEs

14.1 Complaints against the CVO in a PSE may be examined/investigated by the CVO of the administrative ministry. A report along with the original record together with comments of the Secretary of the Ministry/Department may be referred to the CVC for proper and independent examination of the case.
Complaints against vigilance executives other than the CVO of the PSE may be examined/investigated by the CVO of the PSE and a final decision may be taken with the approval of the CMD.

If the allegations are prima facie established against such vigilance functionaries, they should be shifted to non-sensitive positions and in case they are on deputation from some other organisations, they may be repatriated to their parent organisations with appropriate recommendation to their disciplinary authorities with regard to the disciplinary action to be initiated against them.

EXAMINATION/INVESTIGATION OF COMPLAINTS AGAINST BOARD-LEVEL APPOINTEES

If the CVO of an administrative ministry asks for a factual report against a Board-level appointee from the CVO of the PSE, the latter will send the same to the CVO of the ministry, after endorsing a copy of the report to the CMD to keep him informed of the developments. The CVO of the ministry may make a reference to the CVC after collecting all the relevant facts and following the prescribed procedure.

If a complaint against a Board-level appointee is directly received by the PSE, the CVO shall send the same to the CVO of the ministry for consideration. If the ministry directs the CVO of the PSE for investigation and factual report, the procedure indicated in Para 15.1 above may be followed.

In cases where CVC calls for investigation and report against a Board-level appointee, the CVO of the ministry shall initiate inquiries and may in this regard obtain factual information from the CVO of the PSE. Thus, CVO of the PSE under no circumstances should initiate action against the Board-level appointee on his own initiative.

ACTION ON INVESTIGATION REPORT

The disciplinary authority would consider the investigation report and the first stage advice of the CVO and decide, on the basis of the facts disclosed in the preliminary enquiry, whether the complaint should be dropped or warning/caution etc. administered or regular departmental proceedings launched. The test to be applied at this juncture relates to whether a prima-facie case has been built up on the basis of the evidence collected during the course of preliminary enquiry. Generally, if any of the criteria indicated in the paragraph 13.3 above is satisfied, a prima-facie case
for instituting regular departmental proceedings could be said to exist. If on the other hand the evidence on record falls short of establishing such a prima facie case, the disciplinary authority may either close the matter, or may take recourse to other forms of disapproval, such as reprimanding the concerned employee, issuing him an advisory memo or warning, or communicating the Organisation’s displeasure etc., as per rules of the PSE. While taking such a decision, the disciplinary authority should bear in mind that a departmental proceeding is not a criminal trial, and that the standard of proof required is based on the principle of ‘preponderance of probabilities’ rather than ‘proof beyond reasonable doubt’.

16.2 If any of the employees involved in the case falls within the Commission’s jurisdiction, the latter’s advice would be required and any decision of the disciplinary authority at this juncture may be treated as “tentative”. Such a reference would be required to be made even in respect of an officer/staff who are not within the Commission’s jurisdiction if they are involved along with other officers who are within the jurisdiction of the Commission, as the case would then become composite and fall within the Commission's jurisdiction. The matter may be referred to the Commission, through the CVO, for its advice. However, if an administrative authority investigates into an anonymous or pseudonymous complaint under the impression that it is a genuine signed complaint, or for any other reason, the Commission need not be consulted if it is found that the allegations are without any substance. Further action in the matter should be taken on receipt of the Commission’s advice, wherever the same has been sought. Certain types of vigilance cases where it is desirable to initiate major penalty proceedings have been mentioned in para 11.4 of Chapter X of the Vigilance Manual (Vol.I) by way of illustrative guidelines. Besides, lapses/irregularities in a PSE would depend upon the functions which the PSE is performing. However, misconduct, lack of devotion to duty or integrity, as the case may be, could be inferred illustratively in the following circumstances, where the employee concerned:

(a) has not acted in accordance with rules and his recommendations are not in the public interest; or
(b) has failed to conduct himself in such a manner that his decisions or recommendations do not appear objective and transparent and seem to be calculated to promote improper gains for himself or for any one else; or
(c) has acted in a manner to frustrate or undermine the policies of the organisation or decisions taken in the public interest by the management; or
(d) seems to have complied with unauthorised and unlawful oral instructions of his seniors without bringing them to the notice of the CMD;

(e) has exceeded his discretionary powers and his actions do not appear justifiable or to serve any organisational interests; or

(f) has abused or misused his official position to obtain benefit for himself or for another; or

(g) has not reflected intellectual honesty in his decisions and recommendations.

17. **REFERENCE TO CVC**

17.1 The CVC is consulted at two stages of departmental proceedings as explained in para 19.1 infra. The Commission has noticed that references made to it both at the first as well as second stage are incomplete, resulting in back references to the PSE. It has therefore become necessary for the Commission to reiterate the extant procedure to be followed in this regard.

17.2 On completion of the preliminary investigation of the case, the disciplinary authority shall be required to forward:

(i) The preliminary investigation report;

(ii) The relevant documents and records/files connected with the case;

(iii) A self-contained note clearly indicating the facts on which the Commission’s advice is sought;

(iv) The disciplinary authority’s own tentative recommendations;

(v) In cases investigated by the Central Bureau of Investigation under the Special Police Establishment Act, 1946, the comments of the disciplinary authority on the recommendations of the CBI;

(vi) A neatly typed tabular statement clearly indicating the allegations against the officer proposed to be included in the charge-sheet, his defence in respect thereof, and the disciplinary authority’s and CVO’s comments;

(vii) A panel of employees to be nominated as Presenting Officers; and

(viii) The bio-data of the officials concerned.

17.3 Since CVOs in PSEs are also experts in their respective fields, they should invariably provide their own analysis and assessment of the
facts of the case so that the Commission can have the benefit of their expertise.

17.4 It is necessary that before a case is referred to the CVC for advice, it receives due consideration at the appropriate level in the organisation. In order to ensure this, reference to the CVC may be made as follows:

(a) At the level of CVO concerned, in cases seeking 1st stage/2nd stage advice on the first occasion.

(b) At the level of CMD/Secretary of the ministry, in proposals for reconsideration of advice.

18. CATEGORISATION OF CASES

18.1 Before making references to the Commission, the CVO may classify references into Vigilance A and B. Vigilance-A would comprise cases where the lapses committed/irregularities noticed are serious and a prima-facie case for initiation of RDA for major penalty proceedings has been made out; Vigilance-B, on the other hand, would comprise less serious cases of procedural lapses, which in the opinion of the CVO, do not reflect adversely on the integrity of the official concerned. Vigilance-B cases ordinarily will not invite any administrative disabilities normally associated with the registration of a vigilance case against an official. These cases will continue to be monitored through the Vigilance Complaints Register till their disposal but only because they technically fall within the ambit of the term ‘vigilance’ and not because the official is accountable for a serious misdemeanour/misconduct or equivalent negligence. It follows then that an official can be proceeded against for a minor penalty but may not suffer any disability by way of posting, training, placement on ‘Agreed List’ etc., during the pendency of the disciplinary proceedings. If he is found accountable in the disciplinary proceedings, he will be duly punished but for all other purposes (except promotion, for which a separate sealed cover procedure exists) he will be treated at par with other equally/comparably placed employees facing minor penalty proceedings in a non-vigilance case.

19. RECONSIDERATION OF THE COMMISSION’s ADVICE

19.1 Para 5.16 of Chapter I and Para 22 of Chapter X of Vigilance Manual (Vol. I) contain provisions regarding reconsideration of the
Commission's advice. The scheme of consultation with the Commission envisages consultation at two stages. First stage advice is required at the time of initiation of disciplinary proceedings on the basis of investigation carried out by the CBI or the Department or PSE. Second stage advice on the other hand is required before a final decision is taken on the conclusion of the departmental proceedings. There is provision for another reference to the Commission requesting for reconsideration of its advice if the disciplinary authority disagrees with the Commission's perception of the case. Requests should be made soon after the receipt of the Commission's advice.

19.2 Reconsideration of the Commission’s advice is necessary regardless of whether the disciplinary authority proposes to take “severer” or “lighter” action than that recommended by the Commission. Decisions taken in a manner, other than that mentioned above, would be treated as cases of non-acceptance of the Commission’s advice and may be reported in the Commission’s annual report to be placed on the Table of both the Houses of Parliament. Ordinarily, the Commission does not entertain more than one request for reconsideration and that too, if new facts not within its knowledge earlier are brought to light.

19.3 Compliance of CVC's first stage advice and second stage advice may be ensured within periods of one month and two months respectively.

20. **PROCEDURE FOR IMPOSING MAJOR PENALTY**

20.1 **CHARGE-SHEET**

20.1.1 Once the disciplinary authority decides to initiate major penalty proceedings against an employee, on the basis of the Commission’s advice or otherwise, it should take immediate steps to issue the charge-sheet. A properly drafted charge-sheet is the sheet anchor of a disciplinary case. Therefore, the charge-sheet should be drafted with utmost accuracy and precision based on the facts gathered during the investigation (or otherwise) of the misconduct involved. It should be ensured that no relevant material and witnesses are left out and at the same time, no irrelevant material or witnesses are included.

20.1.2 The charge-sheet comprises the memorandum, informing the concerned employee about initiation of proceedings against him and giving him an opportunity to admit or deny the charge(s) within a period not
exceeding 15 days. The memorandum is to be signed by the disciplinary authority himself. In case, the disciplinary authority is the President, an officer, who is authorised to authenticate the orders on behalf of the President, may sign the memorandum. The Memorandum should be supported by annexures, namely, (i) article(s) of charge, (ii) statement of imputations of misconduct or misbehaviour in support of each article of charge, (iii) list of documents and (iv) list of witnesses. Lists of documents and witnesses should form an integral part of the charge-sheet even if the disciplinary rules applicable to the concerned employee do not contain such a provision. Guidelines in this regard contained in Para 14-17 of Chapter X of Vigilance Manual (Vol. I) may be kept in view.

20.1.3 Special care has to be taken while drafting a charge-sheet. A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarised in the articles of charge. It should be remembered that ultimately the IO would be required to give his specific findings only on the articles as they appear in the charge-sheet. The Courts have struck down charge-sheets on account of the charges framed being general or vague (S.K. Raheman Vs State of Orissa 60 CLT 419.). If the charge is that the employee acted out of an ulterior motive that motive must be specified (Uttar Pradesh Vs Salig Ram AIR 1960 All 543).

It is also equally important that while drafting a charge-sheet, special care should be taken in the use of language to ensure that the guilt of the charged official is not pre-judged or pronounced upon in categorical terms in advance (Meena Jahan Vs Deputy Director, Tourism 1974 2 SLR 466 Cal). However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge, will not vitiate the charge-sheet (Dinabandhu Rath Vs State of Orissa AIR 1960 Orissa 26 cf. also Powari Tea Estate Vs Barkataki (M.K.) 1965: Lab LJ 102). Guidelines in this regard contained in Para 14.3 of Chapter X of Vigilance Manual (Vol. I) may be followed.

20.1.4 All relevant details supporting the charges should be separately indicated in the statement of imputations.

20.1.5 The concerned employee is not expected to furnish a detailed reply to the charge-sheet. He is required only to admit or deny the charge(s). Therefore, the rules do not provide for making available the relevant documents to the concerned employee for submission of his defence statement. However, notwithstanding the legal position, copies of the documents and the statements of witnesses relied upon, as far as possible, may be supplied to him along with the charge-sheet. If the documents are bulky and copies cannot be given, he may be given an opportunity to inspect those documents and submit his reply within 15 days’ time.
21. DEFENCE STATEMENT

21.1 ADMISSION OF CHARGE

If the charged employee admits all the charges unconditionally, the disciplinary authority shall record its finding on each charge. Where the advice of the Commission is required, the case may be referred to the Commission, along with the comments of the disciplinary authority, for second stage advice. In other cases, the disciplinary authority should proceed to pass a self-contained and reasoned speaking order of punishment, defining the scope of punishment to be imposed in clear terms, in accordance with the relevant rules.

21.2 ACCEPTING DEFENCE STATEMENT OR MODIFYING CHARGES

The disciplinary authority has the inherent power to review and modify the articles of the charge, or drop some or all of the charges, after the receipt and examination of the written statement of defence. It is not bound to appoint an inquiring authority to inquire into such charges as are not admitted by the charged employee but about which the disciplinary authority is satisfied that these do not require to be proceeded with further. However, before the disciplinary authority exercises the aforesaid power, it may consult the CBI in cases arising out of the investigations conducted by them. The Commission should also be consulted where the disciplinary proceedings were initiated on its advice.

21.3 CHARGES NOT ADMITTED/DEFENCE STATEMENT NOT SUBMITTED

If the disciplinary authority finds that any or all the charges have not been admitted by the charged employee, or if he has not submitted the written statement of defence by the specified date, it may cause an inquiry to be made to inquire into the charges framed against the charged employee. The procedure for conducting the inquiry is indicated in the succeeding paragraphs.

22. PROCEDURE FOR DEPARTMENTAL INQUIRY

The procedure for conducting a departmental inquiry has been given in detail in Chapter XI of the Vigilance Manual Vol. I. The important provisions, however, are summarised below:
22.1 APPOINTMENT OF INQUIRING AUTHORITY/OFFICER

22.1.1 Under the disciplinary rules, the disciplinary authority may itself inquire, or appoint an inquiring authority/officer (IO) to inquire into such charges against the charged employee/officer (CO) if the latter does not admit the same or has otherwise not submitted his defence statement within the specified time. It should, however, be ensured that the officer so appointed has no bias and had no occasion to express an opinion at any stage of the preliminary inquiry. The inquiring authority should also be directed to ensure submission of the report mandatorily within a period of six months of his appointment. This time limit should be invariably adhered to at all cost.

22.1.2 The organisations in which large number of departmental inquiries are pending, may earmark some officers on a full-time basis to complete the inquiries within the specified time limit. The disciplinary authority may also consider appointing retired public servants as inquiring authorities, on payment of honorarium on case to case basis. All such appointments should be made from a panel duly approved by the competent authority in accordance with the extant rules. All organisations, however, should ensure that the inquiries are completed within the stipulated time limitation and no inquiry should suffer on account of non-availability of an IO.

22.1.3 Generally, the Commission nominates one of the Commissioners for Departmental Inquiries (CDI), borne on its strength, for appointment as inquiring authority to inquire into the charges against such employees against whom it advises initiation of major penalty proceedings. However, because of its limited manpower resources, the Commission cannot nominate a CDI in each and every case in which it tenders advice. It therefore permits the appointment of a departmental inquiring authority in certain cases. Because of similarity in rules, procedures and norms, PSEs will in future have a common pool of inquiry officers, details of which will be maintained in the Commission. The rationale behind the proposed provision is to ensure removal of bias and expedition in the conduct of the inquiry proceedings. Henceforth, the Commission would also nominate the name of the inquiring authority while tendering its first stage advice.

22.1.4 The disciplinary authority should give the charged officer a period of 15 days time after the service of the charge-sheet to deny or accept the charges. In case no reply is received within this period, the disciplinary authority may proceed to the next stage of the inquiry.
22.2  APPOINTMENT OF PRESENTING OFFICER

22.2.1  The disciplinary authority would also appoint an officer, called as Presenting Officer (PO), to present the case on its behalf before the inquiring authority. Unlike in the past, it would now not be necessary to nominate a CBI officer to act as PO in the cases investigated by them. All PSEs, among others, have already been directed to indicate, henceforth, the names of the Presenting Officers to be appointed while making a first stage reference to the Commission involving initiation of major penalty proceedings. After the Commission endorses the proposed action, the PSEs will ensure that the Inquiry Officer and Presenting Officer are appointed simultaneously after the service of the charge-sheet on denial of charges by the Charged Officer. (Ref. CVC's Directive No. 8 (1)(g)/99 (2) dated 19.2.99).

22.3  DEFENCE ASSISTANT

22.3.1  The charged employee has also a right to take assistance of a public servant, generally termed as Defence Assistant (DA), to help him in the presentation of his case in a departmental inquiry. Most rules provide that the CO may not engage a legal practitioner to present the case on its behalf before the IO, unless the PO appointed by the disciplinary authority is also a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits. It is, however, clarified that if the case is being presented, on behalf of the disciplinary authority, by a “Prosecuting Officer” of the CBI or by the Law Officer of the Department, such as a Legal Adviser etc., there would evidently be good and sufficient circumstances for the disciplinary authority to exercise his discretion in favour of the delinquent employee and allow him to be represented by a legal practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the court as arbitrary and prejudicial to the defence of the delinquent employee.

22.3.2  In order to ensure expeditious disposal of inquiry proceedings, a person will not be permitted to act as defence assistant in more than three cases at any given point of time. The IO shall satisfy himself that the aforesaid condition is satisfied.

22.4  PRELIMINARY HEARING

22.4.1  On the date fixed for the purpose, the IO shall ask the CO whether he is guilty or has any defence to make. If the CO pleads guilty to any of the articles of charge, the IO will record the plea, sign the record and obtain the signature of the CO thereon. The IO will then return a finding of
guilt in respect of those articles of charge, which the CO admits. In respect of other charges, the IO would ask the PO to adduce evidence to prove the articles of charge and adjourn the case to a date within 30 days of the preliminary hearing.

22.4.2 While adjourning the case, the IO would also record the order permitting inspection of listed documents by the CO. The order should direct the latter to submit a list of witnesses to be examined on his behalf and the list of additional documents needed by him for his defence. The IO should make it clear to the CO, during preliminary hearing, both orally and in writing in the Daily Order Sheet that he should indicate the relevance of defence witnesses and additional documents to enable the IO to decide upon admissibility of evidence desired to be led by the defence. For reasons to be recorded by him in writing, the IO may refuse to requisition such documents, or allow such witnesses, as are in his opinion, not relevant to the case. On the other hand, where he is satisfied that the documents required by the defence are relevant, he may requisition the same from their custodian, through the PO or otherwise, by a specified date. The denial of access to documents, which have a relevance to the case, may amount to violation of reasonable opportunity. Therefore, the power to deny access on grounds of public interest, should be exercised only for reasonable and sufficient grounds to be recorded in writing.

22.5 REGULAR HEARINGS

(i) **General** - Once all the preliminaries are over, the IO would fix the dates and venue of regular hearings. He should, as a rule, hear the case on day-to-day basis and not grant any adjournments, save in unavoidable and exceptional circumstances. Admitted documents may be taken on record straightaway and marked as exhibits and admitted facts, if any, be taken note of in the order-sheet.

(ii) **Presentation of Prosecution case** - In the first instance, the PO would be asked to present his case. He should introduce unadmitted/disputed listed documents through relevant witnesses. He should in the examination-in-chief, examine his witnesses in such a way that brings out the case in a logical manner. The IO should also ensure that the witness understands the question properly. He should protect him against any unfair treatment, disallowing questions which are leading, irrelevant, oppressive or dilatory in nature. As far as possible, all evidence should be recorded in narrative form. Previous pre-recorded statements admitted by the witness should also be taken on record. After the examination of a witness is over, the witness may be cross-examined by the CO or his DA to bring out further facts, remove discrepancies, or throw
light on the reliability of the witness. After the cross-examination, the PO may re-examine the witness on any point on which he had been cross-examined but not on any new matter unless specifically allowed by the IO. In the latter case, the CO would have a right to further cross-examine the witness. The IO may also put such questions to a witness as he thinks fit, at any time during the inquiry, to bring out the truth and for the emergence of a fair and clear understanding of the case. With this end in view, he may allow both sides to cross-examine such a witness on any question put by him.

(iii) **Hostile Witness** - If during the examination-in-chief of a prosecution witness, the PO feels that the witness is hostile or that his testimony is likely to affect the prosecution case or that the witness is knowingly not telling the truth, he may seek the permission of the IO to cross-examine that witness after he has been declared hostile. In such situations, the PO may, with the prior permission of the IO, also put leading questions to the witness so as to bring out the truth.

(iv) **Admission of Guilt** - The CO may decide to plead guilty to any of the charges during the inquiry. In that case, the IO may accept the plea and record his findings. He should nonetheless, continue the case to its logical conclusion if, in his opinion, the admission is conditional or only relates to part of the charges.

(v) **New Evidence** - Before the closure of the case on behalf of the disciplinary authority, the IO, in his discretion, may allow the PO to produce evidence not included in the list given to the CO, or may himself call for new evidence. In such situations, the CO would be entitled to have a copy of such evidence, an adjournment of at least three clear days, and an opportunity for inspecting the relevant documents. The IO, however, should not allow such evidence for filling up any gap in the evidence on record but only when there has been an inherent lacuna or defect in the evidence originally produced.

(vi) **Defence Statement** - After closure of the case on behalf of the disciplinary authority, the IO shall ask the CO to state his defence. If the C.O. submits the defence in writing, he should sign every page of it. If he makes an oral statement, the IO should record the same and get it signed by the CO. A copy of the statement of defence should be given to the PO.

(vii) **Presentation of Defence Case** - The CO, thereafter, would be asked to produce evidence in support of his defence. Additional documents permitted by IO may be taken on record and marked as exhibits, if this task has not been performed earlier. The CO or his DA would then proceed to
examine his witnesses, who will be cross-examined by the PO, and re-examined by the CO on the basis of the same procedure as indicated in the case of prosecution witnesses.

(viii) **CO Appearing as Witness** - The CO may, in his discretion, offer himself as his own witness. Examination-in-chief of CO would be conducted by the Defence Assistant, cross-examination by the Presenting Officer and re-examination by the Defence Assistant. If there is no Defence Assistant, then the CO will make a suo motu statement and thereafter the Presenting Officer will cross-examine him.

(ix) **Mandatory Questions to CO** - If the CO does not offer himself as a witness, the IO shall examine him generally to enable him to explain the circumstances appearing against him. The IO may do so, even if the CO has offered himself as a witness.

(x) **Written Briefs by PO/CO** - After the completion of the production of evidence, the IO may hear the PO and the CO, or permit them to file written briefs of their respective case, if they so desire. If they are permitted to submit written briefs, the PO may submit his brief, first, within a week of the last hearing of the case. He should also certify that a copy of the brief has been given to the CO. The CO may thereafter, furnish his brief to the IO within a further period of one week.

(xi) **Daily Order Sheets** - The IO would maintain a daily order sheet to record in brief the business transacted on each day of the hearing. Requests and representations by either party should also be dealt with and disposed of in this sheet. Copies of the recorded order-sheets will be given to the PO and CO with their signatures thereon, if they are present. If they are not present, these will be sent by post. The Defence Assistant will also sign the sheet, but a copy will not be given to him.

(xii) **Ex parte Proceedings** - If the CO does not submit his written statement of defence within the specified time, or does not appear before the IO on the dates fixed for the inquiry or refuses to comply with the provisions of the rules, the IO may hold the inquiry ex parte. In that event the copies of the depositions, daily order sheets etc. may be sent to him at his last known address. A copy of the written brief submitted by the PO may also be sent to him so as to give him a reasonable opportunity to submit defence brief. The CO, always has the option to participate in or join the inquiry at any stage.

(xiii) **Alleging Bias against IO** - If the CO represents alleging bias against the IO, the IO should keep the proceedings in abeyance and refer
the matter to the disciplinary authority. He should resume the inquiry only after he is advised by the disciplinary authority to go ahead. Wherever the Charged Officer submits a review petition against the Inquiry Officer on grounds of bias, the proceedings should be stayed and the representation referred, along with relevant material, to the appropriate Reviewing Authority for considering the same and passing appropriate order thereon. For this purpose, the Reviewing Authority would normally be the Appellate Authority. Obviously, any representation against the appointment of an Inquiry Officer on grounds of bias should be made as soon as the Inquiring Officer has been appointed, but not after the proceedings have commenced and reached an advance stage.

(xiv) **Change of IO** - Whenever for any reason the IO is changed and a new IO is appointed to continue the inquiry, he shall take into account the evidence recorded or partly recorded by his predecessor. If he is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, he may recall, examine, re-examine and cross-examine such witness.

22.6 **SUBMISSION OF INQUIRY REPORT**

22.6.1 After considering the oral and documentary evidence adduced during the inquiry, the IO may draw his own inferences, as a rational and prudent person, and record his findings on each charge. He should rely only on such facts as the CO had the opportunity to refute. Generally, the CO raises a plea of absence of mala fide. It is clarified that the PO is not expected to prove mala fide in cases where the act itself speaks of a dishonest motive e.g. a person travelling without ticket in a train or a person who has been unable to explain his assets satisfactorily. Mala fide, however, is not relevant in proving a misconduct as it does not form an essential ingredient of it. Also, every act of a public servant is expected to be honest, bona fide and reasonable. An act is not bona fide if it is committed without due care and attention. While assessing the evidence, the IO should also bear in mind that the proceedings are civil rather than criminal or quasi-criminal in nature. Accordingly, the standard of proof required in a disciplinary inquiry is that of “preponderance of probability” and not “proof beyond reasonable doubt”. The IO should confine his conclusion only up to the stage of recording whether the charge is proved, or partially proved or not proved. The conclusion should be derived from the facts and circumstances of the case and not on its extenuating aspects. He should not recommend the punishment to be imposed on the CO. Neither is he required to comment on the quality of drafting of the charge-sheet, nor the conduct of the disciplinary authority in framing the charges or
that of the PO in arguing the same. The IO becomes functus officio as soon as he submits the report and cannot make any change thereafter.

22.6.2 The initial burden in the departmental inquiry of proving the charge with evidence on record is that of the prosecution. Once the same is discharged, the burden of disproving the same and/or bringing to light special circumstances relating to the innocence of the CO will be that of the latter. Otherwise, the proceedings being only quasi-judicial rather than judicial in nature, the strict rules of evidence stipulated in the Indian Evidence Act would not be applicable except to the extent specifically indicated in the relevant rules.

22.6.3 The report of the IO should contain:

(i) An introductory paragraph in which references to the orders of appointment of IO and PO and engagement of DA will be made;
(ii) Brief account of hearings, marking of exhibits, recording of evidence;
(iii) Reproduction of articles of charge (s);
(iv) Indication about charges which are dropped, or admitted, or have been inquired into;
(v) Brief statement of the case of the disciplinary authority in respect of the charges inquired into;
(vi) Brief statement of the case of the Charged Officer;
(vii) For each charge inquired into -
   (a) the case in support of the charge;
   (b) the case of defence;
   (c) assessment of evidence; and
   (d) the findings.
(viii) A brief summary of the findings.

22.6.4 The IO should, in all cases, submit the report to the disciplinary authority, with extra copies, one each for the CO and the CBI, if the case had been investigated/presented by them. However, in cases in which a CDI of the Commission conducts the inquiry, he would also submit a copy of the report along with one copy each of the depositions and Daily Order Sheets to the Secretary of the Commission.

22.6.5 Along with the report, the Inquiry Officer should send to the disciplinary authority a folder containing the following:-

(a) List of exhibits produced by the Presenting Officer.
(b) List of exhibits produced by the Charged Officer.
(c) List of prosecution witnesses.
(d) List of defence witnesses.
(e) A folder containing deposition of witnesses in the order in which they were examined.
(f) A folder containing daily order-sheets.
(g) A folder containing the written statement of defence.
(h) Written briefs of both sides.
(i) Correspondence Folder.

22.6.6 The IO must complete the inquiry proceedings and submit his report within a period of six months from the date of his appointment.

23. ACTION ON INQUIRY REPORT

23.1 The procedure regarding action to be taken on the report of the Inquiring Officer has been given in detail in Chapter XII of the Vigilance Manual (Vol. I). The important provisions, however, are summarised below.

23.2 The IO’s report is intended to assist the disciplinary authority in coming to a conclusion about the guilt of the CO. The disciplinary authority has the inherent powers to disagree with the findings of the IO and come to his own conclusions on the basis of his own assessment of the evidence forming part of the inquiry.

23.3 In view of the Supreme Court’s judgement in Ramzan Khan’s case, if the disciplinary authority is different from the inquiring authority, and if the latter has held all or any of the charges against the CO as proved, the disciplinary authority should ask the CO for his representation, if any, within 15 days. In case the IO has held any or all the charges against the CO as “not proved”, the disciplinary authority should consider the IO’s report in the first instance. If he disagrees with the IO’s findings, he should communicate his reasons for disagreement to the CO while asking for his representation. The disciplinary authority may take further action on the inquiry report on consideration of the CO’s representation or on the failure of the CO to submit the same within the specified time.

23.4 The disciplinary authority, in exercise of his quasi-judicial powers, may issue an order imposing a major or a minor penalty on the CO; or exonerate him of the charges, if in his opinion, none of the charges has been proved or what has been proved, is non-actionable. He may remit the case for further inquiry if he considers that there are grave lacunae or procedural defects which vitiate the inquiry or if some important witnesses
were not examined. (K.R. Deb Vs. Collector of Central Excise, AIR 1971 S.C. 1447). The fact that the inquiry has gone in favour of the CO or the evidence led in the inquiry has gaps, should not be a reason for remitting the case for further inquiry (Dwarka Chand Vs State of Rajasthan – AIR 1959 Raj. 38). In such a case, the disciplinary authority may disagree with the IO’s findings. The final order passed by the disciplinary authority should be a well-reasoned speaking order.

23.5.1 The cases requiring the Commission’s advice may be referred to it, in the form of a self-contained note, along with the following documents:

(i) The IO’s report and the connected records mentioned in Para 22.6.5 above;
(ii) Disciplinary authority’s tentative findings on each article of charge;
(iii) Representation of the CO on the inquiry report;
(iv) Tentative conclusions of the disciplinary authority and the CVO; and
(v) Wherever the inquiry proceedings have been delayed, the CVO shall specifically comment on the delay fixing accountability for the delay and the action taken/proposed against those responsible for the same.

23.5.2 The disciplinary authority is to forward the case, in the manner explained above, to the CVC within 30 days of the receipt of the inquiry report from the CDI/IO.

23.6 While imposing a punishment on the officer, the disciplinary authority should ensure that the punishment imposed is commensurate with the gravity of the misconduct proved against the CO. He may also take into account at this stage the following other criteria:

(a) the extenuating circumstances, as they emerge from the inquiry; and
(b) the track record of the charged officer.

It should also be ensured that the punishment so imposed is not academic or ineffective; for example, there is no point in imposing a penalty of withholding of an increment, if the CO has already been drawing pay at the maximum of the pay scale. Similarly, there is no point in imposing a penalty of withholding of promotion for a specified period if the officer is not due for promotion.
24. **PROCEDURE FOR IMPOSING MINOR PENALTIES**

24.1 The procedure for imposing a minor penalty is much simpler than that for imposing a major penalty. For the imposition of the former, the disciplinary authority is only required to serve a Memorandum on the concerned employee, enclosing therewith a statement of imputations of misconduct or misbehaviour and asking for a reply within a specified period, generally 10 days. On receipt of the written statement of defence, if the disciplinary authority is satisfied that the misconduct imputed to the CO has not been established, he may, through a written order, drop the charges. On the other hand, if the disciplinary authority considers the CO guilty of the misconduct in question, he may impose one of the minor penalties. The disciplinary authority, in his discretion, may also decide to conduct an inquiry following the same procedure as stipulated for the imposition of a major penalty, if in his opinion, holding of an inquiry is necessary to come to a definite conclusion about the guilt or innocence of the CO or if the employee requests for the same.

24.2 In cases, where minor penalty proceedings were instituted against an employee on the advice of the Commission, the Commission need not be consulted at the second stage if the disciplinary authority, after considering the defence statement, proposes to impose a minor penalty. But in cases where the disciplinary authority proposes to drop the charges, or an inquiry has been conducted, second stage consultation with the Commission is necessary.

25. **APPEAL AND REVIEW**

25.1 If in appeal or review, the appellate/reviewing authority proposes to modify the original order of punishment, the Commission’s advice would not be necessary where such modification remains within the parameters of the Commission’s original advice. For example, if on the Commission’s advice for imposition of a major penalty, the appellate, or reviewing authority proposes to modify the original penalty imposing such a penalty with another major penalty, the Commission's advice at the appeal/review stage would not be necessary. On the other hand, in the instant case, if the modified penalty is not a major penalty, the Commission's advice would be necessary.

25.2 Where the Commission has not advised a specific penalty, the CVO shall scrutinise the final orders passed by the disciplinary authority and ascertain whether the penalty is commensurate with the nature and
gravity of the lapses. If the punishment imposed is inadequate or inappropriate, he may recommend a modification thereof to the reviewing authority. On satisfying himself that a case for review exists, the latter may thereafter, assume jurisdiction over the case as provided for under the rules.

26. **ACTION AGAINST PERSONS MAKING FALSE COMPLAINTS**

26.1 Section 182 IPC provides for 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. Section 182 IPC reads as under:

“Whoever gives to any public servant any information which he knows or believes to be false intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant:

(a) to do or omit anything which such public servant ought to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person;

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

26.2 Under Section 195(1)(e) Cr.P.C., a person making a false complaint can be prosecuted on a 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.

26.3 Alternatively, if the complainant is a public servant, it may also be considered whether departmental action should be taken against him as an alternative or in addition to prosecution. When the Commission comes across any such complaint in the normal course of its functioning, it would advise the administrative authority concerned about appropriate action to be taken on its own initiative. However, in respect of cases which do not fall within the Commission’s normal jurisdiction, the organisation concerned may decide the matter on its own as it deems fit.
27. DIFFERENCE OF OPINION BETWEEN THE CVO AND THE CMD

27.1 Where there is a difference of opinion between the disciplinary authority and the CVO with regard to cases which are not to be referred to the Commission, the CVO may report the matter to the next higher authority/CMD for the resolution of the difference of opinion between the two. A case of difference of opinion between the CVO and the CMD in respect of any case falling within the jurisdiction of the CVC should be referred to the CVC. In the case of a Board level appointee, the comments of the administrative ministry along with all relevant files are required to be sent to the CVC so as to enable the Commission for better appreciation of the facts and circumstances of the case and the viewpoints of authorities who might have had the occasion to comment upon its various aspects.

28. GRANT OF IMMUNITY TO ‘APPROVERS’ IN DEPARTMENTAL INQUIRIES

28.1 The procedure for grant of immunity/pardon to an employee from the departmental inquiries is explained in Para 7 of Chapter IV and Para 36 of Chapter XIII of Vigilance Manual (Vol I). It is felt that in cases of serious nature, the evidence of “Approvers” may sometimes lead to considerable headway in investigation of cases. This also facilitates booking of offences/misconduct of more serious nature. Therefore, the following procedure may be followed for grant of immunity/leniency to a public servant in the cases investigated by the CVO:

(a) If during an investigation, the CVO finds that an officer, in whose case the advice of the Commission is necessary, has made a full and true disclosure implicating himself and other public servants or members of the public and further that such statement is free from malice, the CVO may send his recommendation to the CVC regarding grant of immunity/leniency to such officer from departmental action or punishment. The Commission would consider the CVO’s recommendation and advise that authority regarding the further course of action;

(b) In cases pertaining to officials against whom the Commission’s advice is not necessary, the recommendation for grant of immunity/leniency may be made to the CVO who would consider and advise the disciplinary authority regarding the
further course of action. If there is a difference of opinion between the CVO and the disciplinary authority, the CVO would refer the matter to the Commission for advice.

29. 

SUPERVISION OVER VIGILANCE ACTIVITIES

29.1 The Commission exercises general superintendence over the vigilance administration and anti-corruption work in the public sector enterprises. In order to enable the Commission to discharge this function effectively, the CVOs of PSEs would continue to submit a quarterly report on receipt, disposal and pendency of complaints and vigilance cases to the Commission in the prescribed format.

30. 

VIGILANCE STAFFING STRUCTURE IN PSEs

30.1 With a view to tackling corruption and making the functioning of investigating and vigilance agencies more independent, effective, credible and prompt, the Department of Public Enterprises (Government of India), vide their letter No. DPE 15(7)/98(GL-009) GM dated the 25th September, 1998, have recommended the following model of vigilance set-up for the PSEs as a broad guideline to be adopted with such modifications as may be appropriate in the case of an individual undertaking:

(I) Corporate Office

i) Chief Vigilance Officer.
ii) Dy. CVO (For Schedule 'A' & 'B' PSEs)
iii) Vigilance Wings.

a) Investigation Wing

- Sr. Vigilance Officer - One
- Investigators - Two
- Steno - Two

b) Anti-Corruption and Vigilance Wing

- Sr. Vigilance Officer - One
- Vigilance Assistant - Two
- Steno - One
c) **Disciplinary Proceedings Wing**
- Sr. Vigilance Officer - One
- Vigilance Officer - Two
- Steno - One

d) **Preventive Vigilance Wing**
- Sr. Vigilance Officer - One
- Vigilance Officer - One
- Steno - One

e) **Technical Wing** (This is applicable to PSEs engaged in engineering and other technical operations)
- Sr. Vigilance Officer - One
- Vigilance Officer - One
- Expert - One
- Steno - One

II. **Regional/Project Plant Office** (This is applicable to Schedule 'A' & 'B' PSEs only)
- Sr. Vigilance Officer - One
- Investigators - One
- Steno - One

31. **DEPUTATION TENURE OF CVOs IN PSEs**

31.1 The existing guidelines on the subject are contained in para 2 (v) of the Department of Personnel & Training OM No. 36 (9)-EO/89-SM(I) dated 7.2.92. These stipulate that the tenure of a CVO will be for a period of five years irrespective of the grade of the post and the service to which the officer belongs; no other tenure rules would be applicable for this purpose. On the recommendation of the Central Vigilance Commission and the Civil Services Board, the Appointments Committee of the Cabinet has since approved partial modification of the aforesaid provisions. The initial deputation tenure of an officer in the post of Chief Vigilance Officer should be three years extendable up to a further period of two years in the same enterprise (maximum five years), with the approval of the CVC, or up to a further period of three years on transfer to another Public Sector Enterprise on completion of initial deputation tenure of three years in the previous Public Sector Enterprise. (Ref. DOPT's OM No. 372/7/97-AVD-III dated 7.8.98).
32. REVIEW OF VIGILANCE MATTERS IN PSEs

32.1 The CVO should invariably review all the pending investigation reports, disciplinary cases and other vigilance matters in the first week of every month and take necessary steps for expediting action on pending matters.

32.2 REVIEW BY THE SECRETARY OF THE ADMINISTRATIVE MINISTRY AND CMD OF PSE.

In addition to this monthly review by the CVO, the Secretary of each Ministry/Department and the Chief Executive of PSE should undertake a quarterly review of the vigilance work done in the enterprise in the first week of January, April, July and October every year. The result of the quarterly review consolidated separately for each enterprise should be communicated to the Department of Personnel & Training and the CVC by 15th day of the month in which such review is undertaken.

32.3 REVIEW BY THE BOARD OF DIRECTORS OF PSE

The Board of Directors of PSE should undertake review of progress of vigilance work/disciplinary cases at least once in 6 months. (Ref. DPE (Govt. of India) OM No. 16(48) 87-G dated 2.8. 1996. A copy each of the proceedings of the Board review meeting should be sent to the CVO of the administrative ministry and also the Secretary of the Commission for information.

33. ACCESS TO DOCUMENTS/INFORMATION BY THE VIGILANCE EXECUTIVES

33.1 Vigilance functionaries are required to inspect records, conduct surprise inspections and conduct on-the-spot investigations etc. in the discharge of their duties. Accordingly, they should at appropriate levels be authorised to have free access to all offices, sub-stations, stores and other work sites. They should have free access to the relevant records in connection with any investigation/inquiry. They may also take possession of records required by them, subject, however, to the arrangement that working of the Department should not be hampered for want of records.

34. SANCTION FOR PROSECUTION
34.1 Various aspects of prosecution have been explained in Chapter VII of Vigilance Manual (Vol. I). For all offences committed under the relevant sections of PC Act, 1988, sanction of the competent authority is required for launching prosecution. Such sanction, however, is not required if at the time of launching the prosecution, the concerned public servant has either retired or resigned from the service of the organisation. This protection is also not available to the employees of PSEs, as such persons cannot be brought within the ambit of Section 197 of Cr. P.C. even though PSEs constitute "State" within the meaning of the Article 12 of the Constitution. (Supreme Court Judgement. 1998 (3) SCALE. MOHD. HADI RAJA. Vs STATE OF BIHAR AND ANR)

34.2 In Vineet Narain and Others Vs. Union of India and another (CWP No. 340-343 of 1993) the Supreme Court has directed that

"Time limit of 3 months in grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General or any other Law Officer in the AG's Office".

34.3 Administrative instructions have further emphasised that while the Supreme Court has laid down the outer time limits, all efforts should be made to decide the grant of sanction or rejection of the request for sanction as early as possible. (Ref. DOPT OM No. 142/10/97 AVD I dated 14.1.1998)

35. DOCUMENTS HELD UP IN COURTS

35.1 Where criminal prosecution and departmental proceedings have to be conducted simultaneously, duly authenticated photocopies of the documents by the competent authority should be retained by the CBI and one such set may be made available to the disciplinary authority for use in the departmental proceedings. If the CO desires to inspect the listed documents in the charge-sheet, inspection of the original documents may be arranged with the permission of the Court.

35.2 Policy and Coordination Division of the CBI vide their letter No. 21/90/98-PD dated 15.2.98 to all their offices has informed that as per the existing instructions contained at Paras 57/453 to 60/456 Chapter - XIII of CBI Crime Manual and provisions contained in Para 12, Chapter -VII of Vigilance Manual Vol. I, CBI Branches ought to furnish such original documents as can be sent by them along with the report. In respect of documents which the Branch would not like to part with due to genuine and
cogent reasons, attested copies of the same or a gist of their contents may be duly forwarded to the authority concerned. This would enable the latter to formulate his views/comments on the CBI report expeditiously. In order to avoid delay in processing CBI reports by various organisations/departments, all branch SPs/regional DIGs have already been advised to follow the prescribed procedure scrupulously so that the departments/organisations can process CBI reports expeditiously.

(Ref. CVC's letter No. 98/VGL/7 dated 11.11.98)

36. TRAVELLING/DEARNESS ALLOWANCES TO THE PRESENTING OFFICERS, DEFENCE ASSISTANTS AND WITNESSES

36.1 Presenting Officers appointed by the disciplinary authorities, duly authorised defence assistants, prosecution witnesses and defence witnesses permitted by IO are entitled to TA and DA in accordance with extant rules on the basis of certificate of hearing issued by the IO for the purpose.

37. PAST MISCONDUCT

37.1 Action can be taken against an employee in respect of misconduct committed by him in his previous or earlier employment if such misconduct was of such a nature as has a rational nexus with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service. The charge sheet will be issued with reference to the CDA Rule of the PSE where the employee is working presently.

38 DISCIPLINARY PROVISION FOR RETIRED EMPLOYEES

38.1 There is no provision in CDA Rules of almost all PSEs either to continue departmental proceedings initiated against an employee during his service after retirement or to initiate departmental proceedings in respect of prima facie established lapses/misconduct after retirement. All PSEs should amend their CDA Rules in this regard to provide for continuation of proceedings already initiated and also for initiation of departmental proceedings in respect of grave misconduct in respect of any event which took place not more than four years earlier.
39. **ROTATION OF STAFF IN SENSITIVE POSTS/CITIZENS' CHARTER**

39.1 CVO may identify sensitive posts and ensure rotation of staff in such posts every three years. Orders issued in this regard along with a list of the sensitive posts identified may be intimated to the CVC for record. The CVO may also review the functioning of public dealing departments. Each PSE may also draw up a Citizen's Charter prescribing time-limits for processing of applications and various categories of work involving public dealings. CVO may monitor the implementation of the Citizen's Charter and furnish a compliance report in this regard to the CVC.

40. **INTERPRETATION**

40.1 If there is inconsistency between provisions of this Chapter and the provisions of the CDA Rules of any PSE; the concerned PSE should get its CDA Rules amended/updated/modified to the extent necessary. If any question arises relating to the interpretation of these provisions, it may be referred to the CVC for clarification.

41. **SCHEDULE OF TIME LIMITS IN CONDUCTING INVESTIGATIONS AND DEPARTMENTAL INQUIRIES**

41.1 Delays in disposal of disciplinary cases are a matter of serious concern to the Government and the Commission. Such delays also affect the morale of the suspected/charged employees and others in the organisation. Therefore, in order to ensure that disciplinary cases are disposed of quickly, the CVO should ensure that the following time limits are strictly adhered to:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>State of Investigation or Inquiry</th>
<th>Time Limit</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Decision as to whether the complaint involves a vigilance angle.</td>
<td>One month from receipt of the complaint.</td>
<td>CVO/CMD</td>
</tr>
<tr>
<td>2.</td>
<td>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.</td>
<td>-do-</td>
<td>CVO/CMD</td>
</tr>
<tr>
<td>3.</td>
<td>Conducting investigation and submission of report.</td>
<td>Three months.</td>
<td>IO/CVO</td>
</tr>
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<td>4.</td>
<td>Department’s comments on the CBI reports in cases requiring Commission’s advice.</td>
<td>One month from the date of receipt of CBI’s report by the DA.</td>
<td>CVO Adm. Ministry/CVO/ PSE</td>
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<td>5.</td>
<td>Referring departmental investigation reports to the Commission for advice.</td>
<td>One month from the date of receipt of investigation report.</td>
<td>CVO</td>
</tr>
<tr>
<td>6.</td>
<td>Reconsideration of the Commission’s advice, if required.</td>
<td>One month from the date of receipt of Commission’s advice.</td>
<td>CVO/CMD/Ministry's CVO</td>
</tr>
</tbody>
</table>
| 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 | D.A. |
| 8. | Time for submission of defence statement. | Ordinarily ten days or as specified in CDA Rules. | CO |
| 9. | Consideration of defence statement. | 15 (Fifteen) days. | DA |
| 10. | Issue of final orders in minor penalty cases. | Two months from the receipt of defence statement. | DA |
| 11. | Appointment of IO/PO in major penalty cases. | Immediately after receipt and consideration of defence statement. | DA |
| 12. | Conducting departmental inquiry and submission of report. | Six months from the date of appointment of IO/PO. | IA |
| 13. | Sending a copy of the IO’s report to the CO for his representation. | (i) Within 15 days of receipt of IO’s report if any of the Articles of charge has been held as proved;  
(ii) 15 days if all charges held as not proved. Reasons for disagreement with IO’s findings to be communicated | DA |
| 14. | Consideration of CO’s representation and forwarding IO’s report to the Commission for second stage advice. | One month from the date of receipt of representation. | CVO/DA |
| 15. | Issuance of orders on the Inquiry report. | (i) One month from the date of Commission’s advice.  
(ii) Two months from the date of receipt of IO’s report if Commission’s advice was not required. | DA |

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