



CPWD VIGILANCE MANUAL



VIGILANCE UNIT, CPWD
NIRMAN BHAWAN
NEW DELHI



सत्यमेव जयते

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FOREWORD

When I took over charge of the Joint Secretary & Chief Vigilance Officer of CPWD the Vigilance Unit had a large number of cases under investigation, which were going on for quite some time, inquiries which appeared to be unending and protracted court cases which often derailed the inquiry process. The only guiding light was the Vigilance Manual brought out by the Central Vigilance Commission [the latest compilation of which was available as Vol. I (6th Edition, 2005)]. The Manual required to be consulted along with the earlier Edition (1991) of complete Manual as well as various instructions/orders/judgments issued by the CVC, DOPT, Ministry of Urban Development, CPWD, Hon'ble High Court & CAT etc.

The need of a comprehensive Manual was always felt strongly so that all the relevant issues relating to a case could be examined in correct perspective and without a last minute pressure of locating the relevant instructions / guidelines here and there. Shri Naimuddin, SE (Vig) I & Shri Harish Kumar, SE(Vig) III have contributed significantly in compiling the various chapters of the present Manual meticulously and I am really grateful for their sincere efforts and hard work. In fact, the final compilation is the outcome of a continuous discussion with various functionaries of the Vigilance Unit including Shri Ramesh Chandra, SE(Inquiry), Shri A.K. Sharma, SE (Vig.)II, Shri Tarkeshwar Tiwari, SE (Vig.)II-A, the various Executive Engineers (Vigilance) and Engineering Officers (Disciplinary). But for the assistance of Mrs. Alamelu Sriram, Sr. PPS and Mr. P.P. Mohan, PA, the compilation would not have come out in the time frame planned.

I am happy that all relevant issues and instructions relating to the various stages of a case have been covered comprehensively and it will be of great use to every functionary of the Vigilance Unit, CPWD. All the users are requested to provide their suggestions for further improvement of this Manual.

(Nikhilesh Jha)

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CPWD VIGILANCE MANUAL

Chapter-I

Mandate and Organisation of Vigilance Unit of CPWD

- 1.0 The Vigilance Unit of the CPWD is responsible for vigilance in the organization under the general superintendence of the Central Vigilance Commission, the apex organization of the Government of India that controls anti-corruption measures and probity in public life. The vigilance unit is headed by the Chief Vigilance Officer who has a two-fold function
- (i) to act as an adviser to the DG, CPWD in all matters pertaining to vigilance and
 - (ii) to provide a link between the vigilance unit, CPWD and the CVC on the one hand and the CBI on the other.

1.1 The functions of the Chief Vigilance Officer

The functions of CVO may be divided broadly into 3 parts:-

(I) Preventive Vigilance :

This is most important aspect of vigilance. It deals with systemic correction and modification of rules and processes which, because of their ambiguity and complexity may give rise to scope of Corruption.

The Santhanam Committee (following whose recommendations, the Central Vigilance Commission was set up in 1964), while outlining the preventive measures, had identified 4 major causes of corruption viz.

- (i) *administrative delays;*
- (ii) *Government taking upon themselves more than what they can manage by way of regulatory function;*
- (iii) *Scope for personal discretion in the exercise of powers at different levels of government;*
- (iv) *Cumbersome procedures for dealing with various matters which are of importance to citizens in their day to day affairs.*

Thus, we can conclude that the main features of preventive vigilance so far as the CPWD is concerned, would be to simplify the CPWD Works Manual, Maintenance Manual, Schedule of Rates and work processes being followed by CPWD. It would also include reduction of discretion at different levels in the functioning of CPWD. For example, if an extra item is to be provided in a work, or if a specification in a work is to be changed or if the scope of a work is to be changed or expanded, the norms for these are to be decided at different levels. **This also clarifies that the raison d'etre of vigilance activities is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organization.** (para 1.6.3 of Vigilance Manual issued by Central Vigilance Commission).

(v) Punitive Vigilance:

This deals with the verifiable allegations/complaints reported to CVO. On a preliminary investigation, if the complaint is found to have vigilance angle, an enquiry for major or minor penalty should be done in accordance with the procedure as delineated in the Central Civil Services (Classification, Control and Appeal) Rules, 1965. In case of Category 'A' employees, advice of the CVC is sought to initiate inquiry. The CVO is also

required to ensure that the disciplinary authority concerned, issues a speaking order while imposing punishment on delinquent employee. Here, it is important to clarify the concept of **Vigilance angle**.

Vigilance Angle: The para 1.6.1 of the **Vigilance Manual** issued by CVC defines vigilance angle as follows:

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

There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or willful negligence; recklessness in decision making, blatant violations of systems and procedures; exercise of discretion in excess where no ostensible public interest is evident; failure to keep the controlling authority/superiors informed in time – these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.

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

(vi) Surveillance and detection:

This deals with collection of intelligence about the corrupt practices committed, or likely to be committed by the employees of the organization. This could be done by the CVO through surprise inspections in the sensitive areas of the organization or through different reports or returns, such as Audit Reports, Press reports, Departmental Inspection Reports, etc.

1.2 Organization of Vigilance unit, CPWD

Till the year 2006, the Vigilance unit of CPWD was headed by a Chief Engineer of the CPWD, when the CVC decided to depute an officer from outside the organization as the CVO. The unit has 3 separate units headed by Superintending Engineers and one unit assigned specifically to Inquiry, headed by a Superintending Engineer (Inquiry). There are 13

Executive Engineers consisting of 8 EEs (Vigilance) who function as Investigating Officers and 5 Engineering Officers (Disciplinary) who handle the disciplinary cases after charge-sheet is issued upto the stage of final order.

The duties of EOs(D) include functioning as Presenting Officer during the inquiry, processing of Appeal and Review Cases as well as Court cases. There is a small administrative unit headed by one EE (HQrs.) and supported by 2 Section Officers and one AE (Cash) who functions as DDO. There is one AE(Computer) who is responsible for the upkeep of VIGMIS [a software for Vigilance Management Information System maintained by the Vigilance Unit] and downloading of vigilance status information from the VIGMIS for the issue of Vigilance Clearance Certificate.

Chapter – II Complaints:

2.0 A **complaint** is an information about corruption, malpractice or misconduct on the part of a public servant from any source whatsoever. Complaints must contain factual details, verifiable facts and related matters. They should not be vague or contain sweeping general allegations. Redressal of grievances should not be the focus of complaints. Complaints which do not meet these criteria should be invariably filed.

Normal sources of complaint for the CVO are:

- (i) General public or Employees;
- (ii) Departmental Inspection Reports & Stock Verification Surveys;
- (iii) Referred by CVC;
- (iv) Audit Report;
- (v) Annual Property Statement
- (vi) CBI and Anti-Corruption Bureaus;
- (vii) Press Report;
- (viii) Reports of Parliamentary Committees like the Estimates Committee, Public Accounts Committee & Committee on Public Undertakings;
- (ix) Source information, if received verbally from an identifiable source, to be reduced in writing.

In addition, the CVO concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organization, for collecting intelligence about any malpractice and misconduct among the employees.

2.1 Initial Action on complaint: Every complaint, irrespective of its source, is entered in the prescribed format in the Vigilance Complaint register in form CVO-I in two separate parts for Category ‘A’ and Category ‘B’ employees. Category ‘A’ includes such employees against whom Commissions advice is needed whereas Category ‘B’ includes employees for which Commission’s advice is not required. Only those complaints in which there is an allegation of corruption or improper motive, should be entered in the register. Complaints of administrative nature or operational or technical irregularities having no connection with vigilance angle should not be entered in the register and should be dealt separately under “non-vigilance complaints”

The format of CVO Register I is as follows:-

S.No.	Source of complaint (Note 1)	Date of Receipt	Name & Designation of Officer(s) complained against	Reference to File No.	Action taken (Note 2)	Date of Action	Remarks (Note 3)
1	2	3	4	5	6	7	8

Note 1: Complaint includes all types of information containing allegations of misconduct against public servants, including petitions from aggrieved parties, information passed on to the CVO by CVC and CBI, press reports, findings in inspection reports, audit paras, PAC reports etc. In the case of petitions the name and address of the complaints should be mentioned in Column 2 and in other cases, the sources as clarified above should be mentioned.

Note 2: Action taken will be of following types:

- (a) Filed without enquiry
- (b) Filed after enquiry
- (c) Passed onto other sections as having no vigilance angle
- (d) Passed onto the CBI for investigation/appropriate action
- (e) To take up for detailed investigation by the Vigilance.

A complaint will be treated as **“disposed of”** after entry in column (6) & (7)

Note 3 : “Remarks” Column should mention:

- a. If there were previous cases/complaints against the same officer, the facts should be mentioned in the “Remarks” Column
- b. Date of Charge-sheet issued, wherever necessary

2.2. Scrutiny of Complaints

Each complaint will be examined by the Chief Vigilance Officer to see whether there is any substance in the allegations made in it to merit looking into. Where the allegations are vague and general and prima facie unverifiable, the Chief Vigilance Officer may decide, **with the approval of the head of the Department**, where considered necessary, that no action is necessary and the complaint should be **dropped and filed**. Where the complaint seems to give definite information to require a further check, a **preliminary inquiry/investigation** will need to be made to verify the allegations so as to decide whether, or not, the public servant concerned should be proceeded against departmentally or in a court of law or both. **If considered necessary, the Chief Vigilance Officer may have a quick look into the relevant records and examine them to satisfy himself about the need for further inquiry into the allegations made in the complaint.** The information passed on by the CBI to the Ministry/Department regarding the conduct of any of its officers should also be treated in the same way.

2.3 Disposal of complaints

A complaint which is registered can be dealt with as follows:(i)**file it without or after investigation; or (ii) to pass it on to the CBI for investigation/appropriate action; or (iii) to pass it on to the concerned administrative authority** for appropriate action on the ground that no vigilance angle is involved; or (iv) **to take up for detailed investigation by the departmental vigilance agency.** An entry to that effect would be made in columns 6 and 7 of the vigilance complaint register with regard to “action taken” and “date of action” respectively. A Complaint will be treated as disposed of in monthly/annual returns either on issue of charge-sheet or final decision for closing or dropping the complaint. If a complaint is taken up for investigation by the departmental vigilance agency, or in cases in which it is decided to initiate departmental proceedings or criminal prosecution, further progress would be watched through other relevant registers. If there were previous cases of complaints against the same officer, it should be indicated in the remarks column, i.e. column 8.

2.4 Action on Anonymous/Pseudonymous complaints

The Central Vigilance Commission has issued instructions that **no action is to be taken by the administrative authorities**, as a general rule, on anonymous/pseudonymous complaints received by them. When in doubt, the pseudonymous character of a complaint may be verified by enquiring from the signatory of the complaint whether it had actually been sent by him. **If he cannot be contacted at the address given in the complaint, or if no reply is received from him**

within a reasonable time, it should be presumed that the complaint is pseudonymous and should accordingly be ignored. However, if any department/organization proposes to look into any verifiable facts alleged in such complaints, **it may refer the matter to the Commission seeking its concurrence through the CVO** or the head of the organization, irrespective of the level of employees involved therein.

Although, the Commission would normally also not pursue anonymous/pseudonymous complaints, it has not precluded itself from taking cognizance of any complaint on which action is warranted. **In the event of the Commission deciding to make an inquiry into an anonymous or pseudonymous complaint**, the CVO concerned should make necessary investigation and report the results of investigation to the Commission for further course of action to be taken. Such complaint should be treated as a reference received from the Central Vigilance Commission.

Where the Commission asks for an inquiry and report considering that the complaint is from an identifiable person, but it turns out to be pseudonymous, the administrative authority may bring the fact to the notice of the Commission and seek instructions whether the matter is to be pursued further. The Commission will consider and advise whether, notwithstanding the complaint being pseudonymous, the matter merits being pursued.

Sometimes, the administrative authority may conduct investigation into a pseudonymous complaint under the belief 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. But if the investigation indicates, prima facie, that there is some substance in the allegations, the Commission should be consulted as to the further course of action to be taken if it pertains to category “A” employee.

2.5.: Government of India Resolution on Public Interest Disclosure and Protection of Informer (PIDPI Cases):

The Government of India has authorized the CVC as the “Designated Agency” to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. The CVC has the responsibility of keeping the identity of the complainant secret. Hence the complainant under PIDPI category should make the complaint in a closed envelope making the text specific. The Commission is mandated not only to maintain the secrecy of the complainant’s identity but also provide protection to the complainant against any physical threat, harassment or victimization.

2.6. Time Frame for different stages of processing of a complaint as prescribed by CVC

(Ref: 2.14.1, Vigilance Manual, Vol.I, 2005)

S.No.	Stage	Time
1.	Decision as to whether the complaint involves a vigilance angle whether to be filed or to be entrusted to CBI or to be sent to the concerned administrative authority for necessary action	One month from the receipt of complaint
2.	Conducting of investigation and submission of report	Three months

3.	Department's comments on the CBI reports in cases requiring Commission's advice	One month from the date of receipt of CBI report by the disciplinary authority
4.	Referring departmental investigation reports to the Commission for advice	One month from the date of receipt of investigation report
5.	Reconsideration of the Commission's advice, if required	One month from the date of receipt of Commission's advice
6.	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
7.	Time for submission of defence statement	Ordinarily ten days .
8.	Consideration of defence statement	15 (fifteen) days
9.	Issue of final orders in minor penalty cases	Two months from the receipt of defence statement
10.	Appointment of IO/PO in major penalty cases	Immediately after receipt of defence statement
11.	Conducting departmental inquiry and submission of report	Six months from the date of appointment of IO/PO
12.	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 hold as not proved – reason for disagreement with IO's findings to be communicated.
13.	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice	One month from the date of representation
14.	Issuance of order s 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 is not required.

Chapter-III

SUSPENSION

3.0 The Rule:

Rule 10 of the CCS (CCA) Rules 1965 deals with the matter of suspension of Government servants. The Rule is reproduced below:

- (1) *The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, may place a Government servant under suspension-*
- (a) *Where a disciplinary proceeding against him is contemplated or is pending; or*
- (aa) *where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or*
- (b) *Where a case against him in respect of any criminal offence is under investigation, inquiry or trial:*

Provided that, except in case of an order of suspension made by the Comptroller and Auditor - General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

- (2) *A Government servant shall be deemed to have been placed under suspension by an order of appointing authority -*
- (a) *With effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;*
- (b) *With effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.*
- (3) *Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.*
- (4) *Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders :*

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

- (5)
- (a) *Subject to the provisions contained in sub-rule (7), an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so."*
- (b) *Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the*

authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any of such proceedings.

- (c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.
- (6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority competent to modify or revoke the suspension, before expiry of ninety days from the effective date of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.
- (7) An order of suspension made or deemed to have been made under sub-rules (1) or (2) of this rule shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days:
Provided that no such review of suspension shall be necessary in the case of deemed suspension under sub-rule (2), if the Government servant continues to be under detention at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later.

3.1 Handling suspension cases in Vigilance Unit - Circumstances which merit placing a Government servant under suspension

It is the duty of the vigilance unit to examine suspension cases against Group "A" and "B" officer and place its considered view before the competent authority i.e. MoUD for Group "A" and DG CPWD for Group "B" officer. For proper analysis and unbiased examination of the case, the Public interest should be the guiding factor in deciding to place a Government servant under suspension. The following circumstances are indicated in which it may be appropriate to place an employee under suspension:

- (i) Cases where continuance in office of the Government servant will prejudice the investigation, trial or any inquiry, (e.g., apprehended tampering with witnesses or documents);
- (ii) Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which the public servant is working;
- (iii) Where the continuance in office of the Government servant will be against the wider public interest other than those covered by (i) and (ii), above, such as there is a public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;
- (iv) Where allegations have been made against the Government servant and the preliminary inquiry revealed that a prima facie case is made out which would justify his prosecution or his being proceeded against in departmental proceedings, and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service

In the first three circumstances, the disciplinary authority may exercise his discretion to place a Government servant under suspension even when the case is under investigation and before a

prima facie case is made out. Certain types of misdemeanours where suspension may be desirable in the four circumstances mentioned, are indicated below: -

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

3.2 Court Jurisdiction in the matter of suspension

Case No.	Parties	Gist of court observation
1984(3) SLR 534 (Mad.)	State of Tamilnadu VS. P.M.Ballippa	Necessity or desirability to place under suspension is the objective satisfaction of the Government. Court cannot look in to sufficiency of material, but only factum of satisfaction (if the satisfaction is no satisfaction at all or it was formed on extraneous consideration or there was a total lack of application of mind). Fact that the court can form a different opinion is no ground for quashing the order of suspension.
AIR 1994 SC 2296	State of Orissa VS. B.K.Mohanty	Where serious allegations of misconduct are alleged, the Tribunal would not be justified in interfering with the orders of suspension of the Disciplinary Authority pending inquiry.

3.3. Action after suspension

3.3.1 Payment of subsistence allowance

(i) Rule position

- a. As per FR 53 (1) a suspended employee is entitled to a subsistence allowance at an amount equal to leave salary which the employee would have drawn, if he had been on leave on half pay.
- b. Where the period of suspension exceeds 3 months, the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of first three months, if the reasons for prolongations of suspension are not attributed to the employee.
- c. The amount of subsistence allowance may be reduced by a suitable amount not exceeding 50 % of the subsistence allowance admissible during the period of first three months, if the reasons for prolongations of suspension are directly attributed to the employee.
- d. Payment shall be made to employee only after he submits a certificate that he is not engaged in any other employment/business/profession/vocation.

3.3.2 Who shall make order for payment of subsistence allowance?

The authority which placed the employee under suspension is required to pass orders for payment of subsistence allowance and also revision thereof. Cases for grant of subsistence allowance are processed in vigilance unit and are put up to competent authority for orders. Orders in case of Group "A" employee are issued by the MoUD and those for Group "B" officers are issued by the Vigilance Unit.

3.4 Can suspended employee be asked to attend office and to mark attendance?

No. The High Court in a case, observed that the expression 'suspension' means debarring an employee from service temporarily and as such he cannot be compelled to attend office and mark his attendance. It is not open by way of administrative instructions to amend or modify the statutory rules, though it is open to the executive to supplement or fill up the gaps by administrative instructions. The High Court rejected the contention of the Food Corporation that the power to suspend on the part of the management will include power to suspend an employee partially; in other words, it is open to them to direct the employee to come to the office and mark his attendance but at the same time not to render service. The consequences of suspension are also laid down and the rules do not provide for a peculiar order of this nature. This method adopted is clearly contrary to the power vested in them under the Regulations and cannot be sustained.

3.5 Issue of charge-sheet

In the Ministry of Home Affairs OM No. 221/18/65-AVD, dated the September, 1965, the attention of all disciplinary authorities was drawn to the need for quick disposal of cases of Government servants under suspension and it was desired, in particular, that the investigation in such cases should be completed and a charge-sheet filed in court, in cases of prosecution, or served on the Government servant, in cases of departmental proceedings, within six months. The matter was considered further at a meeting of the National Council held on the January, 1971 and in partial modification of the earlier orders it has been decided that every effort should be made to file the charge-sheet in court or serve the charge-sheet on the Government servant, as the case may be within three months of the date of suspension, and in cases in which it may not be possible to do so, the disciplinary authority should report the matter to the next higher authority explaining the reasons for the delay.

[Cabinet Sectt. (Department of Personnel) Memo. No. 39/39/70-Ests.(A) dated the February, 1971].

In the light of the above decision, it is imperative that the charge sheet is served to the suspended employee within three months.

3.6 Review of suspension

3.6.1 Unduly long suspension, while putting the employee concerned to undue hardship, also involves payment of subsistence allowance without the employee performing any useful service to the Government. Rule 10 of the CCS (CCA) Rules provides that an order of suspension shall be reviewed by the competent authority on the recommendations of the Review Committee constituted for this purpose. Further, an order of suspension is not valid after 90 days unless it is extended after review before expiry of 90 days.

The review committee(s) may take a view regarding revocation / continuation of the suspension keeping in view the facts and circumstances of the case. Without prejudice to the foregoing, if the officer has been under suspension for one year without any charges being filed in a court of law or no charge memo has been issued in a departmental enquiry, he shall ordinarily be reinstated in service without prejudice to the case against him. **However, in case the officer is in Police/Judicial custody or is accused of a serious crime or a matter involving national security, the Review Committee may recommend the continuation of the suspension of the official concerned.**

Further, Chapter - 2, 'Sec. 14 of CCS (CCA) Rules, pertaining to "Revoking of suspension says:

"Under Rule 10 (5) (c), an order of suspension made or deemed to have been made may, at any

time, be revoked by the competent authority. This is done in the following circumstances:

(A) Departmental Proceedings:

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

3.6.2 Provisions of the CVC Vigilance Manual

Section 6.3.4 of the CVC Vigilance Manual says

"Public interest should be the guiding factor in deciding whether or not a Government servant, including a Government servant on leave, should be placed under suspension; or whether such action should be taken even while the matter is under investigation and before a prima-facie case has been established. Certain circumstances under which it may be considered appropriate to do so are indicated below for the guidance of competent authorities:

- (i) **Where the continuance in office of the Government servant will prejudice investigation, trial or any inquiry (e.g., apprehended tampering with witnesses or documents);**
- (ii) **Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which he is working;**
- (iii) **Where the continuance in office of the Government servant will be against the wider public interest, e.g., if there is a public scandal and it is considered necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;**
- (iv) **Where a preliminary enquiry into allegations has revealed a prima-facie case justifying criminal or departmental proceedings which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service;**
- (v) **Where the public servant is suspected to have engaged himself in activities prejudicial to the interest of the security of the State."**

Section 6.3.6 of the CVC Vigilance Manual says

"Without prejudice to the above guidelines, there are certain kinds of cases where the SPE will, invariably, advise that the officer should be placed under suspension. If the CBI recommends suspension of a public servant and the competent authority does not propose to accept the CBI's recommendation, it may be treated as a case of difference of opinion between the CBI and the administrative authority and the matter may be referred to the Commission for its advice. Further, if a public servant had been suspended on the recommendation of the CBI, the CBI may be consulted if the administrative authority proposes to revoke the suspension order."

3.6.3 MoUD, vide OM No. 23/5/2004/EC-I/EW-I dated 21.4.2005, has notified constitution of a review committee for decision of the competent authority in respect of Group "A" employees. Following are the members of the committee.

S.N	Level of the suspended officer	Constituents of the review committee
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1	For officers up to the level of JAG i.e. officers of the level of SE.	Additional Secretary (UD), DG, CPWD and ADG(S&P), CPWD
2	For officers up to the level of SAG i.e. officers of the level of CE.	Additional Secretary (UD), DG, CPWD and ADG(S&P), CPWD
3	For officers up to the level of HAG i.e. officers of the level of ADG.	Secretary (UD), Secretary (UE&PA) and DG, CPWD.

For Group “B” employees the constitution of the review committee is notified by the Directorate of works. In terms of the DoPT OM No. 11012/4/2003-Estt. (A) dated 7.2.2004, committee will comprise of 3 officers of the level of Additional Director General and /or Chief Engineer.

Therefore it is important for the vigilance unit to keep track of the suspension cases and initiate action for review well before expiry of 90 days from the order of suspension. The vigilance unit will initiate the proposal for review and shall prepare a detailed background note giving all details of the case. It shall also bring out the facts and the rule position in the note. The note is put up to the suspension review committee constituted as per the status of the employees for according their decision. In case of Group “A” employees the order on revocation/continuation of suspension is issued by the MoUD after approval by the Minister of Urban Development. For Group “B” employees the orders are issued by the Vigilance unit after obtaining approval of the DG, CPWD.

3.7 Action after suspension has been revoked.

After suspension has been revoked, it is necessary for the authority which revoked the suspension to make suitable orders on the treatment of the period of the suspension and the pay and allowances for the period of the suspension. Following is worth notice.

- (i) DoPT, vide their OM No. 11012/15/85-Estt.(A) dated 3.12.1985 have ordered that the period of suspension is to be treated as duty if minor penalty only is imposed. It is concluded that where departmental proceedings against a suspended employee for imposition of major penalty end with the imposition of minor penalty, the suspension can be said to be wholly unjustified in terms of FR 54-B and employee concerned should be paid full pay and allowances for the period of suspension by passing order under FR 54-B.”
- (ii) Cases not falling in above category need to be examined and disposed in the light of the provisions of the FR 54.

In case of the Group “A” employees, the orders on the treatment of suspension period and pay and allowances thereof are required to be issued by the MoUD. However it is the duty of the vigilance unit to prepare a background note for submission to the MoUD for orders by them. For Group “B” employees, the vigilance unit shall prepare the background note for consideration of the DG, CPWD. The orders will also be issued by the Vigilance Unit.

Chapter – IV

PRELIMINARY ENQUIRY/INVESTIGATION

4.0 Once a vigilance angle is located in the complaint, it is investigated to decide, prima-facie, the charges on which an inquiry for minor penalty or major penalty would be conducted, or whether a departmental warning for the act of commission/omission would suffice.

4.1 : Agency for Investigation

Once it is decided to investigate the allegations in a complaint, it will be necessary to decide whether the allegations should be investigated departmentally or through CBI

4.1.1 CBI Investigation in following cases:

- (a) If the offence involves bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records, possession of assets disproportionate to known sources of income.
- (b) Where facts of the allegations can't be ascertained without inquiries from non-official persons.
- (c) Complicated cases requiring expert police investigation.

4.1.2 Departmental Investigation: Where allegations relate to a misconduct other than an offence, or to departmental irregularity or negligence, and the alleged facts are capable of verification or inquiry within the department.

Note: If there is difficulty in separating the allegations for separate investigations, the better course will be to entrust the whole case to the CBI.

4.1.3 Discretion of CVO to refer a case to the CBI:

All CVOs have complete discretion to refer a case to the CBI and it is not necessary to seek prior permission from the CVC. (Sec.4.2, CVC Manual, 2005)

4.2. Parallel Investigation

Once a case is referred to and taken up by the CBI for investigation, further investigation should be left to them and a **parallel investigation** by the departmental agencies should be avoided. Further action by the department in such matters should be taken on completion of investigation by the CBI on the basis of their report.

4.3: Departmental Investigation:-

- (a) **Seizure of documents/records:** The Investigating /Vigilance officer should, without loss of time, secure such documents/records, etc. which will help in investigation of the complaint.
- (b) If the alleged facts are likely to be known to other employees of the Department, they should be interrogated (orally or/and in writing)

- (c) If there is a need of site inspection (in case of works related complaints), it should be done.
- (d) If during the course of investigation, it is found that it will be necessary to examine/collect evidence from non-official persons, the matter should be entrusted to the CBI.
- (e) If the official complained against is in-charge of Stores, equipments etc. and there is a possibility of his tampering with the records, the CVO should advise his/her transfer forthwith.
- (f) It is desirable, if the time permits, to obtain the suspect officer's version of facts. There is no question of making available to him any document at this stage.

4.4 Submission of Investigation Report: The Investigating Officer should prepare a self-contained report including the material available to controvert the defence. The Investigation report should contain the explanation of the suspect officer, if he had given it. The Investigating officer will submit his report to the CVO, who will forward it to the disciplinary authority, along with his own recommendations, for appropriate decision. The CVO, while submitting his report/comments to the disciplinary authority in the organization, should also endorse an **advance copy** of the investigation report **to the CVC** in case of a Category 'A' Officer, along with his own recommendations, for appropriate decision. The format prescribed by the CVC for reference to it by the CVOs is at **Appendix - I**

4.5 Investigation by the CBI:

- (a) Unless there are special reasons to the contrary, the complaints, which are to be investigated by the Special Police Establishment (SPE/CBI), should be handed over to them at the earliest stage. As soon as a case is taken up for preliminary enquiry (PE) or a Regular Case (RC) is registered under Sec.154Cr.PC, a copy of the PE registration report/FIR **will be sent by the SPE confidentially to the Head of the Department and/or the administrative Ministry concerned and the CVO of the organization concerned.**
- (b) The CBI shall not conduct any inquiry or investigation into any offence alleged to have been committed under PC Act, 1988, except with the prior approval of the Central Govt., where such allegations relate to JS level officer or above.

4.6 Submission of Report by the CBI : (a) If on completion of investigation, the CBI comes to the conclusion that sufficient evidence is available for launching **criminal prosecution**, they shall forward the final report to the CVC as well as the authority competent to sanction prosecution through the CVO, if it is required to be issued in the name of President. In other cases, the report will be forwarded to the Competent Authority through the CVO concerned. The report will be accompanied by the draft sanction order in the prescribed form, and will give the rank and designation of the authority competent to dismiss the delinquent officer from service and the law or rules under which that authority is competent to do so.

- (b) In cases in which sufficient evidence is not available for launching criminal prosecution, the CBI may come to the conclusion that:
 - (i) The allegations are serious enough to warrant regular departmental action (**RDA**). The final report in such cases will accompany (1) draft articles of charges (2) a statement of imputations in support of each charge and (3) list of documents & witnesses.

(ii) Sufficient proof is not available to justify prosecution or RDA but there is reasonable suspicion about the integrity of the official. In such cases, the Competent Authority will decide on the **appropriate administrative action**.

- Reports of both types mentioned at (b) (i) & (ii), involving Category 'A' officers, will be forwarded by the CBI to the CVC who will advise the disciplinary authority concerned regarding the course of further action to be taken.
- Investigation reports pertaining to Category 'B' employees will be forwarded by the CBI to the disciplinary authority concerned, through its CVO for further necessary action.

(iii) In cases in which preliminary inquiry/investigation reveals that there is no substance in the allegations, the CBI may decide to **close** the case. Such cases pertaining to Category 'A' officers will be reported to the CVC as also to the authorities to whom copies of the FIRs/PE registration reports were sent. In other cases, the decision to close a case will be communicated by the CBI to the administrative authorities concerned.

4.7 Authority competent to take a view on Investigation: For Category 'A' cases, CVC's advice (Stage advice) would be obtained before the Competent Authority {as specified in CCS (CCA) Rules} takes a final decision on the matter. In Category 'B' cases, the Disciplinary Authority will decide on the course of action. On the basis of the investigation report, the Disciplinary Authority takes decision to initiate disciplinary proceedings against the Government servant for imposing penalty under Rule 16 (i.e. Minor Penalty) or Rule 14 (i.e. Major Penalty). As soon as it is decided by the disciplinary authority to institute disciplinary proceedings, the complaint should be regarded as having taken the shape of a Vigilance case.

4.8: Action against persons making false complaint: If it is proved that the complaint is false, malicious, vexatious or unfounded, the person making false complaint can be prosecuted u/s 182, IPC (imprisonment of 6 months and/or fine of Rs.1,000/=)

4.9 Expeditious Completion: In cases referred by the CVC for investigation and report, the department should normally send its report to the CVC **within three months** from the date of receipt of reference. The CBI may furnish reports on such complaints within a period of **six months**. If this time schedule is not adhered to, an interim report explaining the reason(s) of delay and expected date of investigation report should be sent.

Chapter V

DISCIPLINARY PROCEEDINGS

5.0 Introduction

Article 311 of the Constitution of India provides protection to the Civil servant against dismissal/removal/reduction in pay without giving a reasonable opportunity of being heard. On the other hand, it is expected of the Government servant at all time to maintain absolute integrity and devotion to duty and do nothing which is unbecoming of a Government servant. Any departure/deviation from the prescribed rules/regulations and conduct shall amount to be a misconduct, therefore, the Government servant will become liable for imposition of penalty in accordance with rules.

5.1 DISCIPLINARY AUTHORITIES.

Rule-12 of CCS (CCA) Rules defines **the** disciplinary authorities, who may impose any of the penalties specified in Rule 11 of CCS (CCA) Rules on any Government servant.

As per Rule-13 of CCS (CCA) Rules the President or any authority empowered by him by general or special order may-

- (a) Institute disciplinary proceedings against any Government servant;
- (b) Direct a Disciplinary Authority to institute disciplinary proceedings against any Government servant on whom that Disciplinary Authority is competent to impose under these rules, any of the penalties specified in Rule 11 of CCS (CCA) Rules.

The Appointing authorities, Disciplinary Authorities to impose specified penalties and Appellate Authorities, in respect of various groups of Government Servants, in CPWD are detailed in Para 36, Section 3, Chapter VI of CPWD Manual Vol. I, 1992.

[See **Appendix 2**]

5.2. The two categories of penalties listed at Rule 11 of CCS (CCA) Rules, are as follows:

Minor Penalties:

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

Major Penalties

- (v) Reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction, and whether on the expiry of such

- period, the reduction will or will not have the effect of postponing the future increment of pay;
- (vi) Reduction to a lower time scale of pay, grade, bar to the promotion of the Government servant to the time scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or services from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service;
 - (vii) Compulsory Retirement;
 - (viii) Removal from service which shall not be a disqualification for further employment under the Government;
 - (ix) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

A Disciplinary Authority competent to impose minor penalties may **institute** disciplinary proceedings against any Government Servant for imposition of major penalties notwithstanding that such DA is not Competent under these rules to **impose** any of the major penalties.

5.3 DISCIPLINARY PROCEEDINGS:

Based on the facts, the records, documents and the statement of the witnesses and the suspected Public Servants if recorded, in a departmental investigation or by CBI, a report of findings is submitted to the Disciplinary Authority. The latter has to take a view for initiating the Disciplinary Proceedings/Departmental Inquiry.

A disciplinary case may be initiated on account of:

1. Administrative lapses/irregularities i.e. Admin matter.
2. Lapses attracting vigilance angle i.e. Vigilance matter.

In both the cases the process to be followed during the course of proceedings is almost the same. In CPWD, the Vigilance Unit deals in vigilance matters only. Rest are dealt by the respective administrative units. Vigilance matters involving Group-A officers requires consultation of Central Vigilance Commission, before the Disciplinary Authority orders to initiate disciplinary proceedings in respective Rule as per options available before him i.e. Rule 14 of CCS (CCA) for Major penalty and Rule 16 of CCS (CCA) for Minor penalty or Rule 9 of CCS Pension Rules for retired employees.

[It has been noticed of late that many departmental proceedings have been set aside or quashed by Central Administrative Tribunal or Courts due to the fact that proceedings were not conducted strictly in terms of laid down rules and procedures. Therefore it is imperative for all the Disciplinary Authorities to ensure that the proceedings are conducted properly and laid down rules and procedures are followed scrupulously so that delinquent officers are not let off on account of flawed process.]

5.4 PROCEDURE FOR IMPOSING MINOR PENALTIES

Subject to the provisions of sub-Rule (3) of Rule 15 [CCS(CCA) Rules], an order imposing on a Government servant any of the minor penalties may be imposed according to following procedure:

- (a) Informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he / she may wish to make against the proposal; On receipt and consideration of the representation of the

- Government servant, the DA may impose one of the minor penalties if charges are sustained, or exonerate the Govt. servant if the charges are not proved;
- (b) If, in the circumstances of a particular case, the DA decides that an enquiry should be held in the manner as it is done for major penalty, or if the Government Servant desires to be heard in person, the DA may permit holding the inquiry in the manner laid down in sub-rules (3) to (23) of Rule 14;
 - (c) The DA will take the representation, if any, submitted by the Government servant under Clause (a) and the record of inquiry, if any, held under Clause (b) into consideration;
 - (d) The DA will record a finding on each imputation of misconduct or misbehavior; and
 - (e) The DA will consult the Commission where such consultation is necessary.

[Refer Rule 16, CCS(CCA) Rules] (Appendix: 3 & 4)

- (2) The record of the proceedings in such cases shall include-
 - (i) A copy of the intimation to the Government servant of the proposal to take action against him;
 - (ii) A copy of the statement of imputations of misconduct or misbehavior delivered to him;
 - (iii) His representation, if any;
 - (iv) The evidence produced during the inquiry;
 - (v) The advice of the Commission, if any;
 - (vi) The findings on each imputation of misconduct or misbehavior; and
 - (vii) The orders on the case together with the reasons therefor.

5.5 PROCESSING OF THE REPLY OF THE CHARGED OFFICER

In CPWD reply of the charged officer is processed for different groups of the Government Servants as follows:

- (i) **Exoneration/Admin. Warning** In case of group 'A' Government Servant, vigilance unit, CPWD prepares the comments of the department on reply of the charged officer and submits to MoUD along with bio-data of the charged officer for the orders. The DA may decide in agreement with the Stage advice of CVC, that minor penalty should be imposed. In that case a proposal goes to the UPSC for deciding the quantum of penalty. If the DA decides to exonerate the CO or to issue administrative warning or to impose major penalty, this differs with the 1st stage advice of CVC and the matter, with comments of DA, will go to the CVC for Stage advice. In case the disagreement with CVC continues, the matter goes to DOPT for settlement. Orders are passed by the MoUD, in the name of President after consulting CVC/UPSC/DoPT as mentioned above.
- (ii) In case of group 'B' government Servant, vigilance unit processes the case after considering the reply of the charged officers and puts up to the Director General for decision. If Disciplinary Authority intends to differ with CVCs advice, if obtained at stage then, stage advise is required before orders are issued.
- (iii) Respective Disciplinary Authority deals the case of group 'C' & 'D' Government Servant, themselves. No processing in Vigilance Unit is required, unless CVCs advice at 1st stage was obtained and now disciplinary authority intends to differ with that advice. In such cases the matter shall be sent, along with personal details of the charged officer, to Vigilance Unit, CPWD, for obtaining 2nd stage CVC's advice.

[Appendix - 5 & 6]

[Refer Rule 15 of CCS (CCA) Rules]

5.6 PROCEDURE FOR IMPOSING MAJOR PENALTY

Rule 14 of CCS (CCA) Rules explains the procedure for imposing major penalty. Following are the broad stages:

1. Issue of charge sheet
2. Obtaining & considering reply of the charged officer
3. Conducting oral Inquiry
4. Action on Inquiry
5. Communication of the Orders.

5.6.1 ISSUE OF CHARGE SHEET

1. Object of issuing a Charge Sheet.

The first step in a Departmental Enquiry is the issuance of a charge sheet containing definite charge or charges on which it is proposed to take action against an employee for a misconduct alleged to have been committed by him, together with a statement of the allegations on which each charge is based and other material which is proposed to be taken into consideration in support of the same.

The **object** of furnishing a charge sheet is to give the employee an opportunity to show cause against the action proposed to be taken against him in respect of the misconduct alleged against him, so that he knows the nature of the misconduct with which he is charged and has a reasonable opportunity to defend himself.

2. Authority competent to issue the Charge Sheet.

A charge sheet should normally be issued by Disciplinary Authority competent to take Major Penalty action.

Where President is the Disciplinary Authority the Charge Sheet should be signed by/or on his/her behalf by an officer authorized for the purpose.

The prescribed authorities have been enlisted in Rule 13 of CCS (CCA) Rules, 1965.

3. Contents of the Charge Sheet.

The charge sheet contains the following:

- (i) Memorandum under Rule 14 in the Standard proforma;
- (ii) Statement of Articles of Charge;
- (iii) Statement of imputation of misconduct/misbehavior in support of Articles of Charge;
- (iv) List of documents by which Articles of Charge are proposed to be sustained and;
- (v) List of witnesses by whom Articles of Charge are proposed to be sustained.

[In the charge sheet, the verified facts are expressed in a logical manner to ensure that allegations flow directly from the situation in which misconduct was committed. Vagueness and repetition in charges, reference to report of preliminary Inquiry, opinions and advices, indication of any type of penalty etc. need to be avoided. Charge sheet must be drafted in emphatic and clear defined way and language which mentions the conduct rules violated.]

[Appendix- 7]

4. Amendment of Charge Sheet after issue.

There is no objection to issue a corrigendum subsequent to issue of the charge sheet. However such corrigendum should be issued before regular hearing in the inquiry is started. The charged officer should be given reasonable opportunity for preparing their defence i.e. calling for additional documents or defense witness etc.

5. Precautions to be taken

It has been noticed in recent past that several Charge Sheets and inquiry proceedings have been quashed by Hon'ble Courts. Therefore, it is necessary to frame Charge Sheet with greater care, wherein charges be explained in clear, specified and in precise manner. Proper and appropriate charges should be framed when act of violation of rules in Manuals, CCS (Conduct) rules, different circulars or general guidelines are found. On the other hand the departmental inquiry should also be conducted with proper procedure and rules and in accordance with Departmental Inquiry Act, 1972. Any failure to observe the proper procedure either willfully or through gross negligence is liable to vitiate the entire proceedings.

5.6.2 OBTAINING & CONSIDERING REPLY OF THE CHARGED OFFICER.

The reply of the charge sheet by the Charged Officer is to be examined vis-à-vis the charges imputed in the charged memo. It is to be seen whether the Charged Officer has admitted the charges / partly admitted the charges or has denied the charges. In case the Charged Officer has denied all the allegations and his reply needs inquiry, the Disciplinary Authority shall go ahead for oral inquiry. In case, only part charges are admitted, the oral inquiry shall be ordered by the Disciplinary Authority for inquiring into only those charges which have been denied by the Charged Officer.

There may also be situations where the reply of the Charged Officer is convincing and there should be no hesitation in dropping of charges after obtaining CVC advice (if the same was obtained earlier).

In CPWD, in case of Group A officers, Vigilance Unit prepares the comments of the department on reply of the CO and sends it to MoUD for further decision and orders. In case of Group B Government Servants, vigilance unit processes the reply of the charged officer and puts up the case to the Director General, CPWD for orders. The Disciplinary Authorities deal with the cases of Group C&D Government Servants themselves.

[Appendix - 8 : MHA OM No. 11012/2/79-Estt (A) dtd 12.3.1981 & OM No. 11012/8/82- Estt (A) dated 8.12.1982].

5.6.3. CONDUCTING ORAL INQUIRY.

1. Purpose of Oral Inquiry.

The purpose of Oral Inquiry is:

- (i) To give complete and adequate opportunity to the CO to put up his defence and contest the case of prosecution.
- (ii) To help the Disciplinary Authority to assess the guilt of the employee with a view to decide what action, if any, should be taken against him.

2. Procedure for conducting Oral inquiry.

The inquiry is vitiated if proper procedure is not followed. Therefore it is essential to understand the procedure. Following are the broad stages of the Oral Inquiry:

- (i) Appointment of the Inquiry Officer;
- (ii) Appointment of the Presenting Officer;
- (iii) Engagement of Defence Assistant by the Charged Officer;
- (iv) Holding preliminary hearing;
- (v) Deciding relevancy of additional defense documents required by CO and requisitioning the same;
- (vi) Regular hearing;
- (vii) Submission of inquiry report and proceeding documents.

(i) Appointment of the Inquiry Officer.

The Disciplinary Authority, on receipt of the written statement of defense, may it self inquire into the articles of charge as are not admitted, or if it considers it necessary to do so, appoint under Rule 14(2), an Inquiry Officer for the purpose.

However, unless unavoidable, the Disciplinary Authority should refrain from being Inquiring Officer.

The **essential requirements for the Inquiry Officer** are as under:

- (i) The Inquiry Officer must be a person who is impartial and free from bias;
- (ii) He must be familiar with the rules and procedure governing the subject;
- (iii) The Inquiry Officer should be superior to the rank to the Charged Officer;
- (iv) In general, immediate superior of the charged employee should not be given the duty of Inquiry Officer, i.e. by an officer on whose instance inquiry was initiated;
- (v) The complainant cannot be an Inquiry Officer

In CPWD, SE (Enquiry) attached with the Office of CVO, CPWD functions as full time Enquiry Officer. He can be appointed as an Inquiry Officer in the case of officers upto the level of Executive Engineer only. However, it is also to be noted that he is appointed only in the cases investigated by the Vigilance Unit of CPWD. For cases not investigated by the Vigilance Unit and cases of administrative nature upto the level of Executive Engineers, the SE (TLC & QA) of the region are appointed as Inquiry Officers. Following documents are required to be given to the Inquiry Officer along with the orders of his appointment.

- (i) One copy of the charge sheet.
- (ii) Denial of charges by the Charged Officer.

A copy of the order of appointment of the Inquiry Officer is also required to be given to the following:

- (i) The Presenting Officer;
- (ii) The Charged Officer;
- (iii) The CVC, If their advice was obtained earlier

The order of appointment of Inquiry Officer is served upon the Charged Officer through his controlling office (or the last controlling office in case of retired employee) and the controlling office is required to obtain and send the acknowledgement of receipt of orders to the Vigilance Unit.

In the case against officers above the rank of Executive Engineer, the Vigilance Unit of CPWD has empanelled retired Government Servants to function as Inquiry Officers. They may be appointed as

Inquiry Officers taking due care that the Inquiry Officer is at least one rank above the rank of the Charged Officer.

The CVC also has a set of Commissioners of Departmental inquiries (CDI) on their roll. They may be appointed as Inquiry Officers in case CVC so advises, where Inquiry Officers of required rank are not available for conducting inquiry.

(ii) Appointment of the Presenting Officer.

The Presenting Officer has to present the case before the Inquiry Officer in support of the charges on behalf of the Disciplinary Authority. The Presenting Officer should be one who is conversant with the subject matter of the inquiry.

- The CVC in its circular NP.34/09/06 dated 21.9.2006 have stated that a very junior official should not be appointed as a Presenting Officer;
- The person appointed as a Presenting Officer must be a member of the Civil Service of the Union;
- The investigation officer should not act as a Presenting Officer;
- The appointment of Presenting Officer cannot be challenged on a ground of bias;
- The Presenting Officer cannot be a prosecution witness;
- The rules provide that only a serving employee can be appointed as a Presenting Officer.

In the cases investigated by the Vigilance Unit of CPWD, EO(D)s are appointed as Presenting Officers. In other cases not investigated by the Vigilance Unit, the Disciplinary Authority will have to appoint suitable officer from their own office. The order of appointment of Presenting Officer is required to be given to the Inquiry Officer and the Charged Officer.

The Disciplinary Authority shall supply the following documents to the Presenting Officer:

- (i) A Copy of the Articles of Charge and Statement of imputations of misconduct or misbehavior;
- (ii) A Copy of the written statement of defence, if any submitted by the Charged Officer;
- (iii) Where no written statement has been received, some evidence proving the delivery of charge sheet to the charged employee;
- (iv) Copy of earlier documents of witness mentioned in the list of witness;
- (v) Copy of the order appointing the Inquiry Officer.

In disciplinary cases arising out of CBI or other departments' investigations, the Presenting Officers are requested from those organizations.

[One has to be careful not to commit the cardinal mistake of appointing these two officers before the reply to charge sheet is considered. This could be exploited by the delinquent employee to prove bias].

(iii) Engagement of Defense Assistant by the Charged Officer

CCS(CCA) Rules, 1965 provide that defence assistance can be taken from an employee who must be serving either at the headquarter of the charged employee or the place of inquiry. There is no bar to the Charged Officer taking help of a retired person as a Defence Assistant to render assistance. Rules provide that a serving employee acting as a Defence Assistant should not take more than three cases at a time in hand and retired person should not have seven cases at a time.

The Inquiry Officer has to inform the Charged Officer of his right to have Defence Assistant. Further, approval of the Disciplinary Authority for engaging Defence Assistant, except legal practitioner, is not required. The Defence Assistant can also be examined as witness, if the inquiry authority considers his witness to be relevant to the fact of the case.

(iv) Preliminary hearing.

As the name suggests the purpose of preliminary hearing is to sort out preliminaries. During this hearing the Enquiry Officer will specifically ask the Charged Officer, if he has received charge sheet, has understood the charges against him and whether he admits or denies the charges. In case the Charged Officer admits the charges, it is recorded in writing. No further inquiry is necessary and the Inquiry Officer writes the report of guilt. In case the charges are denied the Inquiry Officer is required to explain the procedure of conducting the inquiry to the C.O. Generally at this point of time the Inquiry Officer also issues the following directions:

- a) Directions to P.O to arrange inspection of prosecution documents by the Charged Officer;
- b) Inspection of statement of witness, if any, by the Charged Officer;
- c) Directions to Charged Officer to submit his requirement of additional defense documents along with their relevance and the details of the custodian of the document;
- d) Directions to Charged Officer to state if he wants to examine any witnesses in his defense;
- e) Name of the Defense Assistant, if the Charged Officer wants to engage one.

The hearing is adjourned after recording the detailed order sheet.

(v) Deciding the relevancy of the additional defense documents by the Charged Officer

There are two types of documents involved in the departmental inquiries. The category documents include the documents on which Disciplinary Authorities relies and intends to prove the charges i.e. those in Annexure-III of the Charge Sheet. In the category, with the documents sought by the Charged Officer to defend his case. The right of access to the category of documents is not unlimited. Only the relevant documents are arranged by the Inquiry Officer, irrelevant documents are refused to requisition. The question of relevancy is looked at from the view point of defence and not a prosecution. Even if the documents are slightly or in some way relevant for the sake of natural justice, these are allowed. In case of refusal, the reasons should invariably be recorded and intimated to both the parties. The delinquent officer can also be refused to supply the documents if the requisitioned documents are not accessible on the ground of public interest as decided by the HoD to whom the documents belong.

(vi) Regular Hearing

The departmental inquiry Act, 1972 empowers Inquiry Authority with the powers as vested in Civil Court under Code of Civil Procedure in respect of the following matters e.g,

- (a) The summoning and enforcing the attendance of any witness and examining him on oath;
- (b) Requiring the discovery and production of any document or other material which is producible;
- (c) The requisitioning of any public record from any court or office.

Having marked the documents as Exhibits and taken on record, a recording of oral evidence begins. The oral evidence is recorded in two stages

- (1) witnesses in support of the charge and
- (2) the Defence Witnesses.

The stages of recording evidence are as under:-

- (i) The Presenting Officer has to examine his witnesses first;
- (ii) The Charged Officer or his Defence Assistant has to cross-examine the witness;
- (iii) The re-examination

The scope of cross-examination is unlimited and need not be confined to the testimony of the witness in the chief examination. Re-examination after cross examination should be confined only to the matters arising out of the cross examination.

The Presenting Officer should not put up questions to the Charged Officer.

After examination, cross examination and re-examination, on conclusion of the case, the Inquiry Officer may put question before the Charged Officer on the circumstances appearing against him. The entire proceedings conducted should be recorded then and there and deposition of the witnesses are counter-signed at every page by the witnesses concerned and the Charged Officer. The complete recorded deposition shall also be signed by the Inquiry Officer and copies of the depositions be given to the Presenting Officer and Charged Officer for their record.

On conclusion of the hearing, Inquiry Officer directs Presenting Officer to submit his written brief within a week's time who also supplies the copy of the same to the Charged Officer. The Charged Officer, on receipt of written brief of P.O. shall submit written brief to Inquiry Officer. Lastly, on receipt of written brief from charged Officer, Inquiry Officer prepares his Inquiry Report.

(vii) Submission of Inquiry Report

Having received written brief from both the parties, I.O. shall proceed to record his findings and to submit report duly signed by him to the Disciplinary Authority. It is expected of the Inquiry Officer that:

- (i) He should reach at clear findings based on the evidence produced or brought before him. He should not make any contradictory evidence in different parts of the report;
- (ii) He is bound to consider evidence of all the witnesses including Defence Witnesses;
- (iii) The report of the Inquiry Officer must be free from any pressure and influence and should not be influenced by the personal knowledge;
- (iv) The Inquiry Officer must keep an open mind till he writes his report. Correct assessment of evidence and objection should be analysed fairly.

While writing Inquiry Report, the Inquiry Officer must avoid any indecisiveness, or recommendation on any penalty making disparaging remarks. Inquiry Officer shall submit his report to the Disciplinary Authority comprising of following:-

- (a) Report of Inquiry prepared by him;

- (b) Folder-I containing the list of Exhibits together with the documents produced during the inquiry;
- (c) Folder-II containing the list of witnesses examined during the inquiry on behalf of prosecution and defence and original deposition of all witnesses;
- (d) Folder III containing statements on defence;
- (e) Folder IV containing, orders made by the Disciplinary Authority and Inquiry Authority in respect of inquiry and Daily Order Sheet.

After signing the report, the Inquiry Officer becomes **functus officio**.

(viii) Special Procedures in certain case

(1) Ex-parte inquiry:

The Inquiry Officer may hold enquiry Ex-parte in the following circumstances -

- (a) Non attending the Inquiry Proceedings by the Charged Officer;
- (b) Attending the proceedings but not cooperating;
- (c) Attending but creating obstructions and hurdles in the proceedings.

(2) Common Proceedings

Whether two or more employees are concerned in any disciplinary case, the action against all of them may be taken in common proceedings. However, common proceedings should not be held in two situations (i) Where employees are governed by different set of disciplinary rules and (ii) in the case of cross complaints.

(3) Joint Trial

There are many cases where common proceedings are not ordered, but since the subject matter is common, same person is appointed as Inquiry Officer in all the case. For the sake of convenience, because the same evidence is involved, the Inquiry Officer may hold the proceedings jointly after consent of all the concerned persons.

(4) Hostile witness

Where any particular witness deposes in a way which may affect adversely the interest of the party calling him, the party may request the Inquiry Officer to declare the witness as hostile and to allow the party to cross examine the witness.

(5) Right to examine a witness

Presenting officer may, at his wisdom, drop a particular witness from examination. In such case Charged Officer has the right to request the Inquiry Officer for "TENDERING" that witness. In such case the Presenting Officer will call the witness for cross examination by the Charged Officer without any examination by the Presenting Officer. Presenting Officer, however, shall have the right to reexamination.

(6) Enforcing attendance of witness

Under Section 5(1) of the Departmental Inquiries (Enforcement of Attendance of the witnesses and Production of documents) Act, 1972 every Inquiring authority authorized under section 4 shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure in respect of summoning and enforcing the attendance of any witness and examining him on oath, requiring the production of any document or material which is

producibile as evidence, etc. Thus he has the power to enforce attendance and it is his duty to take all necessary steps to secure the attendance of both sides.

5.6.4 ACTION ON INQUIRY REPORT

The report of the Enquiry along with all the material and records is handed over to the Disciplinary Authority for his decision regarding further course of action. He is categorically required to give his findings in respect of each and every charge, and state whether the charge is 'proved' or 'not proved'. After the submission of the Inquiry Report, the Inquiry Officer becomes functus - officio. In CPWD, the Disciplinary Authority takes action on Inquiry Report as per Rule 15 of CCS(CCA) for different groups of the Government servants as follows:

(i) In case of **Group A officers** the comments of the department on Inquiry Report are offered to the MoUD. If the Disciplinary Authority, in agreement with the stage advice of CVC, decides that major penalty should be imposed, then stage of CVC is not required. If the DA decides to exonerate, issue administrative warning or to impose minor penalty, in disagreement with stage advise of CVC, the matter, with comments of the DA will go to CVC for stage advise.

When it is decided tentatively to impose any type of penalty, the DA sends the copy of Inquiry Report, copy of the CVC's second stage advice (if any) and reasons of disagreement with findings of the Inquiry Officer (if any) along with his tentative decision to the Charged officer for his representation.

(Appendix 9 : orders that Second Stage Advice to be delivered)

Vigilance unit, CPWD prepares the comments of the department on Charged Officer's representation and submits to the MoUD, in case of Group 'A' officers. Where the DA after considering the representation of CO, decides to impose a penalty of any type, he sends the case along with his decision, to the UPSC for deciding the quantum of penalty.

If decision of the DA differs with CVC's advice, which may be even because of the advice of the UPSC, reference is made to DoPT for settlement.

(ii) In case of **Group 'B'** Government Servants, where the Director General, CPWD is the Disciplinary Authority, the comments on Inquiry Report are prepared in Vigilance Unit and put up to the Director General, CPWD for decision. If DG intends to differ with the CVC's advice, if obtained earlier, the 2nd stage advice of CVC is obtained. When the Director General decides tentatively to impose any of penalty, the copies of the Inquiry Report, CVC's advice and reasons of disagreement, (if any) with the findings of Inquiry Officer, along with his tentative decision is sent to the Charged Officer for his representation. On receipt of the representation, the comments on representation are prepared by the Vigilance Unit and put up to the Director General, CPWD for decision and orders.

(iii) In case of **Group 'C' and 'D'** Government servants the Disciplinary Authority takes the view on Inquiry Report and makes, tentative decision to impose any of the penalty. The copies of the Inquiry Report, CVC's advice and disagreement, if any with Inquiry Report, along with his tentative decision is sent to the Charged Officer for his representations. On receipt of the representation, the Disciplinary Authority examines the same along with the record of inquiry and writes his findings and orders. No further processing in vigilance unit of CPWD is required unless Disciplinary Authority intends to differ with CVC's advice, if

obtained, earlier. In case of such difference with CVC's advice, the Disciplinary Authority shall obtain CVC's 2nd Stage advice through Vigilance Unit.

- (iv) In case of retired Government servants, the action for withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity can be taken by orders of the President after consulting UPSC under Rule 9 of the CCS (Pension) Rules.

Therefore, the Disciplinary Authority, if subordinate to the President will arrive at a decision whether charges need to be dropped or action under rule 9 of the CSS (Pension) Rules is required.

If action under rule 9 of CSS (Pension) Rules is to be taken, the Disciplinary Authority shall submit a report recording its findings to the President through vigilance unit along with bio-data of the charged officer on UPSC format. The vigilance unit of CPWD shall forward it to MoUD for consulting UPSC and issuing the orders in the name of the President.

5.6.5 COMMUNICATION OF ORDERS.

Orders made by the Disciplinary Authority shall be communicated to the Government servant who shall also be supplied with a copy of its finding on each article of charge, or where the Disciplinary Authority is not the Inquiring Authority, a statement of the findings of the Disciplinary Authority together with brief reasons for its disagreement, if any, with the findings of the Inquiring Authority and also a copy of the advice, if any, given by the Commission, and where the Disciplinary Authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance. Rule 17 of CCS(CCA) Rules may be referred.

The order issued by the competent authority should be a speaking order.

[Appendix 10]

CHAPTER VI

CAT/COURT CASES

6.0 The vigilance unit has to handle CAT/Court cases filed by the CPWD employees aggrieved by the vigilance action against them. Sometimes the cases are also filed by the Government in the higher courts (High Courts and Supreme Court) against the orders of the CAT/High Court.

6.1 Following is the terminology of the CAT cases.

1. OA

OA denotes an "ORIGINAL APPLICATION" filed in the Central Administrative Tribunal (CAT). As the name suggests, it is an application filed by a party in an original matter which had not been heard by the CAT previously. An OA generally is written as OA No/Year of filing e.g. OA 212/2011

2. RA

RA denotes a "REVIEW APPLICATION" filed in the Central Administrative Tribunal (CAT). As the name suggests it is an application for seeking review of an order passed by the Tribunal in an OA. The RA is named, e.g. RA 001 in OA 111/2012. It is not permitted to raise fresh issues in a RA.

3. TA

TA denotes TRANSFERRED APPLICATION. Transferred application means the suit or other proceeding which has been transferred to the Tribunal under sub-section (1) or sub-section (2) of section 29 of the Administrative Tribunals Act, 1985. These may be any suit, appeal or other proceeding which stands transferred from any court or other authority to a Tribunal.

4. MA

MA denotes "MISCELLANEOUS APPLICATION". Miscellaneous Application means an application filed in any original Application for grant of interim relief for execution under Rule 37 or any such other order. MA is named as MA No./Year in OA/Year. E.g. MA 1/2012 in OA 111/2011.

5. CP

CP denotes "CONTEMPT PETITION". Contempt means anything that curtails or impairs the freedom of limits of the judicial proceedings resulting in hampering of the administration of Law and in interfering with the due course of justice. In simple terms it means wilful disobedience of the orders passed by the Tribunal.

6.2 **Following is the terminology of the High Court cases.**

1. CWP

CWP denotes Civil Writ Petition. This is akin to OA in CAT. Generally it is filed against the CAT orders. The constitution does not provide any limitation for petition under Article 226 or 227. Therefore, in general, rule of 90 days limitation is applied for filing writ petitions. However

this rule is construed liberally by the high Courts. Therefore views of the counsel should be obtained as to limitation period in a particular case.

2. CMP

CMP denotes Civil Miscellaneous Petition. This is akin to a MA in CAT cases.

3. CRP

CRP denotes Civil Review Petition. This is akin to a RA in CAT cases.

6.3 Following is the terminology of the Supreme Court cases.

1. SLP

SLP denotes Special Leave Petition. Under Article 136 of the Constitution of India any person aggrieved by any judgment, decree, determination or order in any cause or matter passed or made by any Court or Tribunal in the territory of India may appeal to the Supreme Court of India. Accordingly, a person aggrieved by any order or judgment of High Court or of Tribunal may appeal to the Supreme Court by filing Special Leave Petition.

If the Petition is filed against the Judgment of the High Court, the time limit is 90 days from the date of Judgment/Order and if the Petition is filed against the Order of High Court refusing to grant Certificate of Fitness for Appeal, the time limit is 60 days from the date of Order refusing to grant Certificate.

6.4

A. Handling an Original application filed by employees

Ministry of Law and Justice maintains a panel of approved counsels for defending the cases in the CAT/High Court on behalf of the Government all over India. Cases in the Courts in Delhi are handled by the Vigilance unit from start to conclusion i/c payment of counsel fee. For cases outside Delhi, the local chief engineer is advised to initiate action for approaching the litigation cell located in the state/city for appointment of the counsel.

B. LITIGATION IN CAT

The Litigation (CAT) Ministry of Law & Justice Section is the part of Litigation High Court Section at Copernicus Marg Building. This C.A.T. Litigation deals with the Original Applications filed by any Central Government Employee against his/her Ministry and concerned Department.

As soon as CAT notice for appearance of Government in an OA is received, action for appointment of a counsel for defending the case should be initiated. In case MoUD is also named a respondent in the OA, the intimation of filing of OA should be sent to them for their information and record.

C. LITIGATION IN HIGH COURTS

The Litigation (HC) Section, Ministry of Law & Justice handles the Litigation work in Delhi High Court on behalf of all the Ministries/Departments of Government of India. The Litigation work is

looked after by Additional Government Counsel assisted by the Superintendent (L) and other staff. The Litigation (HC) Section is approached for appointment of counsel for defending the cases of the Government.

D. Litigation in Supreme Court

The Department of legal affairs, Ministry of Law and Justice is responsible for conducting litigation before Hon'ble Supreme Court on behalf of all Ministries/Departments of the Central Government and also on behalf of the NCT of Delhi, Union Territories including the office of the Comptroller and Auditor General of India and all field offices under CAG i.e. Accountants General offices. All Special Leave Petitions of the Central Government are filed in the Supreme Court through Central Agency Section of this Department. Government Counsels in the Central Agency section are Advocates-on-Record of the Supreme Court. They appear before the Supreme Court in all matters pertaining to the Union of India. Wherever necessary, Law Officers and Senior Counsel are engaged by Central Agency to lead them in the Court. They assist the Law Officers and other Advocates in the panel of Central Government Counsel.

6.5. Counter reply.

The counter reply to an OA in CAT is drafted by the appointed counsel. However it is the duty of the Vigilance unit to prepare detailed note for the counsel giving complete background of the case with all details. Vigilance unit also prepares parawise comments on the pleadings made by the Applicant in the OA for incorporating in the counter reply.

Draft counter replies are required to be vetted by the Vigilance unit. In case MoUD is also a respondent, the vetting by them is also required. Vigilance unit will verify the facts stated in the counter reply and also suggest changes/corrections etc. For getting the counter reply vetted by MoUD, complete files with all references flagged, OA and the counter reply are sent to them. The MoUD gets the counter reply vetted by the legal cell of the Ministry of Law and Justice located in Shastri Bhawan. After vetting, the counter reply is returned to the counsel for preparing the fair counter reply.

The EO (D) concerned are authorised to sign the counter reply and affidavit accompanying the same. After signature, the counter reply is returned to the counsel for filing.

There may be instances where, after filing of counter reply, the Applicant files a rejoinder in the CAT. Comments of the Vigilance unit (and MoUD, if necessary) on the rejoinder are also sent to the counsel.

For cases outside Delhi, the zonal Chief Engineer is requested to nominate and authorise locally available EE to sign the counter reply and follow the case in the CAT. In such cases the role of the Vigilance unit remains same as it is in cases at Delhi. The only difference is that the whole process is routed through the EE authorised by the CE.

Supreme Court:- When decision has been taken to file application/counter reply in the Supreme Court, the department of legal affairs will prepare the draft pleadings and send the same to MoUD/CPWD for verification of facts and appending of documents before filing in the Supreme Court. Generally bill for payment of necessary Court fee is also raised at this stage by the department of legal affairs. After needful action of verification of facts and appending documents with the application, the same is returned to MoUD/M/O Law along with a cheque towards payment of Court fee. The valklatnama/affidavit is signed by EE(V)/EO(D) or even the under secretary of the MoUD.

6.6 Duties of the counsel

- (i) To appear in the CAT/Court in the cases marked to him by the Officer In-charge of the Litigation Section, Department of Legal Affairs, New Delhi.
- (ii) Keep the Department concerned informed of the important developments in the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the case, supplying copies of judgments etc.;
- (iii) When any case attended to by him is decided against the Government of India, give his opinion regarding the advisability of filing an appeal from such a decision;
- (iv) Submit his claim for payment of fee with details.

6.7 Appearances in the CAT/Court.

Though it is the duty of the counsel to appear in the CAT/Court on the time and date fixed for hearing, the representative of the Vigilance Unit {Generally the EE(V)/EO(D) himself} should also attend the hearing for providing any assistance that may be required by the counsel during the arguments. The attendance of the court hearing by the EE(V)/EO(D) also becomes necessary if the counsel (owing to compelling circumstances) is unable to appear before the CAT/Court. In such cases the EO(D)/EE(V) will be required to appear before CAT and seek adjournment of the hearing.

For cases outside Delhi, the EE at station who signed the counter reply shall follow the case i/c appearances in the CAT/Court.

6.8 Action on CAT judgments

Each judgment has to be examined on its own merit and circumstances. For this purpose, the counsel is required to provide his/her considered comments on the judgment and recommendation for accepting or challenging the judgment.

Judgments along with the considered comments of the counsel are examined in the vigilance unit to form a view if the same is to be challenged or accepted. For cases involving MoUD, complete case along with the files, judgment, OA, Counter reply, Counsel's comments and the views of the vigilance unit are forwarded to MoUD for decision. MoUD may obtain the advice of the Legal cell of the Ministry of Law and Justice. In the process it may be necessary for the EE(V)/EO(D) to discuss the matter with the MoUD as well as Ministry of Law and Justice for quick decision on the Judgment.

Once it is decided to accept the CAT judgment, expeditious action for complying with the CAT order should be taken. In case complying with the CAT judgment involves extending any financial or administrative benefit to the employee, the matter should be brought to the notice of the DDG (Pers) CPWD or Director of Administration CPWD or the Controlling office of the employee for processing the case in time bound manner. Since non compliance of the judgment in the given time frame may involve contempt of the Court, EE(V)/EO(D) should keep track of the case till the CAT orders are fully complied.

In case it is decided to challenge the CAT judgment in the High Court, the process is repeated from the stage of the appointment of a suitable counsel by the Litigation cell. Litigation Cell will require the vigilance unit to produce the advice of the Ministry of Law and Justice before it takes action to appoint a suitable counsel. It may be ensured that while drafting the appeal for filing in the High Court, pleadings are also incorporated seeking stay on the operation of the CAT judgment under challenge.

6.9 Handling delays in complying with the court/CAT Judgment

CAT/Court expects time bound implementation of their judgment. There may be many instances where, due to administrative reasons, implementation of court orders get delayed. In such cases it is necessary to approach the concerned court/CAT to seek additional time to comply with the order. For this purpose, MA should be filed in the Court/CAT with the help of the counsel engaged in the original matter.

6.10 Payments to the counsel

Terms of engagement of the Government counsels in Delhi have been notified by the Judicial Section of the Department of Legal Affairs in the Ministry of Law, Justice and Co. Affairs vide No.F.24(2)/99-Judl. 24 September, 1999. For the cases outside Delhi, the notification was issued vide F. No.26(1)/99-Judl. 24.9.1999. The fee payable to the counsels have been modified vide F. No. 26(1)/2005-Judl. Dated 31.1.2008. Same should be followed.

Vigilance unit is responsible for making payment to counsels for the **CAT cases** in Delhi only. For CAT cases outside Delhi, the payment is made by the local office authorised by the CE of the Zone.

For appearance in the Delhi High Court, the fee payable to them is to be paid by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, Litigation (HC) Section, Delhi High Court, New Delhi. The fee bills are to be processed by the Litigation (HC) Section and the payment is to be made directly by it to the Counsel concerned. **Other miscellaneous and out of pocket expenses will be borne by the Vigilance Unit.** Such expenses will be paid in advance to the Litigation (HC) Section in accordance with the instructions issued by the Litigation (HC) Section. However, the expenditure relating to TA/DA payable to the Counsel for their appearance in Courts, Tribunals, Commission of Inquiry etc. outside Delhi/New Delhi is also to be borne by the Vigilance unit.

The fee bill submitted by the counsel are scrutinised by the EO(D)/EE(V) concerned for admissible payments. After this, the bill is sent to the DDO of the vigilance unit for payment.

6.11 Reasons for quashing of disciplinary cases by the CAT/Courts

Some of the grounds on which the CAT/Courts have quashed the disciplinary proceedings/Penalty order/Inquiry Report etc are given below.

(i) Violation of principle of natural justice

- (a) A person can not be judge in his own case (e.g. *where charges against Government servant relate to his misconduct against Disciplinary Authority, such Disciplinary Authority passing order of dismissal amounts to his being a judge in his own case.*)
- (b) Non supply of the CVC advice relied upon by the Disciplinary Authority, on ground that it is confidential, violative of principles of natural justice.
- (c) When Inquiry Officer is not the Disciplinary Authority, the delinquent employee has a right to receive copy of inquiry report before Disciplinary Authority arrives at a finding of guilt.

(ii) Regarding charges/chargesheet

- (a) Charge must be specific and give necessary particulars. Presumption that the delinquent official knew the charges cannot sustain;
- (b) Lack of efficiency and failure to attain the highest standards of administrative ability while holding high post would not by themselves constitute misconduct. There have to be specific acts of omission/commission;
- (c) Non-mention of date and time of misconduct and location of the incident in the chargesheet amounts to denial of reasonable opportunity;
- (d) Where charge is amended by issue of corrigendum during course of inquiry, failure to permit charged official to file reply to amended charges and give opportunity to defend himself vitiates inquiry proceedings;
- (e) Past misconduct cannot be taken in to consideration without including the same in the charge.

(iii) Regarding Inquiry proceedings.

- (a) When a witness is giving evidence, the other witnesses should not be present at the inquiry;
- (b) Earlier statements recorded in court proceedings cannot be relied upon in departmental inquiry, when those witnesses are not produced for cross-examination;
- (c) Charges cannot be proved or disproved on the basis of documents, without adducing the oral evidence;
- (d) Omission to supply copies of the statements recorded during investigation amounts to reasonable opportunity and violates Article 311 of the Constitution;
- (e) Report of Inquiry Officer must be reasoned one and discuss evidence and disclose application of mind;
- (f) Allowing a member of the investigation agency at whose instance investigation was conducted to examine a witness or be present in the departmental inquiry vitiates the inquiry;
- (g) Rejection of inquiry report in toto by the Disciplinary Authority and appointment of another inquiry officer to conduct a fresh inquiry is not permitted. The Disciplinary Authority may ask the inquiry officer to record further evidence;
- (h) Appointment of Inquiry Officer before receipt and consideration of statement of defence is not proper and proceedings are liable to be quashed if prejudice is caused;
- (i) Charged Officer is entitled to supply of copies of document or, where voluminous, to inspection of documents;
- (j) The Inquiry Officer should not take into account any material which did not come up during the course of inquiry.

(iv) Regarding procedural/technical omissions

Recording of disagreement of the Disciplinary Authority with the findings of the Inquiry officer in a manner where views of the Disciplinary Authority appear decisive in nature instead of being tentative.

(v) Regarding punishment

- (a) Advice tendered by CVC is not binding on disciplinary authority;
- (b) Recordable warning amounts to censure and cannot be imposed without following prescribed procedure for imposition of a minor penalty.

(vi) Regarding Appeals.

- (a) Appellate authority is under obligation to consider all the three requirements;
 - (i) whether procedure is complied with,
 - (ii) whether finding is based on evidence and
 - (iii) whether penalty is adequate. Order not disclosing consideration of all the three elements is illegal. Order must indicate application of mind.

(vii) Regarding delay in departmental action.

Inordinate delay in initiation of departmental inquiry coupled with subsequent promotion of Charged Officer after coming to light of misconduct is sufficient ground to disallow inquiry to be proceeded with.

It is worth notice that this is most common ground on which CAT/Court have quashed the proceedings against employees. However it is also noticed that courts/CAT are inclined to let the proceedings continue if the reasons of delay are well explained by the Vigilance Unit. There are also instances where CAT quashed the proceedings for the reasons of delay but, on appeal, the High Court has allowed the department to continue with the proceedings.

6.12 Fee payable to the counsels

Fee payable to the counsels have been notified by the Ministry of Law and Justice vide their No. F. No. 26(1)/2005-Judl. Dated 31.1.2008. Further vide OM No. 26(1)/2011 dated 1.9.2011 the Ministry of Law and Justice has upgraded the ASG of various high Courts, Central Government standing counsels of Delhi High Court and the Sr. Central Government Standing Counsels to **SENIOR PANEL COUNSELS** and has enhanced the fee payable to them. Same is tabulated as below.

S. No.	Item of Work	Revised Fee
1	Suits, Writ Petitions and Appeals, including oral Applications for Leave to Appeal to Supreme Court in Writ Petitions	Rs.6000/- per case per day of effective hearing. In case of non-effective hearing Rs.1000/- per day subject to a maximum of 5 hearing
2	Application for Leave to Appeal to Supreme Court in Writ Petitions	Rs.2000/- per case
3	Settling pleadings	Rs.2000/- per case
4	Miscellaneous Applications	Rs.2000/- per case
5	Conference	Rs.600/- per conference subject to:- <ul style="list-style-type: none">(i) for settling pleadings - One conference(ii) In respect of hearing of Writ matters, suits, appeals and Supreme Court leave applications etc. - Three conference (Maximum)
6	Miscellaneous and out of pocket expenses	As per actual to the satisfaction of the administrative Ministry/Department

Chapter VII

APPEAL/REVISION/REVIEW

7.0 Vigilance unit has to frequently deal with the Appeals or Revision or Review Petitions made by the employees aggrieved by the disciplinary action against them. It is important to understand all the three terms clearly so that such petitions can be disposed quickly and appropriately under the relevant rules as provided in the CCS (CCA) Rules 1965.

APPEAL

7.1 It is not open for an employee to make appeal against any order. Rule 22 of the CCS (CCA) Rules 1965 state the orders against which no appeal can be made. The orders against which appeal can be made are given in Rule 23 of the said Rules. These rules are reproduced below.

Rule 22 Orders against which no appeal lies

- (i) any order made by the President;
- (ii) any order of an interlocutory nature or of the nature of a step-in-aid of the final disposal of a disciplinary proceeding, other than an order of suspension;
- (iii) Any order passed by an inquiring authority in the course of an inquiry under Rule 14.

Rule 23 Orders against which appeal lies

Subject to the provisions of rule 22, a Government servant may prefer an appeal against all or any of the following orders, namely:-

- (i) an order of suspension made or deemed to have been made under rule 10;
- (ii) an order imposing any of the penalties specified in rule 11, whether made by the disciplinary authority or by any appellate or revising authority;
- (iii) an order enhancing any penalty, imposed under rule 11;
- (iv) an order which-
 - (a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or
 - (b) interprets to his disadvantage the provisions of any such rule or agreement;
- (v) an order-
 - (a) stopping him at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
 - (b) reverting him while officiating in a higher service, grade or post, to a lower service, grade or post, otherwise than as a penalty;
 - (c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;
 - (d) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;
 - (e) determining his pay and allowances-
 - (i) for the period of suspension, or
 - (ii) for the period from the date of his dismissal, removal or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time-scale or stage in a time-scale of pay, to the date of his reinstatement or restoration to his service, grade or post; or
 - (f) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a time-scale of pay to the date of his

reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose.

7.2 Appellate Authority

Appropriate Appellate authority for CPWD officers has been given in the CPWD Manual Volume I (Staff, Establishment, Organisation and Office Procedure). These should be referred to determine the competent appellate authority.

7.3 Period of limitation of Appeal

In terms of **Rule 25** of the CCS (CCA) Rules an appeal should be made within a period of 45 days from the date on which a copy of the order appealed against is delivered to the Appellant.

7.4 To whom appeal should be made

In terms of **Rule 26** of the CCS (CCA) Rules, the Appeal must be presented to the authority to whom appeal lies. The Appellant is also under the obligation to send a copy of his appeal to the authority which made the order appealed against.

7.5 Role of the authority which made the order appealed against.

In terms of Rule 26 of the CCS (CCA) Rules, the authority which made the order appealed against, on receipt a copy of the appeal, shall forward the same to the Appellate authority with his comments on the appeal and the relevant record. (Such authority should not wait for any directions from the Appellate authority).

This is the stage where the vigilance unit actually involves itself for the purpose of examination of appeal after which it is submitted to the Appellate authority (Generally MoUD).

Following information/records are required to be forwarded to the Appellate authority.

1. Brief history of the case.
2. Parawise comments on the appeal.
3. Disciplinary case file along with documents relied upon in the inquiry proceedings.
4. CR dossier of the appellant.
5. Any other record relevant to the case.

7.6 Consideration of Appeal.

While considering the appeal against penalty order, following issues must be considered. Since Vigilance unit examines the appeals on behalf of the Appellate authority, the procedure given below is to be earnestly followed while examining the appeal.

1. In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 10 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly;

2. In the case of an appeal against an order imposing any of the penalties specified in rule 11 or enhancing any penalty imposed under the said rules, the appellate authority shall consider-
 - (a) Whether the procedure laid down in CCS (CCA) rules have been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
 - (b) Whether the findings of the disciplinary authority are warranted by the evidence on the record; and
 - (c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe.

In view of the above it is worth notice that even if the Appellant has not brought out any new points in appeal, it is obligatory on part of the Appellate authority (and vigilance unit, for that matter) to discuss how there has been no procedural flaw or denial of opportunity to defend and that findings of the disciplinary authority are based on the evidence and are just.

7.7 Disposal of Appeal.

After consideration of appeal, the Appellate authority will pass the order

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

However following provisions of the Rule 27 of the CCS (CCA) Rules must be kept in mind

1. If such enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of rule 11 and in inquiry under rule 14 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 19, itself hold such inquiry or **direct that such inquiry be held in accordance with the provisions of rule 14 and thereafter, on a consideration of the proceedings of such inquiry and make such orders as it may deem fit.**
2. if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of rule 11 and an enquiry under rule 14 has been held in the case, the appellate authority shall make such orders as it may deem fit **after the appellant has been given a reasonable opportunity of making a representation against the proposed penalty.**
3. No order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions of rule 16, of making a representation against such enhanced penalty.

7.8 Consultation with the UPSC.

Consultations with the UPSC are necessary **only in those cases where the appeal lies to the President of India.**

7.9 Issue of orders for disposal of Appeal.

In the cases where the appeal lies with the President, the orders are issued by the MoUD after the submission of the case by the Vigilance unit to them.

In the cases where appeal lies with the DG, CPWD, the matter is handled by vigilance unit from start to the final disposal. The final order is issued under the signatures of the DG, CPWD.

7.10 REVISION

1. Who can revise the order and his powers

It must be borne in mind that original disciplinary authority can not revise or cancel its own order. The authority to revise and his power is as given in the Rule 29 of the CCS (CCA) Rules, which is being reproduced below:

Rule 29 Revision

- (1) Notwithstanding anything contained in these rules-
- (i) the President; or
 - (ii) the Comptroller and Auditor-General, in the case of a Government servant serving in the Indian Audit and Accounts Department; or
 - (iii) the Member (Personnel) Postal Services Board in the case of a Government servant serving in or under the Postal Services Board and Adviser (Human Resources Development), Department of Telecommunications in the case of a Government servant serving in or under the Telecommunications Board; or
 - (iv) The Head of a Department directly under the Central Government, in the case of a Government servant serving in a department or office (not being the Secretariat or the Posts and Telegraphs Board), under the control of such Head of a Department; or**
 - (v) The appellate authority, within six months of the date of the order proposed to be revised; or
 - (vi) Any other authority specified in this behalf by the President by a general or special order, and within such time as may be prescribed in such general or special order;

may at any time, **either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these rules or under the rules repealed by rule 34 from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed**, after consultation with the Commission where such consultation is necessary, and may-

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

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the

penalties specified in clauses (v) to (ix) of rule 11 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under rule 14 has not already been held in the case no such penalty shall be imposed except after an inquiry in the manner laid down in rule 14 subject to the provisions of rule 19, and except after consultation with the Commission where such consultation is necessary.

2. When can a revision petition be considered?

The revision petition can be considered only after the following

- a. After expiry of the period of limitation for an appeal.
- b. After disposal of appeal, if same is pending for the order of the appellant authority.

3. Purpose of Revision.

Though an employee can file a revision petition, the provisions relating to Revision is not primarily designed as channel of redressal of grievances but for *suo moto* exercise of **power to correct any error of judgment that has crept in the order sought to be revised.**

Provisions under Rule 29 also permits scrutiny by higher authority of penalty orders issued by subordinate authority to ascertain correctness of the findings and conclusion drawn at in the departmental inquiry and the adequacy of the punishment.

The revision petition should be dealt in the context explained above.

4. Limitation on consideration of Revision petition by the President

President has no jurisdiction to revise in terms of Rule 29, either *suo moto* or on application, an original order made by the President himself.

5. Time limit for submission of Revision petition

CCS (CCA) Rules 1965 do not prescribe any time limit within which revision petition can be submitted. However it is advisable to prefer such petition within 6 months of the issue of the order sought to be revised.

6. Procedure for handling the Revision petitions

Revision petitions are handled in the same manner as Appeals.

7. Consultation with UPSC.

Consultation with UPSC are necessary if the President overrules or modifies an order imposing any of the penalties specified in Clauses (v) to (ix) of the Rule 11 made by the President or by a subordinate authority.

8. Consultation with the CVC.

In such cases where the UPSC is not to be consulted the cases at appeal/revision stage should be referred to the Central Vigilance Commission where the appellate/revising authorities propose to modify or set aside the penalty imposed in a case in which the Central Vigilance Commission was earlier consulted. It will not be necessary to consult the

Central Vigilance Commission in cases, where the appellate/revising authority decides not to set aside or modify a penalty imposed by a disciplinary authority. Moreover, so long as the appellate/revising authority while modifying the penalty imposed by the disciplinary authority on the advice of the CVC, still remains within the parameter of the major or minor penalty, earlier advised by the Commission, there is no need to consult the Commission again, as such a modification does not have the effect of departing from their advice. The Commission should also be informed of the final outcome of all appellate/revision/review proceedings, if as a result of such proceedings; the penalties imposed on the earlier advice of the Commission are set aside or modified.

7.11 REVIEW

Rule 29A of the CCS (CCA) Rules 1965 deals with the Review and is reproduced below.

Rule 29A

The President may, at any time, either on his own motion or otherwise review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought, to his notice:

Provided that no order imposing or enhancing any penalty shall be made by the President unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose any of the major penalties specified in rule 11 or to enhance the minor penalty imposed by the order sought to be reviewed to any of the major penalties and if an enquiry under rule 14 has not already been held in the case, no such penalty shall be imposed except after inquiring in the manner laid down in rule 14, subject to the provisions of rule 19, and except after consultation with the Commission where such consultation is necessary.

1. Competent authority for review.

Only President can exercise the powers of Review under Rule 29A

2. When a Review can be made?

As provided in the Rule 29 A itself, the President can review an order passed by him earlier in revision if some new fact or material having the nature of changing the entire complexion of the case comes to his notice. Rule 29-A, has been introduced specifying the power of the President to make a review of any order passed earlier, including an order passed in revision under Rule 29, when any new fact or material which has the effect of changing the nature of the case comes to his notice.

Thus the vigilance officer, while examining Review petition, must confine his scrutiny within the scope of the review as stated above.

3. Consultation with UPSC.

Consultation with UPSC shall be necessary if the President decided to impose any of the said penalties and in modification of an order under which none of the said penalties has been imposed.

4. Scrutiny of the Review cases in the Vigilance unit

Review cases shall be examined and forwarded to the MoUD along with the comments and all relevant disciplinary/Appeal case files and records for issue of order by the MoUD.

CHAPTER - VIII

VIGILANCE CASES MONITORING INFORMATION SYSTEM (VIGMIS)

8.1 Objective:

The VIGMIS software based on WINDOWS platform is an important and effective tool for monitoring of status of complaints & disciplinary cases registered in vigilance unit of CPWD. The software is extensively used by vigilance unit for checking of vigilance status of an employee of CPWD for various purposes like promotion, financial up gradation, deputation, foreign visit, Superannuation benefits etc.

The software has been in use since December, 2004 but in old module complaints and disciplinary cases were treated separately. The old module has been thoroughly restructured with effect from 2011 to make the VIGMIS a tool for generating comprehensive report on complaints, the stage of investigation and inquiry, penalties imposed, CBI cases and cases in court.

8.2 Scope of the software:

The new restructured VIGMIS System is a web based system running presently in Intranet environment within the Nirman Bhawan, New Delhi at URL <http://10.21.56.17/vigmis>. If desired it can also run on Internet environment. The New System works on MS Windows Framework 3.5 as front end with MS SQL Server 2008 as back end on MS Windows 2008 OS.

The VIGMIS software is basically designed to monitor complaints & cases received from various sources like PMO's Office, Hon'ble MPs, CVC, MoUD, CBI, Borrowing Authority, Private persons & firms etc. The software is designed to categorize complaints & cases based upon sources involved.

8.3 Entry of Complaints, Cases and Stage updating:

The complaints received in vigilance unit are marked to AE (Computer Cell) by SE (V)'s to register in the VIGMIS software application. The registered complaints with unique identification number are passed on to Executive Engineer (Vigilance) [EE (V)] concerned for necessary action as required depending on the nature of complaint. The concerned EE (V) updates the stages achieved by the complaint in the software. As per CVC guidelines a complaint is dealt broadly on following parameters:

1. Complaints filed without inquiry.
2. Complaints filed after inquiry.
3. Complaints passed on to other sections as no vigilance angle is involved in the complaint.
4. Complaints passed on to the CBI for investigation/appropriate action.
5. Complaint taken up for detailed investigation.

The software has been programmed to respond to various stages achieved, like the complaints are closed for selection of 1 to 3 parameters and if a complaint is taken up for detailed investigation then that complaint will reflect in pending complaints category. Similarly, depending upon the

decision taken by the disciplinary authority or CVC, the stage selection for that decision will prompt EE (V) to select the desired option.

Once a decision is received from disciplinary authority or CVC to initiate the disciplinary proceedings, the complaint is converted in to case as soon as the EE (V) selects disciplinary proceedings option either for minor penalty or major penalty proceedings. The case is transferred to Engineer Officer (Discipline) [EOD] for disciplinary proceedings by selection of case transfer option in the menu of software.

The disciplinary proceedings stages are further categorized in to Minor penalty and Major penalty proceedings. The software also tracks cases where an officer against whom disciplinary proceedings have been initiated or concluded, is not satisfied with the proceedings files Appeal, Review petition, Revision petition or goes to CAT/Court.

The CBI prosecution cases & Regular Departmental Action cases (CBI-RDA) are monitored separately in the software.

8.4 Reports & Queries generation from the VIGMIS software:

8.4.1 The new restructured VIGMIS software can generate various reports & queries for specified period like

- i) All Complaints received.
- ii) Pending complaints.
- iii) Pending complaints (Source wise selection)
- iv) Complaints closed.
- v) Cases pending.
- vi) Officers involved in a complaint / case.
- vii) Sequence of stages achieved by a complaint or case.
- viii) The Vigilance Clearance Status of an officer can be checked with the use of this software.
- ix) CBI Cases reports (Prosecution and RDA).
- x) Cases from borrowing authority.

8.4.2 Vigilance Index Card form has been developed for giving vigilance clearance. It includes complete details of a complaint/case, including court details, suspension details and CBI details.

8.4.3 CVC Monthly Reports for complaints, Departmental Inquiries, Prosecution Sanctions have been incorporated in the restructured VIGMIS.

8.4.4 In the New System, complaints will be automatically converted into cases as soon as the 1st state CVC advice for Major/Minor proceedings is received.

The use of software for various purposes has resulted in better & effective monitoring of complaints and cases in less time. Since the software will be security audited by NIC, this will enable software to go in public domain as and when need arises in future for better coordination with MoUD, CVC and within CPWD.

The software has been programmed to respond to various stages achieved, like the complaints are closed for selection of 1 to 3 parameters and if a complaint is taken up for detailed investigation

then that complaint will reflect in pending complaints category. Similarly, depending upon the decision taken by the disciplinary authority or CVC, the stage selection for that decision will prompt EE(V) to select the desired option.

Once a decision is received from disciplinary authority or CVC to initiate the disciplinary proceedings, the complaint is converted in to case as soon as the EE(V) selects disciplinary proceedings option either for minor penalty or major penalty proceedings. The case is transferred to Engineer Officer (Disciplinary) [EOD] for disciplinary proceedings by selection of case transfer option in the menu of software.

The disciplinary proceedings stages are further categorized in to Minor penalty and Major penalty proceedings. The software also tracks cases where an officer against whom disciplinary proceedings have been initiated or concluded, is not satisfied with the proceedings files Appeal, Review petition, Revision petition or goes to CAT/Court.

The CBI prosecution cases & Regular Departmental Action cases (CBI.RDA) are monitored separately in the software.

No.006/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA
New Delhi-110023
Dated the 13th March 2006

Circular No. 14/3/06

Subject: Reference to the Commission for its advice - Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice - regarding

Reference : (i) No.NZ/PRC/1 dated 9.5.2005
(ii) No. NZ/PRC/1 dated 26.2.2004

...

The Commission has been repeatedly emphasizing the need for sending complete information to the Commission along with the relevant documents while seeking its advice. In particular, it was emphasized that while seeking first stage advice, the draft charge sheet should be enclosed. It is a matter of serious concern that these instructions are not being strictly complied with.

2. In supersession of all earlier instructions it is reiterated that following material should be furnished to the Commission while seeking its advice :-

- (a) A self contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self contained note is meant to supplement and not to substitute the sending of files and records.
- (b) The bio-data of the officer concerned in the enclosed format (Annexure-I).
- (c) Other documents required to be sent for first stage advice :-
 - (i) A copy of the complaint/source information received and investigated by the CVOs.
 - (ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;
 - (iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/acceptable, and the conclusions of the investigating officer.
 - (iv) Statements of witnesses and copies of the documents seized by the investigating officer.
 - (v) Comments of the Chief Vigilance Officer and the disciplinary authority on the investigation report (including investigation done by the CBI and their recommendation)
 - (vi) A copy of the draft charge sheet against the SPS alongwith the list of documents and witnesses through which it is intended to prove the charges.

- (d) Other documents required for second stage advice :
- (i) A copy of the charge sheet issued to the public servant;
 - (ii) A copy of the inquiry report submitted by the inquiring authority (alongwith a spare copy for the Commission's records);
 - (iii) The entire case records of the inquiry, viz copies of the depositions, daily Order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;
 - (iv) Comments of the CVO and the disciplinary authority on the assessment of evidence done by the inquiring authority and also on further course of action to be taken on the inquiry report.

This is brought to the notice of all CVOs for strict compliance.

Sd/-
(V.Kannan)
Director

To

All Chief Vigilance Officers

Bio-Data of the officer against whom Commission's advice is sought

1. Name of the officer :
2. Designation
(a) At Present :
(b) When the alleged misconduct was committed :
3. Service to which belongs
(Also please mention the cadre and year of allotment
In case of officers of the organized/All India Services)
4. Date of Birth :
5. Date of Superannuation :
6. Level/Group of the present post and pay scale :
7. Date of Suspension (if under suspension) :
8. Disciplinary Rules applicable to concerned
Public servant :
9. Nature of misconduct, in brief (Like false TA Claims,
Exceeding delegated powers, supervisory lapses etc)
10. Allegations/charges in details (which were
investigated/inquired) and results thereof :
11. Version of public servant on established allegations/
Charges (Separately for each allegation/Charge) :
12. Reasons why version of public servant is not acceptable
13. Misconduct imputed (whether lack of integrity and/or :
Devotion to duty) with relevant clauses of CDA Rules :
14. Recommendation of CVO and disciplinary authority :
On the findings of investigating/inquiring authority
15. Involvement of officer in previous complaints, if any,
and results of investigations/inquiries authority :
16. Brief particulars of similar cases, if any, in the
Organization in which same or other officer might
have been indulged; and action taken in the matter :

Signature of C.V.O. _____
Date _____
Tel. No. _____

No.006/PRC/1/27483
Government of India
Central Vigilance Commission

Satarkta Bhawan
GPO Complex, Block 'A' , INA
New Delhi - 110023.

Dated the December, 2008

Circular No. 32/12/08

Subject: Reference to the Commission for advice - Information to be enclosed along with organisations' recommendations.

The Commission in order to ensure correct assessment and speedy examination of the cases being forwarded to it for obtaining its advice has been emphasizing on the need for sending complete details/records pertaining to such case(s). However, it is noted that despite the Commission's circular No. 14/3/06 dated 13.3.2006 on the aforementioned subject, there is no uniformity regarding the manner of sending information to it in cases where Commission's advice is being sought. The Commission with a view to further streamline the procedure and to avoid delay on account of incomplete information, has decided that along with other records/documents, the following tabular statement should accompany the organizations recommendations -

S No.	Name Designation of the suspected officer	Allegations in brief	Findings of the investigation/inquiry on each allegation	Defence of the suspected officer	Comments/Recommendation of the DA	Comments/Recommendation of the CVO
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2. The information in the tabular statement should accompany the organizations' recommendations in both first/second stage advice cases. This may be noted for strict compliance.

(Shalini Darbari)
Director

All Chief Vigilance Officers

APPENDIX -2
(Ref: Para 5.1)

List of Appointing Authorities, Disciplinary Authorities & Appellate Authorities in CPWD

SNo.	Post/Services	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to Rule 11 of CCS(CCA) Rules,1965)		Appellate Authority
			Authority	Penalties	
1	2	3	4	5	6

1. Group 'A' (Other than Officers belonging to the CSS) viz Central Engineering service, Central Elect. & Mech. Engg. Service Group 'A' and

President

President

All

President

General Central Service Group 'A'

Consisting of the following: DG(W)/ADG(W)/ADG(ARCH)/CE/SE/EE/AEE/CA/ACA/SA/Architect/Dy Arch/Dir. Of Hort./Additional Dir of Hor./FO to DG(W)/DD(H)

II	Group 'B' (other than officers belonging to the CSS/CSSS.	DG(W)	a) DG(W) b) CE(Vig)	a) All President b) For (i) to (iv) only	DG(W)
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Central Engg. Service Group 'B' 'C' & Central Elect. Engg. Service Group 'B' And

General Central Service Group 'B' consisting the following

(a)	Asstt. Director of Horticulture]	DG(W)	DG(W)	All	President
(b)	Asstt. Architect]				
(c)	Chief Architectural Assistant] (Non Gazetted) (Previously] designated as] Chief Draftsman)]	DG(W)	DG(W)	All	President
(d)	Financial Officer to the Chief Engineer				

III Group 'cC' (Other than officers belonging to CSS/CSSS/CSCS)

(1)	Architectural Assistant (previously designated as Architectural Draftsman/Asstt. (Arch. Department)	Director of Admn.	Director of Admn.	All	DG(W)
(2)					
(3)	Circle Office Superintendent	DG(W)	DG(W)	All	Secretary in the Ministry of Urban Development DG(W) for penalties (i) to (iv)
(4)	Ministerial & Engineering Drawing staff of Subordinate office cadre	SE/ Director of Horticulture	SE/ Director of Horticulture	All	DG(W) for all penalties (b) CE (Vig) for penalties (i) to (iv)
(5)	Junior Engineer (Civil/Elect)	SE	SE	All	Concerned CE for all

(6) Sectional Officer (Horticulture)	Director of Horticulture	Director of Horticulture	All	penalties. -do-
(7) All other miscellaneous posts in Circles, Divisions and Sub-Divisions	SE	(a) SE/Director of Horticulture (b) Divisional Officer	(a) CE(Vig) for all penalties (i) to (iv)	(b) SEs for penalties (i) to (iv) where orders have been passed by Divisional Officer
IV CSS/CSCS/CSSS STAFF Group 'A', 'B' & 'C'				
(1) Dir. Of Admn. holding the rank of Dy. Secy to the Govt of India	President	President	All	President
(2) Dy. Director of Admn. holding the rank of Under Secretary to the Govt of India	President	President	All	President
(3) Section Officers of CSS	President	(i) President (ii) DG(W)	All for (i) only President	
(4) Assistants of CSS	President	(i) President (ii) DG(W)	All for (i) to (iv) only	President
(5) Stenographers - CSSS Grade I	President	(i) President (ii) DG(W)	All for (i) only	Do
(6) Stenographers - CSSS Grade II	President	(i) President (ii) DG(W)	All for (i) only	Do
(8) Upper Division Clerks & Lower Division Clerks of CSCS	Dy Secy in the Ministry	(i) Dy Secy in the Ministry (ii) Director of Admn.	All For (i) to (iv)	Secretary in the Ministry DG(W)
NOTE: Items 2 - 4 are in accordance with Part II & III of the Schedule annexed to Department of Personnel Notification No. 7/3/68-Ests (A), dated 21.8.71.				
V Group 'D' Staff				
(1) In Central Office (all posts)	Dy Director of Admn.	Dy Director of Admn.	All	Director of Admn.
(2) In Central Office (all posts)	SE	SE	All	CE concerned
(3) In Divisional & Sub-Divisional Offices (all posts)	EE	(i) EE (ii) Sub-Divisional Officer	All For (i) to (iv) only	SE/EE

Standard form of Memorandum of charge for minor penalties.
[Rule 16 of CCS (CCA) Rules, 1965]

No XYZ
Government of India
Ministry of XYZ
Dated XYZ

MEMORANDUM

Shri XYZ (Designation) XYZ (Office in which working) XYZ is hereby informed that it is proposed to take action against him under Rule 16 of CCS (CCA) Rules, 1965. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri XYZ is hereby given an opportunity to make such representation as he may wish to make against the proposal.
3. If Shri XYZ fails to submit his representation within 10 days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri XYZ exparte.
4. The receipt of this Memorandum should be acknowledged by Shri XYZ.

¹(By order and in the name of the President)

Signature
Designation of the Competent Authority

To,

Shri XYZ.

**Standard form for initiation of minor penalty proceedings (in cases where disciplinary authority
decides to hold the inquiry)
[Rule 16 of CCS (CCA) Rules, 1965]**

No *XYZ*
Government of India
Ministry of *XYZ*
Dated *XYZ*

MEMORANDUM

In continuation of Memorandum No *XYZ*, dated, *XYZ* issued under Rule 16 of the CCS (CCA) Rules, 1965, the President/undersigned is of the opinion that it is necessary to hold an enquiry against Shri *XYZ* under Rule 16 (1) (b) of the CCS (CCA) Rules, 1965. The substance of the imputation of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statements of article of charge (Annexure-I). A statement of the imputation of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri *XYZ* is directed to submit within ten days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri *XYZ* is further informed that if he does not submit his written statement of defence on or before the date specified in Para-2 above, or does not appear in person before the Inquiring Authorities or otherwise fails or refuses to comply with the provisions of Rules 14 and 16 of the CCS (CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring Authority may hold the inquiry against him ex parte.

5. Attention of Shri *XYZ* is invited to Rule 20 of the CCS (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri *XYZ* is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of CCS (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

(By order and in the name of the President)

Signature

Designation of the Competent Authority

To,

Shri *XYZ*

No.372/19/2011-AVD-III(Pt.I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, the September, 2011.

OFFICE MEMORANDUM

Subject: Dispensing with second stage consultation with the CVC in disciplinary cases

The Government had constituted a Group of Ministers (GoM), on January, 2011 with the approval of the Prime Minister to consider measures that can be taken by the Government to tackle corruption. One of the terms of reference (ToR) of the GoM was to consider and advise on "Fast tracking of all cases of public servants accused of corruption". The GoM, while considering this (ToR) also considered certain important recommendations of the Hota Committee (Committee of Experts to review the procedure of Disciplinary/Vigilance Inquiries and recommended measures for their expeditious matters may be dispensed with. However, in those cases where consultation with UPSC is not required as per extant rules/instructions, the second stage consultation with CVC should continue.

The above recommendation of the GoM has been accepted by the Government with the approval of the Prime Minister. All Ministries/Departments are, therefore, advised to strictly adhere to the new procedure with immediate effect.

The Central Vigilance Commission has been separately requested to amend its Vigilance Manual and other relevant instructions accordingly.

(V.M. Rathnam)
Deputy Secretary to the Government of India
Tel. No. 011-23094637

To

1. All Ministries/Departments as per standard list
2. Central Bureau of Investigation, CGO Complex, New Delhi.
3. Prime Minister's Office, South Block, New Delhi.
4. NIC, DoP&T for uploading on the website of the Department

Copy to:

1. Central Vigilance Commission, Satarkata Bhawan, New Delhi.

No.006/VGL/098
Government of India
Central Vigilance Commission

Satarkta Bhawan
GPO Complex, Block 'A' , INA
New Delhi - 110023.

Dated the December, 2008

Circular No. 39/10/06

Subject: Difference of opinion with CVC's advice regarding quantum of penalty, etc.

Reference is invited to the Department of Personnel & Training O.M. No. 134/2/95-AD-I dated 13.6.1995 and the earlier instructions contained in Department of Personnel & Administrative Reforms O.M. No. 118/2/78-AVD-I dated 28.9.78 on the above subject.

The Commission has observed that in a number of cases of disagreement with the Commission's advice, the Commission has not been informed about the reasons for disagreement or whether a reference to the DOPT, as required under the above instructions, was made. The CVOs are, therefore, directed to ensure that before it is finally decided to disagree with the Commission's advice on further action on a complaint or on an investigation report, or in a vigilance case, reference is made to the Department of Personnel in respect of all such cases, where the appointing authority is the President or the disagreement is due to UPSC's advice.

The CVOs may please note these instructions for strict compliance. They should also ensure that wherever it has been finally decided to disagree with the Commission's advice, reasons for the same are communicated to the Commission along with a final order in the case, to enable the Commission to decide about inclusion of the case in its Annual Report.

SD/-
(V. KANNAN)
DISRECTOR

All Chief Vigilance Officers

**Standard form of charge-sheet for major penalties
(Rule 14 of CCS (CCA) Rules**

No. ZYZ
Government of India
Ministry of XYZ
Dated XYZ

MEMORANDUM

The President/undersigned proposes to hold an inquiry against Shri ZYZ under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri XYZ is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri XYZ is further informed that if he does not submit his written statement of defence on or before the date specified in Para-2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rule, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex.parte.

5. Attention of Shri XYZ is invited to Rule 20 of the Central Civil Services (Conduct) Rule, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri XYZ is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rule, 1964.

6. The receipt of the Memorandum may be acknowledged

¹ (By order and in the name of the President)

(XYZ)

Name and designation of Competent Authority

- I

Statement of articles of charge framed against Shri XYZ (name and designation of the Government servant)

Article - I

That the said Shri XYZ while functioning as XYZ during the period XYZ

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri XYZ.

- II

Statement of imputation of misconduct or misbehavior in support of the articles of charge framed against Shri XYZ (name and designation of the Government Servant).

Article - I

Article - II

- III

List of documents by which the articles of charge framed against Shri XYZ (name and designation of the Government Servant) are proposed to be sustained.

- IV

List of documents by whom the articles of charge framed against Shri XYZ (name and designation of the Government Servant) are proposed to be sustained.

(12) Whether charges can be dropped at the stage of initial written statement of defense :-

A question has been under consideration whether Rule 14 (5) (a) of the CCS (CCA) Rules, 1965 permits the dropping of charges by the disciplinary authority after considering the written statement of defence submitted by the accused Government servant under Rule 14 (4) *ibid*. The question has been considered in consultation with the Ministry of Law and the position is clarified as under :-

(a) The disciplinary authority has the inherent power to review and modify the articles of charge or drop some of the charges or all the charges after the receipt and examination of the written statement of defence submitted by the accused Government servant under Rule 14 (4) of the CCS (CCA) Rules, 1965.

(b) The disciplinary authority is not bound to appoint an Inquiry Officer for conducting an inquiry into the charges which are not admitted by the accused official but about which the disciplinary authority is satisfied on the basis of the written statement of defence that there is no further cause to proceed with.

2. It may, however, be noted that the exercise of powers to drop the charges after the consideration of the written statement of defence by the accused Government servant will be subject to the following conditions :-

(a) In cases arising out of investigations by the Central Bureau of Investigation, the CBI should be consulted before a decision is taken to drop any of, or all the charges on the basis of the written statement of defence submitted by the accused Government servant. The reasons recorded by the disciplinary authority for dropping the charges should also be intimated to the Central Bureau of Investigation.

(b) The Central Vigilance Commission should be consulted where the disciplinary proceedings were initiated on the advice of the Commission and the intention is to drop or modify any of, or all the charges on the basis of the written statement of defence submitted by the accused Government servant.

[G.I., MHA OM No. 11012/2/79-Estt.(A) dated the 12th March, 1981 and OM No. 11012/8/82-Estt.(A) dated the 8th December, 1982]

No.006/PRC/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA
New Delhi-1100023
Dated the September 2000

To

All Chief Vigilance Officers of Ministries/Departments of Government of India/Nationalized Banks/PSUs/Autonomous Bodies, Societies etc..

Subject: Consultation with the CVC - Making available a copy of the CVC's advice to the concerned employee

Sir,

Para 3.6 (iii), chapter XI and para 8.6, Chapter XII of the Vigilance Manual, Vol.I, provide that the advice tendered by the Central Vigilance Commission is of a confidential nature meant to assist the disciplinary authority and should not be shown to the concerned employee. It also mention that the Central Vigilance Commission tenders its advice in confidence and its advice is a privileged communication and, therefore, no reference to the advice tendered by the Commission should be made in any formal Order.

2. The Commission has reviewed the above instructions in view of its policy that there should be transparency in all matters, as far as possible. The Commission has observed that the Hon'ble Supreme Court had held a view in the case - State Bank of India Vs. D.C. Aggarwal ands another (Date of judgment: 13.10.1992) - that non-supply of CVC's instructions, which was prepared behind the back of respondent without his participation, and one does not know on what material, which was not only sent to the disciplinary authority but was examined and relied, was certainly violative of procedural safeguard and contrary to fair and just inquiry. Further, the Hon'ble High Court of Karnataka at Bangalore, in Writ Petition No. 6558/93, has also observed that if a copy of the report (CVC's advice) was furnished to the delinquent officer, he would have been in a position to demonstrate before the disciplinary authority either to drop the proceedings or to impose lesser punishment instead of following blindly the direction in the CVC's report.
3. The Commission, at present, is being consulted at two stages in disciplinary proceedings, i.e. first stage advice is obtained on the investigation report before issue of the charge sheet, and second stage advice is obtained either on receipt of reply to the charge sheet or on receipt of inquiry report. It, however, does not seem necessary to call for the representation of the concerned employee on the first stage advice as the concerned employee, in any case, gets an opportunity to represent against the proposal for initiation of departmental proceedings against him. Therefore, a copy of the Commission's first stage advice may be made available to the concerned employee along with a copy of the charge sheet served upon him, for his information. However, when the CVC's second stage advice is obtained, a copy thereof may be made available to the concerned employee, along with the Inquiry

Officer's report, to give him an opportunity to make representation against Inquiry Officer's findings and the CVC's advice, if he desires to do so.

4. In view of the position stated above, para 3.6 (iii), Chapter XI and para 8.6, Chapter XII of the Vigilance Manual, Vol.I and also para 2 of the Commission's letter No. 6/3/73-R dated 20.8.1973 may be treated as deleted.
5. Para 12.4.4. of Special Chapter on Vigilance Management in Public Sector Banks and para 22.6.4 of the Special Chapter on Vigilance Management in Public Sector Enterprises envisage that the inquiring authorities, including the CDI's borne on the strength of the Commission, would submit their reports to the disciplinary authority who would then forward the Inquiry Officer's reports, along with its own tentative views to the Commission for its second stage advice. The existing procedure in this regard may broadly continue. The disciplinary authority may, after examination of the inquiry report, communicate its tentative views to the Commission. The commission would thereafter communicate its advice. This, along with the disciplinary authority's advice, may be made available to the concerned employee. On receiving his representation, if any, the disciplinary authority may impose a penalty in accordance with the Commission's advice or if it feels that the employee's representation warrants consideration, forward the same, along with the records of the case, to the Commission for its reconsideration.
6. Thus, if on the receipt of the employee's representation, the concerned administrative authority proposes to accept the CVC's advice, it may issue the orders accordingly. But if the administrative authority comes to the conclusion that the representation of the concerned employee necessitates, reconsideration of the Commission's advice, the matter would be referred to the Commission.

Yours faithfully
Sd/-
(K.L. Ahuja)
Officer on Special Duty

Disciplinary cases – need for issuing speaking orders by competent authorities :-

As is well known and settled by courts, disciplinary proceedings against employees conducted under the provisions of CCS (CCA) Rules, 1965, or under other corresponding rules, are quasi-judicial in nature and as such, it is necessary that orders in such proceedings are issued only by the competent authorities who have been specified as disciplinary/appellate/reviewing authorities under the relevant rules and the orders issued by such authorities should have the attributes of a judicial order. The Supreme Court, the case of Mahavir Prasad Vs. State of U.P. (AIR 1970 SC 1302), observed that recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. The necessity to record reasons is greater if the order is subject to appeal.

2. However, instances have come to the notice of this Department where the final orders passed by the competent disciplinary/appellate authorities do not contain the reasons on the basis whereof the decisions communicated by that order were reached. Since such orders may not conform to legal requirements, they may be liable to be held invalid, if challenged in a court of Law. It is, therefore, impressed upon all concerned that the authorities exercising disciplinary powers should issue self-contained speaking and reasoned orders conforming to the aforesaid legal requirements.
3. Instances have also come to notice where, though the decisions in disciplinary/appellate cases were taken by the competent disciplinary/appellate authorities in the files, the final orders were not issued by that authority but only by a lower authority. As mentioned above, the disciplinary/appellate/ reviewing authorities exercise quasi-judicial powers and as such, they cannot delegate their powers to their subordinates. It is therefore, essential that the decision taken by such authorities are communicated by the competent authority under their own signatures, and the order so issued should comply with the legal requirements as indicated in the preceding paragraphs. It is only in those cases where the President is the prescribed disciplinary/appellate/reviewing authority and where the Minister concerned has considered the case and given his orders that an order may be authenticated by an officer, who has been authorized to authenticate orders in the name of the President.

[Deptt. of Personnel & A.R. OM No. 134/1/81-AVD-I

dated 13.07.1981]