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The Complaint Handling Policy of CBEC

**Directorate General of Vigilance
Central Board of Excise & Customs
Ministry of Finance - Department of Revenue**

FOR DEPARTMENTAL USE ONLY

THE COMPLAINT HANDLING POLICY OF CBEC

ISSUED BY: DIRECTORATE GENERAL OF VIGILANCE,
CENTRAL BOARD OF EXCISE & CUSTOMS
(CBEC) NEW DELHI

FOREWORD

*We, in the CBEC have a solemn responsibility to adhere to the highest integrity standards. Every possible step needs to be taken to ensure that instances of misconduct do not escape scrutiny and action. At the same time the morale of the officers should not be adversely affected by questioning their decisions /action on the basis of complaints of trivial/ technical nature not involving pecuniary advantage or any illegality. In this context a comprehensive Complaint Handling Policy is imperative for an effective and efficient administrative functioning. **“THE COMPLAINT HANDLING POLICY OF CBEC”**, seeks to ensure that complaints about corruption, malpractice or misconduct by officials of CBEC are received, recorded and acted upon in a manner consistent with the instructions of the Central Vigilance Commission (CVC). In the guidelines of this crucial policy document, there are adequate safeguards to ensure, that frivolous and baseless complaints against officials do not become a tool of harassment or demoralisation, and an impediment to discharge of official responsibilities . For these twin objectives to be met, it is hoped that the guidelines given in **“THE COMPLAINT HANDLING POLICY OF CBEC”** would be given the due importance and observed in letter and spirit.*

(S.DUTT MAJUMDER)

CHAIRMAN

CENTRAL BOARD OF EXCISE AND CUSTOMS

PREFACE

We receive complaints about corruption, malpractices or misconduct by public servants in our department in a decentralized manner. In the absence of a structured policy, these complaints are dealt with differently by different field formations .Therefore, in order to have consistency and reduce discretion in the handling and processing of complaints in all formations under CBEC, a 'Complaint Handling Policy' has been formulated.

In order to cover the entire spectrum of complaint handling in this document in a clear and concise manner, the discussion on the subject is arranged in the following manner:-

01. Introduction
02. Complaints
03. Registration of Complaints
04. Verification of Complaints
05. Action on Complaints
06. Action on Anonymous and Pseudonymous Complaints
07. Complaints received under Public Interest Disclosure Resolution
08. Complaints referred for investigation by CVC
09. Investigation
10. Investigation of Complaints by D.G. Vigilance
11. Time limit for conducting investigation of Complaints

12. Preparation and submission of the Investigation Report/
Proposal of Charge Sheet(s); Procedure for seeking First
Stage Advice

13. Second Stage Advice.

*Necessary care has been taken to ensure that the guidelines given under various subheads are consistent and in tune with the instructions issued by the CVC from time to time. In order to ensure that the document on 'Complaint Handling Policy' is a comprehensive referencer, the relevant CVC's instructions have been given under each sub-heading along with their complete text. **"THE COMPLAINT HANDLING POLICY OF CBEC"** would also be available on the departmental web site. The need for constant updation of this document is well recognized and all efforts would be made to update the same from time to time.*

(JASDEEP VIRENDRA SINGH)
DIRECTOR GENERAL (VIGILANCE)

THE COMPLAINT HANDLING POLICY OF CBEC

01. Introduction:

Receipt of information about corruption, malpractice or misconduct on the part of public servants-from whatever source would be termed as a complaint. The genesis of most of the vigilance investigations can be traced to information received either through written complaints or through source information (where a complainant does not want to commit his complaint to writing or wants to remain in the background). Common sources of the origin of complaints/information are listed in Para 2, these are illustrative and not exhaustive.

02. Complaints:

2.1. Complaints relating to corruption and malpractices may be received by the Vigilance Directorate of CBEC or by the field formations. These may comprise of complaints received from, or forwarded by:-

2.1.1 Central Vigilance Commission made under Public Interest Disclosure or otherwise.

2.1.2 The President's Secretariat and the Prime Minister's Office.

2.1.3 Ministries and Department of the Central or State Govt.

2.1.4 Any Administrative Authority under CBEC.

2.1.5 CBI and other police authorities when they do not intend to investigate the complaint.

2.1.6 MPs/MLAs/VIPs, individuals and non-governmental organizations.

2.2. Apart from written complaints, information may be received verbally from any person, who does not want to give a complaint in writing however, the source of information must be identifiable and information received verbally from an identifiable source must be reduced in writing. Information relating to corruption and malpractices can also be gleaned from the following sources:-

2.2.1 Proceedings of both Houses of Parliament in which Members of Parliament may mention information in their possession.

2.2.2 Reports of various Committees of Parliament, CAG Report.

2.2.3 Annual Reports of DRI, DGCEI, D.G(Audit), D.G.(Service Tax) Internal Audit Reports , Departmental Inspection Reports, Review proceedings.

2.2.4 Cases booked by DRI, DGCEI, Anti-Evasion Wing of Central Excise, Service Tax Commissionerate and Preventive Wing of Customs Commissionerate, etc.

2.2.5 Information appearing in the Media.

2.2.6 Scrutiny of transactions reported under the Civil Services (Conduct) Rules, or scrutiny of the immovable and movable property returns.

2.2.7 Verifiable facts contained in anonymous or pseudonymous complaints.

2.2.8 Complaints received through e-mail/Web based feed-back/other interactive systems viz., complaint filing facility on CVC and CBEC web site, complaints filed through **cpgrams** of Department of Administrative Reforms and Public Grievances etc., .

03. Registration of Complaints:-

- 3.1.** Every complaint received by a formation has to be entered chronologically in a vigilance data base to be maintained in electronic as well as hard copy (register) format. The prescribed format is as per CVO-I.
- 3.2.** Every Vigilance Section/Unit will maintain a vigilance complaints register in Form CVO-1, in two separate parts for category 'A' and category 'B' employees. Category 'A' includes such employees against whom Central Vigilance Commission's advice is required whereas category 'B' includes such employees against whom CVC's advice is not required. If a complaint involves both categories of employees, it should be shown against the higher category, i.e. category 'A'.
- 3.3.** A complaint containing allegations against several officers may be treated as one complaint for the purpose of statistical returns.
- 3.4.** Entries of only those complaints in which there is an allegation of corruption or improper motive; or if the alleged facts prima facie indicate an element or potentiality of a vigilance angle should be made in the register.

- 3.5.** Source information should be recorded and filed as per procedure prescribed for DRI-I/AE-I. If the same also contains information about tax evasion, the part of source information related to tax evasion should be forwarded for necessary action and report to the appropriate formation. Vigilance action in such matters should be initiated preferably on receipt of report from the concerned formation.

CVO-I Format as per Vigilance Manual 2005:

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

S.No.	Source of complaints (see N.B.1)	Date of receipt	Name and designation of officer(s) complained against	Reference to file No.	Action taken (see N.B. 2)	Date of action	Remarks (see N.B. 3)
1.	2.	3.	4.	5.	6.	7.	8

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

N.B.2. Action taken will be of the following types:

- Filed without enquiry.
- Filed after enquiry.
- Passed on to other sections as having no vigilance angle.
- Taken up for investigation by the Commissionerate.
- Referred to Directorate General of Vigilance.

N.B.3. Remarks column should mention (a) and (b).

- If there were previous cases/complaints against the same officer, the facts should be mentioned in the "Remarks" column.
- Date of charge-sheet issued, wherever necessary.

04. Verification of Complaints.

After the receipt and registration of the complaint the verification of genuineness of the complaint may be done by any of the following methods.

- 4.1.** Addressing the complainant a letter through speed post, asking him/her to confirm, within a specified time limit, that he/she has made the complaint.
- 4.2.** By deputing an authorized official to personally contact the complainant and obtain a written confirmation to the effect that a complaint has been made by him/her .
- 4.3.** In a case where the complaint is received electronically vide e-mail/web based feedback mechanism, the complainant should be asked to disclose his/her verifiable details regarding name and address which should be subjected to verification as prescribed in **para 4.1** or **4.2** before taking cognizance of the complaint.
- 4.4.** In the case of complaints received from MPs/ MLAs etc. requests for verification of genuineness some time do not receive a response; in such an eventuality, the genuineness must be verified by deputing an authorized official to contact the MP/ MLA concerned.
- 4.5** Where a complaint has been forwarded to CBEC with a positive endorsement by, or on behalf of the Minister, asking for a report, the investigations may be undertaken without verification of genuineness.
- 4.6.** In addition verification of genuineness is not required to be done in cases of complaints

forwarded by the CVC for investigation and in regard to complaints received under the Public Interest Disclosure Scheme¹.

Ref: 1. CVC Circular No. 002/VGL/61/CVC : Dated 23.09. 2003

1. CircularNo.002/VGL/61/CVC : Dated the 23rd September 2003

Subject: - Disposal of complaints- regarding

The Commission has received a number of references from the various departments/organizations seeking clarifications whether a complaint forwarded by the Commission for report may be first got confirmed from the complainant before taking up for investigations.

2. The Commission has examined the issue and decided that once it calls for a report on a complaint, the departments/organizations, should treat it as a signed complaint though on the face of it the complaint may be anonymous/ pseudonymous. Clarifications, if required, could be obtained from the complainant(s), as part of the enquiry into the matter.

05. Action on Complaints⁵

- 5.1.** Anonymous and pseudonymous complaints are to be dealt with as laid down in **para 06**.
- 5.2.** Complaints having no vigilance angle^{2&3} but indicative of violation of Civil Services Conduct Rules provisions in terms of non maintenance of accepted standard of morality, decency, decorum and propriety, act of insubordination etc., against all cadres of officials are required to be are

required to be dealt with by the respective Disciplinary Authorities and hence should be forwarded/referred to the respective Disciplinary Authorities⁴.

- 5.3. In case the investigation reveals that prima facie it could be an issue covered under the provisions of Prevention of Corruption Act, 1988, and /or, the case requires making inquiries from non-official persons or involves examination of non-government records, books of account etc., the case may be referred to CBI for detailed investigation.
- 5.4. Investigation to be entrusted to a Zonal Unit of the Vigilance Directorate. In this regard, Field formations must follow the guidelines given in para 10.4.
- 5.5. To be referred to field formation for investigation and report; and if the complaint is not pertaining to the concerned field office, it should be forwarded under intimation to the relevant jurisdictional formation.
- 5.6. To be filed for want of adequate verifiable details.
- 5.7. Any complaint from a person known to make frivolous complaints (complaints having misleading and incorrect facts) may be filed, after prima-facie scrutiny of the complaint. The concerned office in such cases may contemplate initiating action under Section-182 of IPC against the complainant⁶.
- 5.8. The level of decision making involved in the aforementioned actions should be in consonance with the provisions of **para 06 and 12**.

- Ref: 2. CVC Circular No. 002/VGL/61/CVC : Dated 1.04.,2004*
3. CVC Circular No. 004/VGL/18/CVC : Dated 13.04. 2004
4. CVC Circular No. 004/VGL/18/CVC : Dated 21.12. 2005
5. CVC Circular No.004/VGL/62/CVC: Dated 31.08. 2004
6. Section 182 of IPC

2. Circular No.002/VGL/61:/CVC: Dated the 1st April 2004

Subject: Disposal of complaints.

Reference is invited to the Commission's Office Order No. 53/9/03 dated 23.9.2003 and para 4.2, Chapter 2 of Vigilance Manual Vol. I on the above subject.

2. In case the complaint does not attract vigilance angle, or the issue is of petty nature which could be settled at the level of the department/organization, the Commission forwards such a complaint to the organization for necessary action at their end, to redress the grievances of the complainant. The action on these complaints is not required to be sent to the Commission for further advice until and unless something more serious is brought out during the investigation. The departments/ organizations may themselves dispose of and close these complaints after necessary action. The concurrence of Commission for closure of such complaints is not required.

The CVOs may close the complaints at their level. However if the complaint is sent for action and report, the organizations should submit an investigation report within 3 months of receipt of complaint for obtaining necessary advice of the Commission.

It has been observed that there is a long delay in matter of investigation of complaints, the organizations

are advised to strictly adhere to the time-schedule in this regard.

3. Circular No. 004/VGL/18/CVC : Dated: 13th April, 2004

Subject: Vigilance angle – definition of

As you are aware, the Commission tenders advice in the cases, which involve a vigilance angle. The term “vigilance angle” has been defined in the Special Chapters for Vigilance Management in the public sector enterprises, public sector banks and public sector insurance companies. The matter with regard to bringing out greater quality and precision to the definition has been under reconsideration of the Commission. The Commission, now accordingly, has formulated a revised definition of vigilance angle as under:

“Vigilance angle is obvious in the following acts: -

- (i) Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.**
- (ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or his subordinates have official dealings or where he can exert influence.**
- iii) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.**

- (iv) Possession of assets disproportionate to his known sources of income.**
- (v) Cases of misappropriation, forgery or cheating or other similar criminal offences.**

2(a) 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.

2 (b) Any undue/ unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.

3. The raison d'être of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organization. Commercial risk taking forms part of business. Therefore, every loss caused to the organization, either in pecuniary or non- pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial/operational

interests of the organization is one possible criterion for determining the bonafides of the case. A positive response to this question may indicate the existence of bonafides. A negative reply, on the other hand, might indicate their absence.

4. 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.”

5. The above definition becomes a part of the Vigilance Manual and existing Special Chapter on Public Sector Banks and Public Sector Enterprises brought out by the Commission, in supersession of the existing definition.

4. Circular No. 004/VGL/18/CVC :: Dated the 21st December, 2005

Sub:- Vigilance angle – definition of (partial modification regarding)

In partial modification to Commission’s Office Order No. 23/4/04 issued vide No. 004/VGL/18 dated 13.4.04 on definition of vigilance angle, the following is added at the end of para 2 for the purpose of determination of vigilance angle as para 2 (b)

“Any undue/unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case”. The existing para 2 will be marked as para 2(a).

5. Circular No.004/VGL/62/CVC Dated, the 31st August 2004:

Sub: Time limit for investigation for complaints-regarding.

The DOPT in their OM No. 27(12)(EO)/94/ACC dated 30.7.99 regarding guidelines for processing cases of Board level appointments in PSEs have taken cognizance of the fact that there are sometimes spate of complaints against individuals whose names are being considered/finalized by the PESB. It has also come to the notice of the Commission that sometimes when an official is due for promotion, some old complaints are taken cognizance of and investigations started against the official. This matter was also discussed in the meetings to review the performance of the CVOs wherein suggestions for modification in the time period were made.

2. The matter has been considered by the Commission and to avoid unnecessary harassment to the officials, against whom frivolous complaints are received at the time of their promotion/selection, the Commission has decided that:

- (a) as a rule, complaints/cases which are more than 5 years old and no action has been taken till then, should not be investigated. However, the limit of 5 years will not apply to cases of fraud and other criminal offences; and**
- (b) no cognizance should be taken of any complaint which is received 6 months prior**

to the initiation of selection process for senior posts.

6. Section 182 of IPC :

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

(a) to do or omit any thing which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months ,or with fine which may extend to one thousand rupees ,or with both.”

06. Action on Anonymous and Pseudonymous Complaints:

6.1. Any complaint that does not bear the name and address of the complainant is an anonymous complaint. A complaint which does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant is a pseudonymous complaint. As a general rule, no action is required to be taken on anonymous and pseudonymous complaints^{7&8}. However, if it is proposed to investigate any

verifiable facts contained in such complaints, the matter has to be referred to CVC⁹ through the D.G. (Vig.), irrespective of the status/cadre of the employees complained against. The D.G.(Vig.) will examine the recommendation and if it is considered that the complaint merits investigation, D.G. (Vig.), in turn, would obtain CVC's concurrence for investigation of such complaints. Notwithstanding this procedure, where the CVC itself calls for a report on a complaint, even though it is pseudonymous or anonymous, it is to be treated as a signed complaint and investigated.

- 6.2.** Decision regarding closure of anonymous and pseudonymous complaints in the case of Group A officers is required to be taken at the level of D.G.(Vig)¹⁰. In case a complaint against a Group A officer is received by the field formations, the same should be forwarded by the jurisdictional Chief Commissioner/Director General to D.G.(Vig) with a clear indication whether the same is an anonymous, pseudonymous or an owned complaint. However, in the case of Group B (Gazetted and Non-Gazetted) officers decision are to be taken at the level of jurisdictional Chief Commissioner/Director General. For all other cadres similar action should be taken at the level of jurisdictional Commissioner/ADG(s).
- 6.3.** In case of anonymous and pseudonymous complaints against field officers received in the Directorate General of Vigilance, decision regarding closure in respect of Group-A officers are to be taken by D.G(Vigilance) and for other cadres by ADG(Vigilance).

- 6.4. In a composite case involving officers belonging to different cadres decision for closure/ investigation would be taken by the Authority empowered to take a final view in the case of senior most officer involved.

- Ref : 7. *CVC Circular No:98/DSP/9/CVC Dt:31.01.2002*
8. *CVC Circular No.98/DSP/9 CVC Dt:11.10.2002*
9. *CVC Circular No.98/DSP/9/CVC Dt:13.08.2003*
10. *Office Order NO. 205/2005 dated 19.07.2005 F.No.50/10/2005-Ad.I, GOI, Ministry of Finance, Deptt. of Revenue, New Delhi.*

7. *Circular No:98/DSP/9/CVC Dt:31.01.2002*

Subject: Improving vigilance administration—no action to be take on anonymous/pseudonymous petitions/complaints.

The Commission had reviewed the instructions regarding action to be taken on anonymous/pseudonymous complaints and observed that the enabling provision in the DOPT's orders No.321/4/91-AVD.III dated 29.09.1992 had become a convenient loophole for blackmailing and detrimentally affecting the career of public servants whose promotions/career benefits were denied owing to consequent investigation. Considering all aspects, the Commission by virtue of powers invested under para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4th April 1999, had instructed all Govt. Deptts./Orgns., PSEs and Banks not to take action on anonymous/pseudonymous complaints. All such complaints are to be filed vide CVC's instruction No.3(v)/99/2 dated 29th June 1999.

2. However, it has come to the notice of the Commission that some Govt. Deptts./Orgns. and, in particular, banks are not complying with the CVC's instructions and have been taking cognizance/action on anonymous/pseudonymous complaints. Very often, the content of the complaint, described as verifiable, is used as a justification for such action. The instruction of the Commission does not permit this line of action.

3. It is hereby reiterated that, under no circumstance, should any investigation be commenced or action initiated on anonymous/pseudonymous complaints; these should invariably be filed. Any violation of this instruction will be viewed seriously by the Commission.

8. Circular No.98/DSP/9 CVC : Dated the 11th October 2002

Subject:-Improving vigilance administration-Action on anonymous/ pseudonymous complaints.

The undersigned has been directed to refer to the Commission's communication No. 3(v)/99/2 dated 29.06.1999 and the letter of even number dated 31.01.2002, on the above subject, and to say that the Commission has reviewed the instructions contained in the aforesaid communications and reiterates that no action is to be taken by the departments/organizations, as a general rule, on anonymous/pseudonymous complaints received by them. 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.

9. Circular No.98/DSP/9/CVC: Dated the 13th August, 2003

Subject:- Clarifications on Commission's Directions

During the meeting of the Central Vigilance Commission with CMDs of Public Sector Banks at IBA, Mumbai on 25.02.2003, a number of issues were raised. The Commission clarified these issues as follows:

(i) Commission's directive dated 11.10.2002 on dealing with anonymous/pseudonymous complaints.

It was requested to reconsider the Commission's directive on dealing with anonymous/pseudonymous complaints modifying the earlier advice of not to take cognizance of such complaints. The Commission is of the view that such a verification cannot be done in a routine manner and in case any department/organization wanted to verify the facts, then a reference to the Commission is necessary. There is, therefore, no change in the Commission's earlier ruling on action on anonymous/pseudonymous complaints.

10. Office Order NO. 205/2005 dated 19.07.2005 F.No.50/10/2005-Ad.I, GOI, Ministry of Finance, Deptt. of Revenue, New Delhi.

The insufficient delegation of power in respect of disciplinary action cases resulting in avoidable stress on time and resources in the Department has been

drawing the attention of the Department. In order to study the existing practice being followed and suggest measures to improve the situation, a Committee comprising CVO of the Department of Revenue and CVOs of both the Boards, was constituted to make appropriate recommendations regarding suitable delegation of powers in this regard.

The Committee after studying the procedure followed in both the Boards submitted its report recommending delegation of powers in respect of various stages in the processing of vigilance matters. The recommendations made by the Committee have been examined in consultation with Department of Personnel & Training (DOPT). Accordingly, with the approval of the Competent Authority, the following procedure for decision making in respect of vigilance/disciplinary cases of both the Boards (CBEC & CBDT) is laid down with immediate effect and until further orders:

S. No.	Stages in Vigilance/ Disciplinary cases	Level of decision making
1.	<i>Complaints-closure without requirement of reference to CVC</i>	<i>(i) CVO can file anonymous/ pseudonymous complaints as per CVC instructions dated 29.6.1999</i> <i>(ii) In case of verifiable facts in such complaints, reference be made to CVC by</i> <i>(a) for Chief Commissioners – Secretary (Revenue)(b) up to Commissioners – CVO</i>

07. Complaints received under Public Interest Disclosure Resolution:

- 7.1.** The Central Government has issued a Resolution dated 21.4.2004 relating to Public Interest Disclosure and Protection of Informers(PIDPIR). The resolution contains details of the machinery evolved for acting on complaints from whistle blowers.
- 7.2.** The Govt. of India has authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' for complaints received under Public Interest Disclosures and Protection of Informers Resolution (PIDPIR).In the case of complaint received by CVC under PIDPIR the identity of the complainant is known to CVC but the same is kept secret on the request of the complainant . The prescribed time limit for submission of report under PIDPIR is within a period of one month from the receipt of reference of the Commission¹¹.

Ref: 11. CVC Circular No. 004/VGL/26 dated 27.05.2009.

11. CVC Circular No. 004/VGL/26 dated 27.05.2009.

Sub: Govt. of India Resolution on Public Interest Disclosures & Protection of Informer.

Please refer to the Commission's Office Order No. 33/5/2004 dated 17.05.2004 wherein the Govt. of India authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommended appropriate action. CVOs of the Ministries/Depts./Orgns. were required to submit their investigation report on complaints forwarded by

the Commission under the PIDPI Resolution within a period of two weeks.

2. The issue regarding submission of investigation reports on PIDPI complaints has been reconsidered in the Commission and taking in view the difficulties being faced by the CVOs in submission of reports, it has now been decided by the Commission to extend the time limit for submission of reports. Henceforth, CVOs would submit the reports within a period of one month from the receipt of reference of the Commission.

08. Complaints referred for investigation by CVC:

- 8.1.** Complaints received for investigation through the Central Vigilance Commission must be investigated on priority and in all cases the investigation reports should be sent to the D.G.(Vig) within the time limit as stipulated by CVC. The Commission has advised that in case of undue delay in handling of such complaints, the Commission can invoke the provisions of Section 8 and 11 of the CVC Act and conduct inquiry on its own. In such cases the CVO/D.G. (Vig.) can be required to explain the reasons for the delay to the CVC in person¹².
- 8.2.** In case, it is not possible to complete investigation within the prescribed period, an interim reply/report to the Commission seeking extension of time limit, indicating the progress of investigation and reasons for delay is required to be sent without fail in each case.
- 8.3.** In case of a complaint referred by the CVC to the D.G.(Vig) for investigation and report, if after

investigation it is found that the officials involved in the case do not fall under the jurisdiction of CVC, the case need not be referred to the Commission and may be dealt with by the D.G.(Vig). However, the action taken by the D.G.(Vig) on the CVC referred complaint is required to be intimated to the CVC¹³.

Ref: 12. CVC Circular No. 002/VGL/61: Office Order No. 20/05/10 dated 19.05.2010

13. CVC Circular No.009/VGL/056-Office Order No.03/01/10; Dated: 28.01.2010

12. Circular No. 002/VGL/61: Office Order No. 20/05/10 dated 19.05.2010

Sub: Adherence to time limits for investigation of complaints – Reg.

Ref: (i) Commission's office Order No. 16/03/04 dated 01.04.2004

(ii) Commission's office order No.4/2/09 dated 27.02.2009

(iii) Commission's Circular No. 9/5/09 dated 12.05.2009

As per provisions contained in Para 4.13.1 of Chapter IV of the Vigilance Manual Volume-I (Sixth Edition -2004), the Chief Vigilance Officers of Organizations/Departments are required to furnish investigation reports on complaints referred by the Commission for investigation and report within three months of the date of the receipt of such references. In so far as PIDPI complaints, the Commission has prescribed a period of one month for submission of investigation reports.

1. The Commission observes that Organization/ Departments do not adhere to the time limits prescribed and there is undue delay in submission of investigation

reports. While emphasizing the need for strict adherence to the prescribed time limits for furnishing reports, in case, if it is not possible for completing investigations within the prescribed periods, the Chief Vigilance Officer of the Organizations/Departments concerned should personally look into the matter and send an interim reply/report to the Commission seeking extension of time limit, indicating the progress of investigation and reasons for delay without fail in each complaints case.

13. Circular No.009/VGL/056-Office Order No.03/01/10;Dated:28.01.2010

Subject: Clarification regarding making reference to the Commission for advice on complaints and second stage advice cases.

Ref. (i) Commission's Circular No. 002/VGL/61 dated 23.09.2003 and 01.04.2004.

(ii) Commission's Circular No. 000/VGL/187 dated 03.08.2001.

1. Complaints:

In case of a complaint referred by the Commission to the CVO for investigation and report, if after investigation it is found that the officials involved in the case do not fall under the jurisdiction of the CVC, the case need not be referred to the Commission and may be dealt with by the CVO. However, the action taken by the CVO on the CVC referred complaint may be intimated to the Commission in order to monitor compliance.

The above dispensation does not apply to complaints received by the Commission under PIDPI Resolution and which are referred to the CVO for investigation and report. In other words all complaints

falling under PIDPI referred to the CVO by the Commission for investigation and report should necessarily be referred to the Commission for its advice.

09. Investigation:

- 9.1.** After it has been decided that allegations contained in a complaint should be investigated, a preliminary investigation should be made to determine whether there is any substance in them. If the information can be verified from documents, files or other records, such records should be secured for scrutiny. If such scrutiny reveals evidence in support of the allegations, the documents or records should be taken over by the Vigilance Officers to secure them from being manipulated or tampered. Where such documents are required for day to day functioning and it is not possible, for any reason, for the concerned office or official to function using authenticated copies, Vigilance may retain authenticated copies for investigation. The originals may be returned to the office/official concerned, who should be made responsible for safe custody and production thereof as and when required.
- 9.2.** In complaints relating to functioning of field formations, a site inspection or surprise check should be carried out at the earliest to ensure on the spot verification of facts and to take suitable steps to ensure that any evidence in support of the allegations is not tampered with.
- 9.3.** If tampering of records is apprehended, the question of seeking transfer of the staff concerned

or placing him under suspension may be recommended to the competent authority.

9.4. Officials of the concerned office who are concerned with, or have knowledge of the matter under investigation should either be questioned orally or asked to give a written statement of the facts in their knowledge. The full record of the oral questioning should be prepared and signed by the person questioned (in token of confirmation of his statement) and by the officer who conducted the questioning. Facts revealed in this process must also invariably be cross checked with documentary or other collateral evidence to ensure the proper basis of the allegation. In the event it is necessary to make inquiries from employees of any other government department or office, the Vigilance will seek the assistance of the concerned department for this purpose through the office of their respective CVO, if need be.

9.5. The Govt. servant against whom the complaint is being investigated should be afforded the opportunity to furnish his clarifications vis-à-vis the allegations against him. This may also be in the form of questioning by the Vigilance Officer or by asking him to give a written statement. If he refuses to answer questions or to give a written statement this fact must clearly be recorded in the final investigation report.

10. Investigation of Complaints by O/o D.G. Vigilance.

10.1. Certain cases are to be investigated by the D.G. Vigilance. These would relate to complaints referred for investigation by the Hon. Minister of

Finance/Minister of State for Revenue, CBEC, or CVC. In such cases, before taking up investigation it must be ensured that the concerned formation is not already seized of the matter, as parallel investigations must be avoided. If the concerned formation is already looking into the complaint, a decision would be taken by D.G.(Vigilance) whether to let them continue the investigation or to take it over. In the later case, all records etc. will be handed over by the field formation to the D.G. (Vig) and vice versa. In case the matter under reference is being investigated by CBI, a view whether the D.G.(Vig) would pursue the matter any further would be taken in consultation with CBI.

- 10.2.** Officials of D.G. (Vig.) are authorized to secure records, collect complete factual information and also take clarifications from such officials as may be considered necessary¹⁴. No separate written authority is required for this.
- 10.3.** As regards recording of statements of officers by the D.G. (Vig.), it is desirable that officers above the rank of Assistant/Deputy Commissioner are examined by Addl/Jt. Commissioner depending on the circumstances of the case.
- 10.4.** Field formations need to obtain the concurrence of D.G(Vig) for transferring/entrusting any investigation to the Zonal units of D.G.(Vigilance).

Ref: 14. CVC Circular No.: 007/VGL/013 dated 23.02.2007.

14. CVC Circular No.: 007/VGL/013 dated 23.02.2007.

Subject: Investigation of complaints by the CVOs - seizure of records- reg.

It has come to the Commission's notice that when a complaint is received by the CVO either from the Commission or from other sources, the time taken by the department for investigating the complaint is unduly long and beyond the time-limit of three months stipulated by the Commission vide its circular No.000/VGL/18 dated 23.5.2000. The main reason cited by the CVOs for the delay is non-availability of records/documents pertaining to that particular complaint/allegation. The Commission vide Para 4.4 (a) of Vigilance Manual, 6th Edition has already issued guidelines stating that "if the allegations contain information which can be verified from any document or file or any other departmental records, the investigating / vigilance officer should, without loss of time, secure such records, etc., for personal inspection. If any of the papers examined is found to contain evidence supporting the allegations, such papers should be taken over by him for retention in his personal custody to guard against the possibility of available evidence being tampered with".

2. The Commission observes that these guidelines are not being adhered to and would therefore reiterate its aforementioned guidelines and direct the CVOs to ensure that all relevant records/documents/files etc. are taken into personal custody by the investigating officer immediately on receipt of the reference/complaint for processing the allegations, and finalizing the investigation within the stipulated three months' time-limit prescribed by the Commission.

3. The Commission, exercising its authority as contained in para 8(1)(c&d) and para 11 of CVC Act, 2003, also conducts direct inquiry into complaints through Direct Inquiry Officers as nominated by the Commission. It is directed that as soon as a direct inquiry is ordered by the Commission, the CVOs should immediately seize the relevant records pertaining to the case and produce them before the Direct Inquiry Officers (DIOs) without any delay.

11. Time limit for conducting investigation of Complaints:

11.1 Time limits for conducting investigation of complaints as prescribed vide CVCs Circular No.000/VGL/18/CVC: Dated the 23rd May 2000¹⁵ should be scrupulously observed. Delay in conducting investigation of complaints effects the entire chain of vigilance proceedings; this on one hand saps the morale of the affected officers and on the other hand delayed action against officials of dubious credentials is detrimental to the interest of government and society at large.

Ref: 15. CVC Circular No.000/VGL/18/CVC :: Dated the 23rd May 2000

15. CVC Circular No.000/VGL/18/CVC :: Dated the 23rd May 2000

Subject: Schedule of time limits in conducting investigations and departmental inquiries.

Delays in disposal of disciplinary cases are a matter of serious concern to the Commission. Such delays also affect the morale of the suspected/charged employees and

others in the organization. The Commission has issued instructions, vide its communication No. 8(1)(g)/99(3) dated 03.03.1999, that departmental inquiries should be completed within a period of six months from the date of appointment of Inquiry Officers. Regarding other stages of investigation/inquiry, the time-schedule, as under, has been laid down in the Special Chapters on Vigilance Management in Public Sector Banks/Enterprises, which are applicable to the employees of public sector banks / enterprises. The Commission desires that these time-limits should also be adhered to by the Ministry/ Departments of Government of India, autonomous organizations and other Cooperative Societies, in respect of their employees, so as to ensure that the disciplinary cases are disposed of quickly.

S.No.	State of Investigation or inquiry	Time Limit
1	<i>Decision as to whether the complaint involves a vigilance angle.</i>	<i>One month from receipt of the complaint</i>
2	<i>Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.</i>	<i>Do</i>
3	<i>Conducting investigation and submission of report.</i>	<i>Three months.</i>
4	<i>Department's comments on the CBI reports in cases requiring Commission's advice.</i>	<i>One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority.</i>
5	<i>Referring departmental investigation reports to the Commission for advice</i>	<i>One month from the date of receipt of investigation report.</i>
6	<i>Reconsideration of the Commission's advice, if required.</i>	<i>One month from the date of receipt of Commission's advice.</i>

S.No.	State of Investigation or inquiry	Time Limit
7	<i>Issue of charge-sheet, if required.</i>	<i>(i) one month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report.</i>
8	<i>Time for submission of defence statement.</i>	<i>Ordinarily ten days or as specified in CDA Rules.</i>
9	<i>Consideration of defence statement.</i>	<i>15 (Fifteen) days.</i>
10	<i>Issue of final orders in minor penalty cases.</i>	<i>Two months from the receipt of defence statement.</i>
11	<i>Appointment of IO/PO in major penalty cases.</i>	<i>Immediately after receipt and consideration of defence statement.</i>
12	<i>Conducting departmental inquiry and submission of report.</i>	<i>Six months from the date of appointment of IO/PO.</i>
13	<i>Sending a copy of the IO's report to the Charged Officer for his representation.</i>	<i>i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved; ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated</i>
14	<i>Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.</i>	<i>One month from the date of receipt of representation.</i>
15	<i>Issuance of orders on the Inquiry report.</i>	<i>i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.</i>

12. Preparation and submission of the Investigation Report / Proposal of Charge Sheet(s)/Procedure for seeking First Stage Advice.

12.1. Preparation of Investigation Report:

After the investigation is completed, a self contained report should be prepared in the format prescribed by CVC (*Circular No. 006/PRC/1/ CVC: Dated, the 6th August, 2009*¹⁶ & *CVC Circular dt:01.12.2008*¹⁷). Where action has been recommended against any official(s), for the purpose of seeking First Stage Advice, draft memoranda of charges and statement of imputations for the appropriate proceedings should also be furnished to the competent authority. In case the investigation report is submitted by field formation /Zonal unit of D.G.(Vig),the assurance memo shall be signed by the jurisdictional Commissioner/ADG.

12.2. Action on the Investigation report:

On receipt of the investigation report the following action shall be taken:

12.2.1 All cases pertaining to Group A Officers in respect of whom the CVC is required to be consulted, will be referred to CVC by the D.G. (Vig.) for First Stage Advice, recommending closure if no irregularity has come to light during investigation and recommending initiation of disciplinary proceedings in other cases¹⁸.

12.2.2 The cases pertaining to Group B(gazetted) shall be referred to CVO for

First Stage Advice with a recommendation by the DA for closure/issue of charge sheet¹⁹.

12.2.3 Action on the investigation reports for closure/issuance of charge sheet in respect of all other cadres shall be taken by the concerned DAs.

122.4. Action in respect of composite cases would be taken by the Authority empowered to give directions in the case of senior most officer involved.

Ref: 16. CVC Circular No. 006/PRC/1/CVC dated 06.08.2009:

17. CVC Circular No. 006/PRC/1/27483 dated 01.12.2008:

18. CVC Circular No. 98/VGL/15 dated 16.04.2004:

19. CVC Circular No. 002/VGL/61 dated 16.03.2005:

16. Circular No. 006/PRC/1/CVC::Dated, the 6th August, 2009

Subject: References to the Commission for first stage advice- procedure-reg.

Reference: (i) Commission's circular No. NZ/PRC/1 dated 26.2.2004;

(ii) Commission's circular No. NZ/PRC/1 dated 9.5.2005;

(iii) Commission's circular No. 006/PRC/1 dated 13.3.2006; and

(iv) Commission's circular No. 006/PRC/1 dated 1.12.2008

The Commission receives preliminary inquiry reports from the Chief Vigilance Officers (CVOs) of Departments/organizations, seeking the first stage advice. Reports for similar action also emanate from the

CVOs in response to the Commission's direction for investigation issued u/s 8(1)(d) of the CVC Act, 2003. However, these reports are often found lacking in cogent analysis of misconduct or allegations, evidence on record and the recommendation of action. The supporting documents catered are also very often disjointed, casually arranged or unduly bulky, making the examination cumbersome and leading to protracted correspondence and delays.

2. With a view to improving the quality and focus of these investigation reports, the Commission has devised a new reporting format. Accordingly, it is directed that henceforth, a vigilance report should broadly conform to the parameters specified in Annexure A. Further, as the Commission lays utmost emphasis on facts, evidence and recommendations made by the CVOs, an investigation report should invariably be accompanied by an Assurance Memorandum (Annexure B) signed by the CVO, taking due responsibility and giving assurance of a comprehensive application of mind while submitting the report.

3. In supersession, therefore, of earlier instructions of the commission on submission of investigation reports, the following instructions should be followed scrupulously while seeking the first stage advice:

- (i) All vigilance reports of the CVOs should conform to the parameters prescribed in Annexure-A.***
- (ii) They would be accompanied by an Assurance Memo, in the form of Annexure-B***
- (iii) Bio-data of suspect officials, figuring in the investigation reports, should be enclosed as per the format provided at Annexure-C.***

- (iv) Tabular statements, as prescribed vide the Commission' circular dated 1.12.2008, shall continue and be kept objective and precise.**
- (v) Draft charge-sheets and imputation of charge in respect of suspect officials where disciplinary action, such as major penalty or minor penalty proceedings, is proposed, would accompany the investigation reports.**

4. The CVOs would ensure that all documents/exhibits, constituting the basic evidence for the charge, are systematically identified and arranged. Superfluous and voluminous documents, with little or no relevance to the misconduct under examination, should be retained at the CVOs' end. In case any additional material or evidence is required, it can always be recalled by the Commission before an advice is tendered.

Vigilance Report
Title of the report

1. Source

- **Background of the report – whether based on source information, complaint referred to by the CVC, CTE/CTE type inspection or direct enquiry.**

2. Gist of allegations

3. Facts

- **The relevant facts relating to the issue under examination should be presented in chronological or activity-wise sequence.**
- **Each fact should be supported by documentary evidence (other forms of evidence may also be presented) denoted as E1, E2, and E3 etc. Since the facts occur in chronological order, the evidence E1, E2, E3, etc., should necessarily be arranged under the report in the same order, thus making it easier for reference.**
- **While annexing the evidence, the relevant portion of the document should be highlighted and annexed. For example, the evidence for educational qualifications for promotion should consist of the Xerox copy of only the clause prescribing the qualifications and not the whole 20 pages of the promotion policy.**
- **There may be several issues in a report which may be conveniently arranged as different paras viz. 2.1, 2.2 etc.**

- ***All relevant facts needed to support the observation/conclusion should be gathered and presented. Irrelevant facts, bearing no consequence on the issues under inquiry should be avoided.***
- ***Evidence presented should be credible and adequate.***

4. Observations

- ***Ordinarily, observations are logical deductions arrived at through a set of facts. They are in the nature of objections or anomalies observed with reference to the gathered facts. There may be several observations arising out of the analysis of facts.***
- ***Observations are also arrived at by evaluating the facts against certain criteria viz. rules, regulations, policies, procedures, norms, good practices or normative principles. Evidence of these criteria (extracts of rules, procedures, etc.***

5. Response of the officials concerned

- ***It is necessary to elicit the reasons and clarifications of the management or the officers concerned for the anomalies pointed out in the observations. Every deviation from rules or procedure cannot be attributed to a malafide / corrupt intent. There may be situations where it may be difficult to achieve the objectives of a task by strictly abiding by the rules. Rules may be circumvented, while expediting the work or in the large interest of the work, with good intention. It is, therefore, essential for Vigilance***

to distinguish between acts of omission and acts of commission. Therefore, obtaining the response of the officers concerned is essential in order to arrive at an objective conclusion.

- ***Response of the management is also necessary in order to clarify differences in interpretation or an understanding of the issues between vigilance and the management.***

6. Counter to the response

- ***In order to sustain the observations made by Vigilance, it is necessary to counter the defence given by the management/officers concerned with facts and supporting evidence. It should be clearly and convincingly brought out why the explanation given by the management is not tenable.***

7. Conclusion

- ***Conclusion is the logical summation of the observations. The observations denoting various counts of irregularity, lapses should finally lead to a logical conclusion on whether the case involves commission of irregularity/impropriety with the intention of corruption.***
- ***Undue favour given to a party or obtained for self and its adverse impact on the government or the citizens in terms of additional cost, poor quality or delayed service should be clearly highlighted.***

8. Responsibility of officials

- ***Having determined the vigilance angle in the case, the next step is to fix the accountability of***

the individuals involved in the misconduct. Name of officers should be clearly stated in this para.

- ***The role of each officer should be judged with reference to his prescribed charter of duties. In case the tender committee is responsible for the misconduct then, as far as possible, all members should be equally and collectively held responsible.***
- ***Comments of Disciplinary Authority should invariably be included.***

9. Recommendation for action

- ***Recommendation for closure of the case in there is no discernable vigilance angle or criminal misconduct, should be clearly spelt out.***
- ***Bio-data of the officials reported against in the investigation report should be included in the given format.***

10. Recommendation for systemic improvement

- ***Punitive action on detection of corruption does not by itself lead to a logical conclusion unless it is able to prevent recurrence of the lapse. Any fraud, corruption, irregularity or impropriety indicates a failure of control mechanism or gaps in systems and procedures. Therefore, each case throws up an opportunity to identify these control failures and suggest ways of plugging them to prevent recurrence of the lapse. Therefore, at the end of the report the CVO should also try to recommend systemic improvements in order to prevent the risk of a recurrence of the lapse/misconduct.***

ASSURANCE MEMO

This is to provide reasonable assurance to the Commission:

- a) That all necessary facts and relevant evidence have been gathered.***
- b) That all facts and supporting evidence have been duly verified.***
- c) That contested evidence, if any, been conclusively handled with reference to the facts at the disposal of Vigilance.***

Chief Vigilance Officer

Format of Bio-Data of officer (s) against whom Commission's advice is sought

(To be incorporated in the vigilance Report of the CVO)

- 1. Name of the officer***
- 2. Designation***
 - (a) At present***
 - (b) At the time of alleged misconduct***
- 3. Service to which belongs***

(Cadre and year of allotment in case of officers of the organized /All India Services)
- 4. Date o 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 the officer*

17. CVC Circular No. 006/PRC/1/27483 dated 01.12.2008:

Subject: Reference to the Commission for advice-information to be enclosed along with Organization's 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 Organization's recommendations:-

S. No.	Name & Designation of the suspected officer	Allegations in brief	Findings of the investigation/ inquiry on each allegation	Defence of the investigation/ inquiry on each allegation	Comments/ Recommendation of the DA	Comments/ Recommendation of the CVO

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.

18. CVC Circular No. 98/VGL/15 dated 16.04.2004:

Subject: Jurisdiction of the Central Vigilance Commission in relation to the officers of the level of Group-B, Gazetted.

Attention is invited to para 5.4, Chapter.I of the Vigilance Manual, Volume-I on the above subject, requiring that vigilance cases of the Gazetted officers of the Central Government and its equivalent grade in other Government organisations might be referred to the Commission for advice. 2. Keeping in view the large increase in number of cases being referred to the Commission for advice, the Commission has decided that, henceforth, only cases of officers of the level of Group 'A' and above of the Central Govt. and Members of All India Services in connection with the affairs of the Union and Group 'A' officers of the Central Govt may be referred to the Commission for advice. It is, however, clarified that the Commission's advice would be necessary in respect of all officers of the Central Government irrespective of their level, if they are involved in the same matter in which an officer of the level of Group 'A' or above is involved. The Commission's advice would also be necessary in cases of difference of opinion between the disciplinary authority and the CVO with regard to the action to be taken against officers who are not within the jurisdiction of the Commission if these differences cannot be resolved with the intervention of the Secretary of the Ministry or Head of the Departments. 3. While delegating the powers to the concerned Ministries/Organisations with regard to gazetted officers below Group 'A' of Central Government, the Commission expects that (i) appropriate expertise would be available to the CVOs; (ii) the CVO would be in a position to exercise proper

check and supervision over such cases and would ensure that the cases are disposed off expeditiously within the time norms stipulated by the Commission; and (iii) the punishment awarded to the concerned employee would commensurate with the gravity of the misconduct established on his/her part. In order to ensure that the Commission's expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits and also through the monthly information system (monthly reports etc.). If the Commission comes across any matter, which in its opinion has not been handled properly, it may recommend its review by the appropriate authority or may give such directions as it considers appropriate.

In respect of cases involving Gazetted officers below Group 'A' of the Central Government, in which the Commission has tendered its first stage advice before issue of these instructions, the matter need not be referred to the Commission for second stage advice if the disciplinary authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which coincides with the Commission's first stage advice, provided that none of the officers involved in that matter is an officer of All-India Service or Group A' officers. The case, however, may be referred to the Commission for its advice if the disciplinary authority proposes to take action, which does not coincide with the Commission's first stage advice, (or it differs with the recommendation of the CVO with regard to the quantum.

19. CVC Circular No. 002/VGL/61 dated 16.03.2005:

Subject: Action taken on advices tendered/ complaints referred by the Commission.

The Commission has observed that some of the Govt. Department were not following the prescribed guidelines as regards action taken on Commission's 1st/ 2nd stage advice. It is also seen that some of the departments are closing the complaints on their own which were forwarded by the Commission for investigation and report.

2. Para 22 of Chapter X of Vigilance Manual provides that all cases pertaining to Gazetted Officers (may be read as Group A officers after passing of CVC Act-2003), in respect of whom the Central Vigilance Commission is required to be consulted, will be referred to the commission for advice (first/second stage advice). The major penalty cases pertaining to such officers envisage consultation with the Commission at two stages. The first stage of consultation arises while initiating disciplinary proceedings, while second stage consultation is required before a final decision is taken at the conclusion of the proceedings. It follows that the CVC should also be consulted in cases where the disciplinary authority have initiated action for major/ minor penalty proceedings and propose to close the case on receipt of Statement of defence.

13. Second Stage Advice:

In all cases where First Stage Advice of CVC/CVO has been obtained, the DA shall obtain Second Stage Advice²⁰, before proceeding to pass final orders in the

matter except where seeking Second Stage Advice has been specifically dispensed with as per instruction of CVC/CVO. The following documents²¹ are required to be submitted for seeking Second Stage Advice:-

- 13.1. A copy of the charge sheet issued to the public servant;
- 13.2. A copy of the inquiry report submitted by the inquiring authority;
- 13.3. 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;
- 13.4. Comments of the CVO and the Disciplinary Authority/Disciplinary Authority on the assessment of evidence as per the inquiry report in tabular statement form (**Ref: CVC Circular No.006/PRC/1/27483 dt: 01.12.2008**)²² with specific recommendation about the penalty i.e. major / minor to be imposed.

Ref: 20.CVC Circular No. 009/VGL/056 dated 28.01.2010:

21. CVC Circular No. 006/PRC/1/CVC dated 13.03.2006:

22. CVC Circular No. 006/PRC/1/27483 dated 01.12.2008:

22. CVC Circular No. 009/VGL/056 dated 28.01.2010:

Subject: Clarification regarding making reference to the Commission for advice on complaints and second stage advice cases.

Ref. (i) Commission's Circular No. 002/VGL/61 dated 23.09.2003 and 01.04.2004.

(ii) Commission's Circular No. 000/VGL/187 dated 03.08.2001.

1. Vigilance Cases:

In respect of composite cases wherein the Commission had tendered its first stage advice for all categories of officers involved, second stage advice of the Commission should be sought only in case of officers falling within the jurisdiction of the Commission. With respect to officers not falling under the jurisdiction of the Commission, the case should be dealt at the level of the CVO, and referred to the Commission for second stage advice only if the DA's opinion is at variance with the Commission's advice. This procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the CVC wherein the Commission had rendered its advice (cases where there were differences between the CBI and the DA and which were referred to the CVC for advice).

20. CVC Circular No. 006/PRC/1 dated 13.03.2006:

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

Ref. (i) No. NZ/PRC/1 dated 09.05.2005

(ii) No. NZ/PRC/1 dated 26.02.2004

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

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 (along with 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 Officers and the Charged Officers;**
- (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 inquiry report.**

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

21. CVC Circular No. 006/PRC/1/27483 dated 01.12.2008:

Subject: Reference to the Commission for advice-information to be enclosed along with Organization's 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 Organization's recommendations:-

S. No.	Name & Designation of the suspected officer	Allegations in brief	Findings of the investigation/ inquiry on each allegation	Defence of the investigation/ inquiry on each allegation	Comments/ Recommendation of the DA	Comments/ Recommendation of the CVO

2. The information in the tabular statement should accompany the Organisations' recommendations in both first/second stage advice cases. This may be noted for strict compliance.
