INLAND WATERWAYS AUTHORITY OF INDIA
(Ministry of Shipping, Govt. of India)
Head Office: A-13, Sector-1, Noida, U.P. Pin-201301

No. 9-IWAI/Vig.1/2006

dated 14th Dec., 2006

CIRCULAR

Ministry of Shipping, Road Transport & Highways, Department of Shipping, Government of India have forwarded three circulars received from CVC vide their letters No. C-30019/7/2004-Vig dated 3rd May, 2006, C-30019/7/2004-Vig dated 30th Oct., 06, and C-30019/7/2004-Vig. dated 16th Nov., 2006, which are enclosed for information.

(Umesh Kumar Sahai)
Section Officer (Admn./Vig.)

1. Hy. Chief, IWAI, Noida
2. Chief Engineer, IWAI, Noida
3. CAO, IWAI, Noida
4. P, A to Secretary, IWAI, Noida
5. Director, IWAI, Patna/Kolkata/Guwahati/Kochi
6. All IWAI’ sub-offices
7. Office copy
No.C-30019/7/2004-Vig

May 3, 2006

To
The CVOs of various organizations under Department of Shipping.

Sir/Madam,

I am directed to forward herewith the following circulars received from CVC for information/necessary action:

1. No.006/VGC/5 dated 18/1/2006 regarding reducing delay in departmental proceedings – ensuring availability of documents.


3. No.006/PRC/1 dated 13/3/2006 regarding 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.

Yours faithfully,

R.C. DHASMANA

DESK OFFICER (VIGILANCE)

Encl:a/a.
Circular No. 3/1/06

Subject: Reducing delay in departmental proceedings – ensuring availability of documents regarding.

The Commission has observed that non-availability of documents relevant to the departmental inquiry proceedings continues to be a major problem contributing to the delay in the finalisation of the inquiry. Commission would reiterate its instructions under circular no. NZ/PRC/1 dt. 26.2.2004 circulated vide Office Order No. 12/02/2004 in which the Disciplinary Authority is required to ensure that the P.O. is given custody of all the listed documents in original and certified copies thereof. It would also reiterate its instructions vide order No. 3(v)/99/7 dated the 6th September, 1999 wherein it has been decided that in respect of the CBI cases, the CBI should make available to the organization, legible certified photocopies of all documents seized by them. It is, therefore, reiterated that CBI/CVO of the concerned organization should ensure that legible certified copies of the documents taken over by CBI are made available to the organization to pursue the departmental proceedings.

The above instructions may be noted for strict compliance.

(V. KANNAN)
DIRECTOR

All Chief Vigilance Officers/CBI
No. Coord.II / Misc.
Government of India
Central Vigilance Commission

Satarkta Bhavan,
GPO Complex, Block-A,
INA, New Delhi-110 023
Dated: 09-03-2006

To

All the CVOs of
Ministries/Departments,
Banks/PSUs/Organisations.

OFFICE ORDER NO. 11/03/06

SUBJECT: ISSUE OF VIGILANCE CLEARANCE - REGARDING

Sir/Madam,

In terms of instructions contained in Department of Personnel & Training OM No. 27(5)-EO/88(ACC) dated 4th August, 1988, this Commission is required to accord vigilance clearance in respect of Board level appointees after scrutiny of the antecedents of persons recommended for Board level posts in Public Sector Enterprises. Some of the references received by the Commission from administrative authorities for vigilance clearance are inadequate and do not contain complete information. In the absence of which the Commission finds it difficult to process the case. In the relevant column of the bio-data, some of the departments/organizations simply mention that "a complaint was received against the officer", but no detail/gist of the complaint is given.

2. The Commission desires that it will be necessary for the CVOs to give a gist of the complaint(s) received against the officer. This would help the Commission to appreciate the case better.

3. This may be noted for future compliance.

Yours faithfully,

(MANGE LAL)
No.006/PRC/1
Government of India
Central Vigilance Commission

Satarka Bhawan, Block 'A',
GPO Complex, I.N.A.,
New Delhi- 110 023
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 reg.

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 GVOs;

(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 IAS along with 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 (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 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.

(V. Kannan)
Director

Chief Vigilance Officers
Annexure

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. _______________________________
No.C-30019/7/2004-Vig

October 30, 2006

To
The CVOs of various organizations under Department of Shipping.

Sir/Madam,

I am directed to forward herewith the following circulars received from CVC for information/necessary action:

1. No.006/VGL/29 dated 1/5/2006 regarding examination of public procurement (works/purchases/services) contracts by CVOs.

2. No.005/CRD/19 dated 9/5/2006 regarding transparency in works/purchase/consultancy contracts awarded on nomination basis.

Yours faithfully,

(R.C. BHASMANA)
DESK OFFICER (VIGILANCE)

Encl:a/a.
No 005/CRD/19
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 9th May 2006

CIRCULAR No.15/5/06

Subject:- Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis.

The Commission had, in its OM No. 06-03-02-CTE-34 dated 20.10.2003 on back to back tie up by PSUs, desired that the practice of award of works to PSUs on nomination basis by Govt. of India/PSUs needed to be reviewed forthwith. It is observed that in a number of cases, Works/Purchase/Consultancy contracts are awarded on nomination basis. There is a need to bring greater transparency and accountability in award of such contracts. While open tendering is the most preferred mode of tendering, even in the case of limited tendering, the Commission has been insisting upon transparency in the preparation of panel.

2. In the circumstances, if sometimes award of contract on nomination basis by the PSUs become inevitable, the Commission strongly feels that the following points should be strictly observed.

   (i) All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for scrutiny and vetting post facto.

   (ii) The reports relating to such awards will be submitted to the Board every quarter.

   (iii) The audit committee may be required to check at least 10% of such cases.

3. This may be noted for strict compliance.

[V. Kannan]
Director

All Chief Vigilance Officers

Copy to:
Circular No. 21/05/06

Subject: Examination of Public Procurement (Works/Purchases/Services) Contracts by CVOs

The Commission has been emphasising the need for close scrutiny by the CVO of the Public Procurement (Works/Purchases/Services) Contracts of his department/organisation concerned, to ensure that the laid down systems and procedures are followed, there is total transparency in the award of contracts, and there is no misuse of power in decision making.

2. A number of booklets have been issued by the Chief Technical Examiner Organisation of the Commission, bringing out the common irregularities/lapses noticed in different contracts. A Manual for Intensive Examination of Works/Purchase Contracts and guidelines on tendering have also been issued. These are available in the Commission's website.

3. The need for CTE type examinations by the CVOs has been emphasised in the Zonal meetings. The CVOs are required to reflect their examinations in the monthly reports. The Commission reiterates the importance of such examinations by the CVOs, as an effective preventive vigilance measure.

4. For this purpose, the CVOs are required to be well conversant with their organisation's works/purchase manual. Wherever works/purchase manuals are non-existent, they should be got prepared, particularly, in those organisations which have substantial procurement activities. CVOs should also ensure that the manuals are updated from time to time. They should check and ensure that the field staff is well conversant with the extant provisions of the manuals, and the guidelines issued by the Commission/CVOs from time to time. CVOs should have a full and active participation during the CTE inspections to know about the problem areas in the organisation's procurement process.

5. CVOs must also familiarise themselves with the earlier CTE examination reports and ensure that the lapses previously noticed are not repeated. If lessons are not learnt from the past, there would be need to take a serious view of the repetition of lapses and initiate disciplinary proceedings against the officials found responsible for repetition of the lapses committed previously.

6. On the basis of the lapses noticed by the Chief Technical Examiner's Organisation over the years, a checklist has been prepared which could be used by the CVO while examining procurement contracts. The checklist may be seen in Annexure - 1. If certain procurement contracts require an intensive examination by the CTEO, a reference may be made to them, with adequate justification.

This may please be noted for strict compliance.
Check list for examination of Procurement (Works/ Purchases/ Services) Contracts by CVOs

I. Pre-Award Stage

1. Financial and Technical sanction of competent authority is available.
2. Adequate and wide publicity is given. Advertisement is posted on website and tender documents are available for downloading.
3. Convenient tender receiving/opening time and address of the tender receiving officials/tender box are properly notified.
4. In the case of limited tender, panel is prepared in a transparent manner clearly publishing the eligibility criteria. The panel is updated regularly.
5. Pre-qualification criteria are properly defined/ notified.
6. Short listed firms/consultants are fulfilling the eligibility criteria. There is no deviation from notified criteria during evaluation.
7. Experience certificates submitted have been duly verified.
8. Tenders/bids are opened in the presence of bidders.
9. Corrections/omissions/additions etc., in price bid are properly numbered and attested and accounted page-wise. Tender summary notes/ Tender opening register is scrupulously maintained.
10. Conditions having financial implications are not altered after opening of the price bids.
11. In case of consultancy contracts (a) Upper ceiling limit is fixed for consultancy fee and (b) Separate rates for repetitive works are fixed.

II. Post-award stage

(a) General

1. Agreement is complete with all relevant papers such as pre-bid conference minutes, etc.
2. Agreement is page-numbered, signed and sealed properly.
3. Bank Guarantee is verified from issuing bank.
4. Insurance policies, labour licence, performance guarantee are taken as per contract.
5. Technical personnel are deployed as per contract.
6. Plant and equipment are deployed as per contract.
7. Action for levy of liquidated damages is taken in case of delay/default.

(b) Payments to contractors

1. Price escalation is paid only as per contract.
2. Retention Money/Security Deposit is deducted as per contract.
3. Recovery of Mobilisation & Equipment advance is made as per the provisions in the contract.
4. Recovery of ITax & Works Contract tax is made as per provisions in the contract.
5. Clarifying deviations are supported with adequate justification and are not advantageous to the contractor.

(c) Site Records

1. Proper system of recording and compliance of the instructions issued to the contractors is maintained.
2. Proper record of hindrances is maintained for the purpose of timely removal of the hindrance and action for levy of liquidated damages as per the frequency prescribed in the
To
The CVOs of various organizations under Department of Shipping.

Subject: Delay in disciplinary proceedings – measures for reducing delay – reg.

Sir/Madam,

I am directed to enclose herewith a copy of DOP&T's o.m. No.142/6/2000-AVD.I dated 13th October 2006 on the above mentioned subject for information/necessary action.

Yours faithfully,

(P.C. DHASMANA)
DESK OFFICER (VIGILANCE)

Encl:a/a.
No. 142/6/2000-AVD.I
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, Dated: October, 2006

OFFICE MEMORANDAM

Subject: Delay in disciplinary proceedings - measures for reducing delay.

The need for expeditious conclusion of the disciplinary proceedings against delinquent officials, even while observing the requirements of the prescribed procedure, is well recognized. A delay in reaching a conclusion about the guilt of the Charged Officer affects the interests and morale of the officer, if the final conclusion is that he is not guilty. Equally, a system in which guilty can be punished quickly is necessary for maintaining discipline and furthering ethical conduct. It is, therefore, imperative that every stage in a disciplinary proceedings is completed with alacrity and within an established time frame.

2. Secretary/MD had issued a D.O. letter dated 2.5.1985 identifying a host of measures, including time frame for various actions, which, if adopted and followed in good earnest, could lead to timely completion of the disciplinary proceedings. The Committee on Vigilance Procedure constituted by the Government in the year 2000 to suggest measures for reducing delay in conduct of disciplinary proceedings has also made recommendations on similar lines. All Ministries/Departments were accordingly requested vide O.M. of even number dated 17th October, 2003 to strictly adhere to the guidelines contained in Secretary/MD's D.O. letter dated 2.5.1985 ibid. Certain additional measures for reducing delay in conduct of disciplinary proceedings were also suggested vide Department of Personnel & Training's O.M. No. 142/5/2003-AVD.I dated 6th April, 2004. Copies of these letters/circulars are again enclosed for reference.

It is suggested that a system of regular monitoring of the pending disciplinary cases may also be introduced, if not already in vogue. Vigilance divisions/branches may also be provided with adequate manpower so as to ensure that there is no account of inadequate manpower is avoided.

It is suggested that if the measures, as outlined in various instructions issued the past and as suggested above, are followed in good earnest, it should be possible to conclude the disciplinary proceedings in a reasonable period.

(P.K. Tripathi)
Director

To
All Chief Vigilance Officers of Ministries/Departments
OFFICE MEMORANDUM

Subject:- Delay in disciplinary proceedings - measures for streamlining - Recommendations of Committee on Vigilance procedure.

The Committee on Vigilance Procedure was constituted by the Government to study the systems and procedures relating to Vigilance Procedures and making appropriate recommendations. The Committee in its Report submitted to the Government has inter-alia made the following recommendations:

(a) Proper framing of charge sheet and scrutiny of documents before identifying them as listed documents.

(b) Proper scrutiny on the part of inquiring authorities before deciding the admissibility of documents/witnesses requested by the Charged Officer.

(c) Issuance of final orders after receipt of UPSC's advice in a time bound manner.

(d) Cases for reconsideration of advice sent to the UPSC/CVC should be kept at the minimum and done only if there is additional material on record.

2. Attention in this regard is invited to the detailed guidelines issued vide D.O. letter No.134/2/83-AVD I dated 2-5-1985 from Secretary (Personnel) which already incorporates some of the recommendations. The Ministries/Departments are requested to strictly adhere to the above guidelines so as to ensure timely completion of disciplinary proceedings.

(Dr. W.R. Reddy)
Director (Vigilance).

CVOs of All Ministries/Departments
Delay in the disposal of disciplinary cases is neither in the interest of the Government nor in that of the Government servant. Undue delay in the disposal of the disciplinary cases also affects the morale of the Government servant. In order to ensure that disciplinary cases are disposed of quickly, it has been decided that the following measures should be adopted:

(i) Wherever the allegations are investigated by the CBI and the CVC is required to be consulted about the action to be taken on the investigation report, the Department should furnish their comments to the CVC within a month of the receipt of the investigation report. In case of dis-agreement with the advice of the CVC, the matter should be referred to the CVC for re-consideration of its advice only once. (It has come to our notice that sometimes Departments make more than one reference to CVC for reconsideration of its advice. There should be only one such reference to CVC for re-consideration.

(ii) In cases investigated by the CBI as well as in other cases, the charge-sheet should be issued within 1 month of the receipt of the CVC’s advice. If this time-limit and that in Item (i) are strictly adhered to, it should be possible for the Departments to issue the charge-sheet within 3 months of the receipt of an investigation report, including the time taken in consulting the CVC.

(iii) Wherever the CVC is not required to be consulted, the charge-sheet should be issued within 2 months of the receipt of the investigation report. Where there is no preliminary investigation report, a charge-sheet should be issued within 1 month of taking a decision in the matter.

(iv) A properly drafted charge-sheet is the sheet-anchors of a disciplinary case. Therefore, the charge-sheet should be drafted with utmost accuracy and precision based on the facts revealed during the investigation or otherwise and the misconduct involved. It should be ensured that no relevant material is left out and at the same time no irrelevant material or witness are included.

(v) With a view to reducing the time taken by the Government servant for inspection of documents before submission of his written statement of defence in reply to the chargesheet, copies of all the documents relied upon and the statement of witnesses cited on behalf of the Disciplinary Authority should be supplied to the Government servant along with the charge-sheet, wherever possible.

(vi) In all cases which are presently pending for appointment of Inquiry Officer and Presenting Officer, such appointment should be made within 1 month. In all other cases, the Inquiry Officer and the Presenting Officer should...
serve t's written statement of defence denying the charges.

(vii) Wherever a large number of oral inquiries are pending, the Department should earmark some officers on a full-time basis to complete these inquiries within a specified time-limit to be indicated by the disciplinary authority. The time-limit shall be indicated as an administrative instruction, having regard to the nature of the charges and the evidence involved. Similarly, where part time Inquiry Officers are appointed, the disciplinary authority could, having regard to the nature of the charges and the evidence involved, specify time-limits for the completion of the inquiry as an administrative instruction.

(viii) The oral inquiry, including the submission of the Inquiry Officer's report, should normally be completed within a period of 6 months from the date of appointment of the Inquiry Officer. In the preliminary inquiry in the beginning requiring the first appearance of the charged Government servant and the Presenting Officer, the Inquiry Officer should lay down a definite time-bound programme for inspection of the listed documents, submission of the lists of defence documents and defence witnesses and inspection of defence documents before the regular hearing is taken up. The regular hearing, once started, should be conducted on day-to-day basis until completed and adjournment should not be granted on frivolous grounds.

(ix) After the receipt of the report of the Inquiry Officer along with the advice of the CVC wherever required, the final decision in the matter should be taken by the Departments within a period of 2 months except in cases where the UPSC is required to be consulted. Wherever the reconsideration of the advice of the CVC is sought, such reference should be once only at this stage. In cases in which UPSC is to be consulted, the final decision the matter should be taken within 1 months, of the receipt of their advice.

(x) The statutory rules lay down certain time-limits or require the disciplinary authority to specify time-limits for some stages of the disciplinary proceedings. These time-limits should be adhered to strictly. If ever some extension of time is granted, it should be done keeping in view the need for expeditious conclusion of the proceedings and to discourage the dilatory tactics sometimes adopted by Government servants.
Subject:— Streamlining of Conduct of Disciplinary Proceedings to reduce delay.

Acknowledging the need for quick disposal of Disciplinary cases, several measures which could be adopted by the Disciplinary Authorities had been outlined in D.O. letter No.134/2/83-AVD.I dated 2/5/1985 from Secretary (P). The said letter also prescribed time limits for actions to be taken for consideration of investigation report, reference to the CBI/CVC, issuance of charge sheet/final order etc. Despite these instructions, it is observed that still there is undue delay in conclusion of Disciplinary Proceedings. Taking into account the various stages where delay still occur, while reiterating the instructions contained in the reference quoted above, the following measures are also prescribed, to ensure that disciplinary cases are not unduly delayed:—

i) The Administrative Department/Competent Authority/CVC should study the allegations more carefully and resort to minor penalty proceedings instead of initiating major penalty proceedings, where the circumstances involve minor infringements or cases of procedural irregularities.

ii) There is considerable delay in framing the charges after information is received about the alleged irregularities. There are a number of instances where the Courts have set aside the order of penalty due to inordinate delay in initiating action. Specific accountability should be fixed on the officer/s responsible for framing the charges, for ensuring issuance of charge sheet within a set time frame. Responsibility shall be fixed for inordinate delay in framing charges, in cases where there are no valid reasons such as a stay of the proceedings by Court.

iii) There is undue delay because of repeated requests of the Charged Officer (CO) for time to give his written statement in reply to the charge sheet. As per existing instructions, the CO is allowed 10 days to submit his written statement. The normal duties of the CO may not give him adequate
Most Immediate

No.142/5/2003-AVD.I
Government of India
Ministry of Personnel & Public Grievances & Pensions
(Department of Personnel & Training)

6th
New Delhi, Dated April 2004

OFFICE MEMORANDUM

Subject:- Streamlining of Conduct of Disciplinary Proceedings to reduce delay.

Acknowledging the need for quick disposal of Disciplinary cases, several measures which could be adopted by the Disciplinary Authorities had been outlined in D.O. letter No.134/2/83-AVD.I dated 2/5/1985 from Secretary (P). The said letter also prescribed time limits for actions to be taken for consideration of investigation report, reference to the CBI/CVC, issuance of charge sheet/final order etc. Despite these instructions, it is observed that still there is undue delay in conclusion of Disciplinary Proceedings. Taking into account the various stages where delay still occur, while reiterating the instructions contained in the reference quoted above, the following measures are also prescribed, to ensure that disciplinary cases are not unduly delayed:-

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iii) There is undue delay because of repeated requests of the Charged Officer (CO) for time to give his written statement in reply to the charge sheet. As per existing instructions, the CO is allowed 10 days to submit his written statement. The normal duties of the CO may not give him adequate time to prepare a written statement. He may