

No A-19015/Misc/2012/MF.CGA/Gr B/ 336
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF EXPENDITURE
CONTROLLER GENERAL OF ACCOUNTS
LOK NAYAK BHAWAN, KHAN MARKET, NEW DELHI

29 .7.2014

To,

The Pr.CCA/CCA/CA

Sub:- Expeditious disposal of Grievances, representations and disciplinary cases.

Sir/Madam,

1. It has been observed that the process of settling the disciplinary case in the Civil Accounts Organisation has been rather slow and in many cases delayed. A large number of departmental Inquiries remain pending with the disciplinary authorities for a long period. In many cases it has been observed that the disciplinary process is continuing even after the officer proceeded on retirement.

2. The recently held Departmental Promotion Committee has also taken a serious view of the long pending Disciplinary proceedings in respect of some of the Gr B officers. This delay in settlement of the disciplinary proceedings not only adversely affects the officers' career but also acts as a great demoralization force on its employees. This lingering process continues despite their having directives of CVC in its order dated 3-3-2003 for time bound and speedy disposal of the Disciplinary matters.

3. Delays occurring in disposal of disciplinary cases which are not due to employees affect the morale of the delinquent official and others and causes prejudice to the concerned officials. CVC and DoPT guidelines on expeditious disposal of disciplinary cases are given below:-

- a) The CVC has prescribed time limits for processing of cases of disciplinary proceedings in its letter No 000/VGL/18 dated 23-5-2000. In the letter 15 items/stages in the disciplinary cases where the time limit has been delineated.
- b) DoPT OM Dated 14-10-2013 prescribes day to day hearing of disciplinary matters.
- c) DoPT OM dated 14-10-2013 prescribes total 18 months for disposal of disciplinary matters.

- d) Delays in disposal of disciplinary matters, which are due to delinquent officials causes prejudice these averments, have been upheld by various judicial pronouncements. Merely on account of delays Courts have quashed the proceedings. Case laws are enclosed.

4. Need for reasoned and speaking order:-

Instances have also come to light perusing files pertaining to certain Disciplinary matters that the representations of Charged Officers in the Disciplinary proceedings are kept pending for long .

- a) The representations of the employees have to be replied in time bound manner with speaking order. DoPT OM Dated 11-1-2002 prescribes when a representation is made by a Government employee; it should generally be disposed of within a maximum period of six weeks. Final reply sent to a Government servant on his representation should be self-contained, cover all the points raised by him and in a case where the representation of the Government servant is rejected the grounds, therefore, should be clearly indicated.
- b) Regarding disciplinary matter it is mandatory to give speaking order due to its quasi-judicial nature, vide CVC circular dated 15-1-2009.
4. The above prescribed methods of disposal of cases through reasoned and speaking order would close the disputes in most of the cases and reduce the litigation. This is the vision stated in the National Litigation Policy 2010, too. Para "2" of the Policy says quote "Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The easy approach, " Let the Court decide," must be eschewed and condemned". Unquote.
5. The DoPT while considering the subject of accountability in decision making, issued an Office Memorandum dated 16-2-2004 stressed that any officer adopting dilatory attitude leading to delay in decision making could be subjected to disciplinary proceeding.
6. All Pr.CCAs/CCAs/CAs are therefore requested to note and strictly adhere to the prescribed schedule of time limits in dealing with disciplinary cases.
7. This issues with the approval of Competent Authority.

Encl.:- All above OMs/Circulars



(Sakesh Prasad Singh)
Deputy Controller General of Accounts

To,
All Pr. CCA/CCA/CA

No.000/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi -110023
Dated the 3rd March 2003

To

- (1) The Secretaries of Ministries/Departments, autonomous organizations and Societies etc.
- (2) CMDs of all PSUs including PSBs.

Subject:- Delay in implementation of Commission's advice.

Reference: Commission's instructions vide Circular letter No. 000/VGL/18 dated 23.05.2000 and 003/MMT/02 dated 07.01.2003.

The Commission would like to invite the attention of disciplinary authorities to a large number of advices from it at both first and second stage pending implementation for long periods. It must be understood that a reasonable time limit for concluding and finalizing vigilance cases is already built in the procedure for disciplinary proceedings. Besides the responsibility for ensuring quick disposal of disciplinary proceedings rest with the administration and the vigilance department cannot be called in to share it at the advice implementation stage. Therefore administration must appreciate that it will be called upon to explain inordinate delay over the above the prescribed time limits for finalizing disciplinary cases. **Accordingly the Commission would like to direct that subsequent to its first and second stage advice the responsibility for finalization and award of punishment passes on from the vigilance to the personnel department.**

Administration may impress upon all concerned and especially the personnel departmental that in view of the shift in responsibility from the vigilance to the personnel, any delay over and above the prescribed time limits for finalization of disciplinary cases will be viewed as misconduct by the Commission and will render the concerned officials of the personnel department and others concerned liable for being proceeded from the vigilance angle with its attendant ramifications.

Kindly acknowledge receipt and confirm having taken steps for compliance of the above instructions. A copy of this letter is also being endorsed to the CVOs of the organizations for necessary followed up action.

Yours faithfully,

Sd/-
(R. Ashok)
Additional Secretary
Telefax: 24651017

No.000/VGL/18
Government of India
Central Vigilance Commission

**Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 23rd May 2000**

To

The CVOs of Ministries/Departments, autonomous organisations and Societies etc.

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

Sir,

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 organisation. 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 organisations 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. | Decision as to whether the complaint involves a vigilance angle. | One month from receipt of the complaint. |
| 2. | 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. | -do- |
| 3. | Conducting investigation and submission of report. | Three months. |
| 4. | Department's comments on the CBI reports in cases requiring Commission's advice. | One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority. |
| 5. | Referring departmental investigation reports to the Commission for advice. | One month from the date of receipt of investigation report. |
| 6. | Reconsideration of the Commission's advice, if required. | One month from the date of receipt of Commission's advice. |

| | | |
|-----|--|--|
| 7. | Issue of charge-sheet, if required. | (i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report |
| 8. | Time for submission of defence statement. | Ordinarily ten days or as specified in CDA Rules. |
| 9. | Consideration of defence statement. | 15 (Fifteen) days. |
| 10. | Issue of final orders in minor penalty cases. | Two months from the receipt of defence statement. |
| 11. | Appointment of IO/PO in major penalty cases. | Immediately after receipt and consideration of defence statement. |
| 12. | Conducting departmental inquiry and submission of report. | Six months from the date of appointment of IO/PO. |
| 13. | Sending a copy of the IO's report to the Charged Officer for his representation. | i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved; ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated |
| 14. | Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice. | One month from the date of receipt of representation. |
| 15. | Issuance of orders on the Inquiry report. | i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required. |

Yours faithfully,

Sd/-

(K.L. Ahuja)
Officer on Special Duty

372/3/2007-AVD-III (Vol. 10)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: 14th October, 2013

Office Memorandum

Subject: Recommendations of the Committee of Experts on Disciplinary & Vigilance Inquiries (Hota Committee) - Para 35 of the Committee's Report on conduct of hearings on a day to day basis - Acceptance by Government - reg .

The undersigned is directed to say that the Government had appointed a Committee of Experts to review the procedure for Disciplinary/Vigilance Inquiries and recommend measures for their expeditious disposal. The Committee comprised the following:

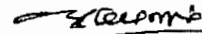
- | | | |
|-------|---|----------------|
| (i) | Shri P.C. Hota, Former Chairman, UPSC | ----- Chairman |
| (ii) | Shri Arvind Varma, Former Secretary, DoPT | ----- Member |
| (iii) | Shri P. Shankar, former CVC | ----- Member. |

2. The Expert Committee has, in para 35 of its Report, recommended that "**as far as practicable, an Inquiry Officer should conduct the hearing on a day-to-day basis to complete the Inquiry expeditiously.** Each Inquiry Officer should be required to maintain an order sheet to record proceedings of the Inquiry on the day of Inquiry and other relevant matters. If the Inquiry cannot be conducted on a day-to-day basis, the Inquiry Officer should record in the order sheet the reasons why the Inquiry could not be held on a day-to-day basis."

3. The aforesaid recommendation of the Hota Committee has been considered by a Committee of Secretaries (CoS) under the chairmanship of Cabinet Secretary and, as recommended by the CoS, the recommendation has been accepted by the Government.

4. **Accordingly, it has been decided that once a regular hearing in a departmental proceeding is started, such hearing should, as far as practicable, be continued on a day to day basis, unless in the opinion of the IO, for the reasons to be recorded in writing, an adjournment is unavoidable in the interest of justice.**

5. The above decision of the Government is brought to the notice of all Ministries/Departments for strict compliance.



(V.M. Rathnam)
Deputy Secretary to the Govt. of India
Tel: 23094637

All Ministries/Departments of the Government of India

✓ Copy to Sr. Tech. Director, NIC, DoPT for uploading on the website of DoPT

372/3/2007-AVD-III (Vol. 10)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: 14th October, 2013

Office Memorandum

Subject: Recommendations of the Committee of Experts on Disciplinary & Vigilance Inquiries (Hota Committee) - Para 48 of the Committee's Report on conclusion of major penalty proceedings within a period of 18 months - Acceptance by Government - reg .

The undersigned is directed to say that the Government had appointed a Committee of Experts to review the procedure for Disciplinary/Vigilance Inquiries and recommend measures for their expeditious disposal. The Committee comprised the following:

- | | | |
|-------|---|----------------|
| (i) | Shri P.C. Hota, Former Chairman, UPSC | ----- Chairman |
| (ii) | Shri Arvind Varma, Former Secretary, DoPT | ----- Member |
| (iii) | Shri P. Shankar, former CVC | ----- Member. |

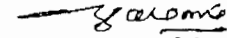
2. The Expert Committee has, in para 48 of its Report, made the following recommendation:-

“48. For major penalty Inquiries as envisaged in Article 311(2) of the Constitution, where the Inquiry Officer has to do a detailed inquiry into the Articles of Charge by examination of witnesses both of the Presenting Officer and of the delinquent Government Servant and where relevant documents have to be examined/exhibited for a just decision in the case, the maximum time could be twelve months from the date of service of the Articles of Charge before the case records are referred to the UPSC for advice under Article 320(3)(c) of the Constitution. Hopefully, if the UPSC takes a maximum period of five to six months to give its considered advice, the Disciplinary Inquiry for a major penalty can be concluded within a maximum period of eighteen months from the date of service of Articles of Charge on the delinquent Government Servant till the date of the final order by the Disciplinary Authority, after consultation with the UPSC. (Elsewhere in this Report, we have recommended that the CVC's second stage advice may be dispensed with because of reasons mentioned by us. We would like to leave it to the best judgment of the UPSC to devise methods for reducing the time taken by it in rendering its advice under Article 320(3) (c) of the Constitution.)”.

3. The aforesaid recommendation of the Hota Committee was considered by a Committee of Secretaries (CoS) under the chairmanship of Cabinet Secretary. The CoS has, inter alia, taken note of the fact that, vide DoPT's O.M.No.372/19/2011-AVD-III(Pt.I) dated 26th September, 2011, the second stage consultation with the Central Vigilance Commission has already been dispensed with and that it is only in cases where consultation with UPSC is not required as per extant rules/instructions, the second stage consultation with CVC is now necessary. The CoS also took note of the fact that the introduction of a single window system in the UPSC to accept files regarding major penalty proceedings has led to considerable

reduction in time taken to conclude major penalty proceedings. The CoS has accordingly recommended that the recommendation of the Hota Committee in para 48 of its report as referred to above may be accepted. The recommendation has accordingly been accepted by the Government and it has been decided that all Ministries/Departments shall ensure that all major penalty proceedings against government servants under their control are completed and final orders are passed by the concerned Disciplinary Authority within 18 months from the date of delivery of charge-sheet on the delinquent government servant.

4. The above decision of the Government is brought to the notice of all Ministries/Departments for strict compliance.



(V.M. Rathnam)

Deputy Secretary to the Govt. of India

Tel: 23094637

All Ministries/Departments of the Government of India

Copy to Sr. Tech. Director, NIC, DoPT for uploading on the website of DoPT.

CASE LAWS on delays and other issues in Disciplinary Proceedings

- (a) **Hon'ble High Court of Delhi at New Delhi W.P. (C) No. 4245/2013 in case of Union of India vs Hari Singh** has upheld that delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. It is therefore trite that delay which is unexplained and unreasonable would cause prejudice to the delinquent employee. In the above case law various case laws have been cited and delayed of seven years in initiation of disciplinary proceedings have been quashed and set aside. There are many such cases where courts have set aside disciplinary proceedings on sole ground of delays.
- (b) In the State of **Madhya Pradesh vs Bani Singh** and Another on 5 April, 1990 case the Supreme Court opined that there should be a satisfactory explanation for the inordinate delay in issuing the charge memo and it is also of the view that it will be unfair to permit the departmental enquiry to be proceeded with at the later stage.
- (c) In **Capt. M. Paul Anthony Vs. WP(C) No.3391/2010 Page No.3 of 7 Bharat Gold Mines Ltd. & Anr.**, the Supreme Court inter alia concluded that the departmental proceedings should be completed at early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest."
- (d) **Hon'ble Supreme Court of India in case of S.R. Venkataraman vs. Union of India, (1979) 2scc 491 at page 494 (para 8) has held** "We are in agreement with this view. It is equally true that there will be an error of fact when a public body is prompted by a mistaken belief in the existence of non-existing fact or circumstances. This is so clearly unreasonable that what is done under such a mistaken belief might almost be said to have been done in bad faith; and in actual experience and as things go these may well be said to run into one another."
- (e) Supreme Court of 2014 in case of Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SSC 417 at page 427

"...."13. The expression 'life' has much wider meaning. Where therefore the outcome of departmental enquiry is likely to adversely affect reputation or livelihood of a person, some of the finer graces of human civilization which make life worth living would be jeopardized and the same can be put in jeopardy only by law which inheres fair procedures....."

*G.I. Dept. of Per. & Trg., O.M. No. 28034/6/2002-Estt. (A),
dated 11-1-2002*

**Recommendations of the Committee on Service Litigations regarding
representations made by the employees**

The undersigned is directed to refer to the subject mentioned above and to communicate the following decision of this Department as per recommendations made by the Committee on Service Litigations.---

- (a) A representation made by a Government employee requiring examination only in a Ministry/Department, should be disposed of within a maximum period of six weeks and if requiring inter-departmental consultation, such representation should be replied to normally within a maximum period of three months.
 - (b) Final reply sent to a Government servant on his representation should be self-contained, cover all the points raised by him and in a case where the representation of the Government servant is rejected, the grounds, therefore, should be clearly indicated.
2. All the Ministries/Departments, therefore, are requested to dispose all the representations made by the Government employees, accordingly.

No. 003/DSP/3/31364
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA,
New Delhi- 110023
Dated the 15/01/09

Circular No. 02/01/09

Subject: Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.

Attention is invited to the Commission's Office Order No. 51/9/03 dated 15.09.2003 and Office Order No. 14/2/04 dated 26.2.2004 wherein, it was clarified that disciplinary authorities (DAs) should issue a self-contained, speaking and reasoned order which must indicate, inter-alia, due application of mind by the authority issuing the order.

2. As regards, making available a copy of CVC's first and second stage advises to the employees concerned, the Commission vide its circular No. 99/VGL/66 dated 28.09.2000, had prescribed that the same should be supplied to the employees by the Disciplinary Authorities. It was precisely stated, therein that a copy of CVC's 2nd state advice should be supplied to the employee concerned alongwith the IOs report, in order to give him an opportunity to make a representation against IO's findings and CVC's advice.

3. Instances have, however, come to the notice of the Commission in which the final orders passed in disciplinary cases by the competent disciplinary authorities did not indicate proper application of mind, but a mere endorsement of the Commission's recommendations which leads to an unwarranted presumption that the DA has taken the decision under the influence of the Commission's advice. Further, it is also observed that the DA's in the Departments/Organisations, in practice, do not provide a copy of Commission's advice to the employees concerned. The cases where the final orders do not indicate proper application of mind by the DA and or non supply of Commission's advises, are liable to be quashed by the courts.

4. The Commission would, therefore, again reiterate that the CVC's views/advises in disciplinary cases are advisory in nature and it is for the DA concerned to take a reasoned decision by applying its own mind. The DA while passing the final order, has to state that the Commission has been consulted and after due application of mind, the final orders have been passed. Further, in the speaking order of DA, the Commission's advice should not be quoted verbatim.

5. CVOs should ensure that the DAs in their respective Departments/Organisations strictly follow the above guidelines/procedures while processing the disciplinary cases.


[Shalini Darbari]
Director

All Chief Vigilance Officers

No.003/DSP/3
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 26th February 2004

Office Order No.14/02/04

To

All Secretaries to the Government of India
All Chief Vigilance Officers
Deputy Secretary (AVD III), DOPT

Subject:- Role of Disciplinary Authority in decision taken.

Sir/Madam,

The Commission vide its Office Order No. 51/9/03 dated 15.9.2003 stressed the need for self-contained speaking and reasoned orders to be issued by the authorities exercising disciplinary powers. The Commission has however, noticed that at the time of issuing final orders imposing a penalty on the charged officer on the advice of the Commission and/or at the time of deposing affidavits in the courts, some Disciplinary Authorities (DA) mention the Commission's reference. The Commission has observed that this leads to an unwarranted presumption that the DA has acted under the influence/pressure of the Commission.

2. The DAs are again informed that, their orders in the matter of disciplinary cases or affidavits to the courts, should in no case imply that any decision has been taken under the influence of the Commission; as the Commission is only an Advisory Body and it is for the Disciplinary Authority to apply its mind subsequent to obtaining the Commission's advice and take reasoned decisions on each occasion. The Disciplinary Authorities are required to strictly follow the above guidelines of the Commission at all stages.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

No.003/DSP/3
Government of India
Central Vigilance Commission

Satarkta Bhavan, Block "A"
GPO Complex, I.N.A.
New Delhi -110023
Dated 15th September 2003

Office Order No. 51/9/03

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Executives of All PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs./Public Sector Banks/Insurance companies/Autonomous Organisations/Societies
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

Subject:- Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.

Sir/Madam,

It was clarified in the Department of Personnel & Administrative Reforms' OM No. 134/11/81/AVD-I dated 13.07.1981 that the disciplinary proceedings against employees conducted under the provisions of CCS (CCA) Rules, 1965, or under any other corresponding rules, are quasi-judicial in nature and therefore, it is necessary that orders issued by such authorities should have the attributes of a judicial order. It was also clarified that the recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. Such orders passed by the competent disciplinary/appellate authority as do not contain the reasons on the basis whereof the decisions communicated by that order were reached, are liable to be held invalid if challenged in a court of law.

2. It is also a well-settled law that the disciplinary/appellate authority is required to apply its own mind to the facts and circumstances of the case and to come to its own conclusions, though it may consult an outside agency like the CVC. There have been some cases in which the orders passed by the competent authorities did not indicate application of mind, but a mere endorsement of the Commission's recommendations. In one case, the competent authority had merely

endorsed the Commission's recommendations for dropping the proposal for criminal proceedings against the employee. In other case, the disciplinary authority had imposed the penalty of removal from service on an employee, on the recommendations of the Commission, but had not discussed, in the order passed by it, the reasons for not accepting the representation of the concerned employee on the findings of the inquiring authority. Courts have quashed both the orders on the ground of non-application of mind by the concerned authorities.

3. It is once again brought to the notice of all disciplinary/appellate authorities that Disciplinary Authorities should issue a self-contained, speaking and reasoned orders conforming to the aforesaid legal requirements, which must indicate, inter-alia, the application of mind by the authority issuing the order.

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

**Press Information Bureau
Government of India
Ministry of Law & Justice**

23-June-2010 14:14 IST

**National Legal Mission to Reduce Average Pendency Time from
15 Years to 3 Years
National Litigation Policy Document Released**

The Centre has formulated a National Litigation Policy to reduce the cases pending in various courts in India under the National Legal Mission to reduce average pendency time from 15 years to 3 years. This was announced by Dr.M.Veerappa Moily, Minister of Law and Justice while announcing the National Litigation Policy here today. Following is the full text of the National Litigation Policy.

NATIONAL LITIGATION POLICY

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I. INTRODUCTION

Whereas at the National Consultation for Strengthening the Judiciary toward Reducing Pendency and Delays held on the 24th and 25th October, 2009 the Union Minister for Law and Justice, presented resolutions which were adopted by the entire Conference unanimously.

And Wherein the said Resolution acknowledged the initiative undertaken by the Government of India to frame a National Litigation Policy with a view to ensure conduct of responsible litigation by the Central Government and urges every State Government to evolve similar policies.

The National Litigation Policy is as follows:-

I. THE VISION/MISSION

1. The National Litigation Policy is based on the recognition that Government and its various agencies are the pre-dominant litigants in courts and Tribunals in the country. Its aim is to transform Government into an Efficient and Responsible litigant. This policy is also based on the recognition that it is the responsibility of the Government to protect the rights of citizens, to respect fundamental rights and those in charge of the conduct of Government litigation should never forget this basic principle.

“EFFICIENT LITIGANT” MEANS

- Focusing on the core issues involved in the litigation and addressing them squarely.
- Managing and conducting litigation in a cohesive, coordinated and time-bound manner.
- Ensuring that good cases are won and bad cases are not needlessly persevered with.
- A litigant who is represented by competent and sensitive legal persons: competent in their skills and sensitive to the facts that Government is not an ordinary litigant and that a litigation does not have to be won at any cost.

“RESPONSIBLE LITIGANT” MEANS

- That litigation will not be resorted to for the sake of litigating.
- That false pleas and technical points will not be taken and shall be discouraged.
- Ensuring that the correct facts and all relevant documents will be placed before the court.
- That nothing will be suppressed from the court and there will be no attempt to mislead any court or Tribunal.

2. Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The easy approach, “Let the court decide,” must be eschewed and condemned.

3. The purpose underlying this policy is also to reduce Government litigation in courts so that valuable court time would be spent in resolving other pending cases so as to achieve the Goal in the National Legal Mission to reduce average pendency time from 15 years to 3 years. Litigators on behalf of Government have to keep in mind the principles incorporated in the National mission for judicial reforms which includes identifying bottlenecks which the Government and its agencies may be concerned with and also removing unnecessary Government cases. Prioritisation in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority.

4. The Stakeholders:

No.11013/2/2004-Estt. (A)
Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

New Delhi, dated the 16th February, 2004

OFFICE MEMORANDUM

Sub. : Accountability for delay in decision making.

A Core Group on Administrative Reforms (CGAR) has been constituted under the chairmanship of Cabinet Secretary in February, 2003 to formulate specific changes in the systems and procedures in consultation with the ministries/departments concerned and to advise strategies for changing attitudes. The Core Group has decided that the existing provisions about accountability mechanism should be reiterated with a view to bring to everyone's notice that these provisions are adequate for initiating disciplinary proceedings when an officer adopts a dilatory attitude leading to delay in decision-making and/or harassment of the public.

2. In view of the above, the following provisions of CCS (Conduct) Rules, 1964 are brought to the notice of all Ministries/Departments for information and necessary action :-

Rule 3. General

(1) Every Government servant shall at all times--

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty; and
- (iii) do nothing which is unbecoming of a Government servant.

(2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority;

(ii) No Government servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior;

Explanation I :- A Government servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of clause (ii) of sub-rule (1).

Explanation II :- Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government servant to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

Rule 3A. Promptness and Courtesy

No Government servant shall

- (a) in the performance of his official duties, act in a discourteous manner;
- (b) in his official dealings with the public or otherwise adopt dilatory tactics or wilfully cause delays in disposal of the work assigned to him.

3. Rule 11 of the CCS (CCA) Rules, 1965 provides that the penalties (ranging from 'censure' to 'dismissal') mentioned therein may be imposed on a Government servant 'for good and sufficient reasons'. Thus any Government servants violating the provisions of Conduct Rules can be proceeded against as it will form 'good and sufficient reasons' for imposing the penalties prescribed in Rule 11. In other words, disciplinary proceedings could be initiated if an officer adopts a dilatory attitude, leading to delay in decisions making and/or harassment of the public.

4. Ministries/Departments are also requested to bring the above cited provisions of the Conduct Rules and CCA Rules to the notice of all the officers and officials in the Ministry/Department (proper) and in the organizations/offices under their administrative control to clarify that if they are found responsible for willful delay in disposal of the various types of cases dealt with by them, finally leading to delay in decisions making, they shall be liable for disciplinary action in terms of the relevant provisions referred to in para 2 and 3 of this OM.

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(Mrs. Pratibha Mohan)
Director

To

All Ministries/Departments of the Government of India.

Copy to :

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.
4. Central Bureau of Investigation, New Delhi.
5. All Union Territory Administrations.
6. Lok Sabha/Rajya Sabha Secretariat.
7. All attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.
8. All officers and sections in the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.

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(Smt. Pratibha Mohan)
Director (E-II)