



VIGILANCE MANUAL

VOLUME I



CENTRAL VIGILANCE COMMISSION


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FOREWORD

The Vigilance Manual brought out by the Central Vigilance Commission has been found to be extremely useful by all who are involved in various areas of vigilance administration. The Manual is updated by the Commission from time to time to take on board revisions and modifications to the rules effected from time to time.

The current revised edition has been meticulously compiled by Shri K.L. Ahuja who has been associated with the preparation of the Manual in the earlier editions also. The Commission places on record its gratitude for the excellent work done by Shri Ahuja.

As has always been underlined by the Commission, the Manual is only a ready reference book for use by all the officers involved in vigilance administration. It cannot and should not be a substitute for reference to the concerned rules and orders issued by the government. The Commission welcomes any suggestion to make the volume better from the point of view of users and will be grateful if any error or omission which might have inadvertently crept in is brought to the Commission's notice.



(P. Shankar)

Central Vigilance Commissioner

New Delhi
12th January 2005

ABBREVIATION

ACR	Annual Confidential Report
AG (AFHQ)	Adjutant General
CBI	Central Bureau of Investigation
CDI	Commissioner for Departmental Inquiries
CVC	Central Vigilance Commission
CVO	Chief Vigilance Officer
DOPT	Department of Personnel and Training
DSPE	Delhi Special Police Establishment
GEQD	Government Examiners of Questioned Documents
JPC	Joint Parliamentary Committee
PSB	Public Sector Bank
PSE	Public Sector Enterprise
PSU	Public Sector Undertaking
QPR	Quarterly Progress Report
VC	Vigilance Commissioner

TABLE OF CONTENTS

VOLUME I

CHAPTER I - Organisaton

		Page No.
1.	Introduction	1
2.	Administrative Vigilance Division	1
3.	Central Vigilance Commission	1-8
4.	Chief Vigilance Officer's Organisation	8
5.	Central Bureau of Investigation	8-10
6.	Vigilance Angle	10-11
7.	Determination of Vigilance Angle in Banking Sector	11-12

CHAPTER II - CVO - Appointment, Role and Functions

1.	Background	13
2.	Procedure for appointment of CVO	13-15
3	Tenure of CVO	15
4.	Short- term arrangement in the post of CVO	15
5.	Association of CVOs with sensitive matters	15-16
6.	Permanent absorption of CVOs in PSUs	16
7.	Assessment of the CVOs' work	16
8.	Role and functions of CVOs	16-17
9.	Preventive Vigilance	17-18
10.	Punitive Vigilance	18-21
11.	Surveillance and Detection	22
12	Organising review meetings	22
13.	Submission of reports and returns	22
14.	List of Select organisations	23-25

CHAPTER III - Complaints

1.	Definition	26
2.	Sources of Complaint	26-27
3.	Complaints received from subordinate officials	27
4.	Initial action of complaints received by Ministries/Departments etc	27-28
5.	Scrutiny of Complaints	28
6.	Disposal of Complaints	28
7.	Complaints received in the CVC	28
8.	Action on Anonymous/Pseudonymous complaints	29
9.	Co-operation of voluntary public orgns., press and responsible citizens in combating corruption	29-30
10.	GOI Resolution on Public Interest Disclosure and Protection of Informer	30-31

CHAPTER IV - Preliminary inquiry/investigation

1.	Agency for conducting investigations	33
2.	Competency to refer the matter to CBI	33
3.	Parallel investigation by departmental vigilance agency and the CBI	33-34
4.	Preliminary inquiry/investigation by departmental agencies	34-36
5.	Submission of report by departmental investigating officer	36
6.	Authority competent to take a view on investigation	36-37
7.	Investigation by Central Bureau of Investigation	37
8.	Forwarding of copies of FIR/PE registration reports to administrative authority	37-38
9.	Registration of cases against officers of decision making levels	38
10.	Technical assistance from CTE organisation	38
11.	Technical assistance in investigation of cases pertaining to Railways and Defence	38-39
12.	Submission of reports by the CBI	39-40
13.	Expeditious completion of investigations by the CVOs and the CBI	40-41
14.	Investigation against officers on deputation	41
15.	Review of cases entrusted to the CBI	41
16.	Registration pending investigation/inquiry	41
17.	Action against person making false complaint	42-43
18.	Grant of immunity/pardon to approvers	43-44

CHAPTER V - Facilities and Co-operation to be extended by Administrative Authority to the CBI during investigation of cases.

1.	Full Co-operation to be extended	45
2.	Inspection of record by SPE	45-46
3.	Inspection of classified/graded documents	46-47
4.	Obtaining documents from audit office	47-48
5.	Examination of disputed documents by GEQD	48-49
6.	Technical assistance during investigation	49-51
7.	Transfer of employees on CBI's recommendation	51
8.	Assistance in laying traps	51-52
9.	Action to be taken when a bribe is offered to a public servant	52
10.	Examination of witnesses	53
11.	Accommodation/communication transport facilities	53
12.	Arrest/handing over of defence personnel etc. to civil police	53
13.	Suspension of a public servant	53-54
14.	Close liaison between the SPE and the Administrative authority	54

CHAPTER- VI - Suspension

1.	Introduction	55
2.	Authorities competent to place a public servant under suspension	55-56

3.	When a Govt. Servant may be suspended	56-59
4.	Deemed Suspension	59-61
5.	Order of suspension/deemed suspension	61
6.	Headquarters during suspension	61-62
7.	Modification/revocation of order of suspension	62
8.	Appeal against the order of suspension	62
9.	Consideration of appeal by the appellate authority	62
10.	Duration of order of suspension	63-64
11.	Revocation of suspension order	64-65
12.	Speedy investigation into cases in which an officer is under suspension	65-66
13.	Acceptance of resignation/notice for voluntary retirement during suspension	66-67
14.	Promotion of an officer under suspension	67-71
15.	Grant of leave while under suspension	72
16.	Marking of attendance by a suspended employee	72

CHAPTER I

ANTI-CORRUPTION AGENCIES IN CENTRAL GOVERNMENT-ROLE AND FUNCTION

INTRODUCTION

1.1 Anti-corruption measures of the Central Government are a responsibility of (i) Administrative Vigilance Division [AVD] in the Department of Personnel & Training; (ii) Central Bureau of Investigation; (iii) Vigilance units in the Ministries/Departments of Government of India, Central Public Enterprises and other autonomous organisations [hereinafter referred to as *Department*]; (iv) the disciplinary authorities; and (v) the Central Vigilance Commission [hereinafter referred to as *the Commission*]. The AVD is concerned with the rules and regulations regarding vigilance in public services. The SPE wing of the CBI investigates cases involving commission of offences under the Prevention of Corruption Act, 1988 [hereinafter referred to as *PC Act*] against the public servants and other misconducts allegedly committed by the public servants having vigilance overtones. The disciplinary authority has the over-all responsibility of looking into the misconducts alleged against, or committed by, the public servants within its control and to take appropriate punitive action. It is also required to take appropriate preventive measures so as to prevent commission of misconducts/malpractices by the employees under its control and jurisdiction. The Chief Vigilance Officer [CVO] acts as a Special Assistant/Advisor to the Head of the concerned Department in the discharge of these functions. He also acts as a liaison officer between the Department and the CVC as also between the Department and the CBI. The Central Vigilance Commission acts as the apex organisation for exercising general superintendence and control over vigilance matters in administration and probity in public life.

ADMINISTRATIVE VIGILANCE DIVISION

1.2 The Administrative Vigilance Division was set up in the Ministry of Home Affairs, in August 1955, to serve as a central agency to assume overall responsibility for anti-corruption measures. With the establishment of the Central Vigilance Commission, a good part of the functions performed by the Administrative Vigilance Division are now exercised by the Central Vigilance Commission. The Administrative Vigilance Division is now responsible for the formulation and implementation of policies of the Central Government in the field of vigilance, integrity in public services, and anti-corruption and to provide guidance and co-ordination to Ministries/Department of Government of India in matters requiring decisions of Government.

CENTRAL VIGILANCE COMMISSION

1.3.1 In pursuance of the recommendations made by the Committee on Prevention of Corruption [*popularly known as Santhanam Committee*], the Central Vigilance Commission was set up by the Government of India by a Resolution, dated 11.2.1964.

Consequent upon the judgement of the Hon'ble Supreme Court in *Vineet Narain vs. Union of India* [CWP 340-343 of 1993], the Commission was accorded statutory status with effect from 25.8.1998 through "***The Central Vigilance Commission Ordinance, 1998***". Subsequently, the CVC Bill was passed by both Houses of Parliament in 2003 and the President gave its assent on 11th September 2003. Thus, the Central Vigilance Commission Act, 2003 (No.45 of 2003) came into effect from that date.

1.3.2 Set-up: In terms of the provisions made in the CVC's Act, the Commission shall consist of a Central Vigilance Commissioner [Chairperson] and not more than two Vigilance Commissioners [Members]. Presently, the Commission is a three-member Commission consisting of a Central Vigilance Commissioner and two Vigilance Commissioners. The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President by warrant under his hand and seal for a term of four years from the date on which they enter upon their offices or till they attain the age of sixty-five years, whichever is earlier. However, the present Vigilance Commissioners shall have tenure of three years as they had been appointed before the CVC Act came into force.

1.3.3 Functions and Powers of Central Vigilance Commission:

1.3.3.1 The functions and powers of the Commission, as defined in the CVC Act, are as under:

- (a) To exercise superintendence over the functioning of Delhi Special Police Establishment [DSPE] insofar as it relates to investigation of offences alleged to have been committed under the PC Act or an offence with which a public servant belonging a particular category [i.e. a member of All India Services serving in connection with the affairs of the Union; or Group 'A' officer of the Central Government; or an officer of the Central Public Sector enterprise/autonomous organisation etc.] may be charged under the Code of Criminal Procedure at the same trial;
- (b) To give directions to the DSPE for the purpose of discharging the responsibility of superintendence. The Commission, however, shall not exercise powers in such a manner so as to require the DSPE to investigate or dispose of any case in a particular manner;
- (c) To inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation

established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the PC Act; or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

- (d) To inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to the following categories of officials, wherein it is alleged that he has committed an offence under the PC Act:
 - (i) Members of All India Services serving in connection with the affairs of the Union;
 - (ii) Group 'A' Officers of the Central Government;
 - (iii) Officers of Scale-V and above of public sector banks;
 - (iv) Such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf, provided that till such time a notification is issued, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in this clause.
- (e) To review the progress of applications pending with the competent authorities for sanction of prosecution under the PC Act;
- (f) To review the progress of investigations conducted by the DSPE into offences alleged to have been committed under the PC Act;
- (g) To tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, the said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise; and

- (h) To exercise superintendence over the vigilance administration of various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

1.3.3.2 Clause 24 of the CVC Act empowers the Commission to discharge the functions entrusted to it vide Government of India's Resolution dated 11.02.1964, insofar as those functions are not inconsistent with the provisions of the Act. Thus, the Commission will continue to perform following functions in addition to the functions enumerated in para 1.3.3.1 above:

- (a) ***Appointment of CVOs:*** The Commission would convey approval for appointment of CVOs in terms of para 6 of the Resolution, which laid down that the Chief Vigilance Officers will be appointed in consultation with the Commission and no person whose appointment as the CVO is objected to by the Commission will be so appointed.
- (b) ***Writing ACRs of CVOs:*** The Central Vigilance Commissioner would continue to assess the work of the CVO, which would be recorded in the character rolls of the officer concerned in terms of para 7 of the Resolution.
- (c) ***Commission's advice in Prosecution cases:*** In cases in which the CBI considers that a prosecution should be launched and the sanction for such prosecution is required under any law to be issued in the name of the President, the Commission will tender advice, after considering the comments received from the concerned Ministry/Department/Undertaking, as to whether or not prosecution should be sanctioned.
- (d) ***Resolving difference of opinion between the CBI and the administrative authorities:*** In cases where an authority other than the President is competent to sanction prosecution and the authority does not propose to accord the sanction sought for by the CBI, the case will be reported to the Commission and the authority will take further action after considering the Commission's advice. In cases recommended by the CBI for departmental action against such employees as do not come within the normal advisory jurisdiction of the Commission, the Commission will continue to resolve the difference of opinion, if any, between the CBI and the competent administrative authorities as to

the course of action to be taken.

- (e) ***Entrusting cases to CDIs:*** The Commission has the power to require that the oral inquiry in any departmental proceedings, except the petty cases, should be entrusted to one of the Commissioners for Departmental Inquiries borne on its strength; to examine the report of the CDI; and to forward it to the disciplinary authority with its advice as to further action.
- (f) ***Advising on procedural aspects:*** If it appears that the procedure or practice is such as affords scope or facilities for corruption or misconduct, the Commission may advise that such procedure or practice be appropriately changed, or changed in a particular manner.
- (g) ***Review of Procedure and Practices:*** The Commission may initiate at such intervals as it considers suitable review of procedures and practices of administration insofar as they relate to maintenance of integrity in administration.
- (h) ***Collecting information:*** The Commission may collect such statistics and other information as may be necessary, including information about action taken on its recommendations.
- (i) ***Action against persons making false complaints:*** The Commission may take initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against public servants.

1.3.4.1 ***Jurisdiction:*** Clause 8(1)(g) of the CVC Act requires the Commission to tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise. Thus, the types of cases to be referred to the Commission for advice, and also the status of officers against whom the cases would be referred to the Commission, may require a notification by the Government in the rules to be framed under the Act or through administrative instructions on the recommendation made by the Commission. However, till such time the instructions are notified, the Commission would continue to advise on ***vigilance cases*** against following categories of employees:

- (a) Group 'A' officers of the Central Government;
- (b) Members of All India Services if misconduct was committed while serving in connection with the Affairs of the Union; or if the State Govt. proposes to impose a penalty of dismissal, removal or compulsory retirement for the misconduct committed by him while serving in connection with the affairs of that State Government;
- (c) Executives holding top positions up to two levels below the Board-level in the public sector undertakings;
- (d) Officers in Scale-V and above in the public sector banks;
- (e) Officers of the rank of Assistant Manager and above in the insurance sector (covered by LIC and GIC); and
- (f) Officers drawing basic pay of Rs.8700 and above in autonomous bodies/local authorities/societies etc.

1.3.4.2 While delegating powers to the Ministries/Organisations to handle vigilance cases against certain categories of employees, 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; 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 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 recommended its review by the reviewing authority or may give such directions as it considers appropriate.

CTE organisation:

1.3.5.1 The Committee on Prevention of Corruption had recommended that the Chief Technical Examiner's Organisation [*hereinafter referred as CTEO*], which was created in 1957, in the Ministry of Works, Housing & Supply for the purpose of conducting a concurrent technical audit of works of the Central Public Works Department with a view to securing economy in expenditure and better technical and financial control, should be transferred to the Central Vigilance Commission so that its services may be easily available to the Central Bureau of Investigation or in inquiries made under the direction of the Central Vigilance Commission. The recommendation was accepted by the Government of India and the

Chief Technical Examiner's Organisation now functions under the administrative control of the Central Vigilance Commission as its technical wing, carrying out inspection of civil, electrical and horticulture works of the Central Government departments, public sector undertakings/enterprises of the Government of India and central financial institutions/banks etc. The jurisdiction of the organisation is coextensive with that of the Commission. The works or contracts for intensive examination are selected from the details furnished by the CVO in the quarterly progress reports sent to the CTEO. The intensive examination of works carried out by the organisations helps in detecting cases related to execution of work with substandard materials, avoidable and/or ostentatious expenditure, and undue favours or overpayment to contractors etc. At present, information in respect of civil works in progress having the tender value exceeding Rupees One crore, electrical/mechanical/electronic works exceeding Rupee fifteen lacs, horticulture works more than Rupee two lacs and store purchase contracts valuing more than Rupee two crores are required to be sent by the CVOs of all organisations. However, the Chief Vigilance Officers are free to recommend other cases also, while submitting the returns for examination of a particular work, if they suspect any serious irregularities having been committed.

1.3.5.2 Out of the returns furnished by the Chief Vigilance Officer, the Chief Technical Examiners select certain works for intensive examination and intimate these to the CVOs concerned. The CVO is expected to make available all relevant documents and such other records as may be necessary, to the CTE's team examining the works. After intensive examination of a work is carried out by the CTE's Organisation, an inspection report is sent to the CVO. The CVO should obtain comments of various officers at the site of work or in the office at the appropriate level, and furnish these comments to the CTE with his own comments. In case the CTE recommends investigation of any matter from a vigilance angle, such a communication should be treated as a complaint and dealt with appropriately. The investigation report in such cases should be referred to the Commission for advice even if no vigilance angle emerges on investigation.

1.3.6 **CDIs Unit:** To assist the disciplinary authorities in the expeditious disposal of oral inquiries, the Ministry of Home Affairs appointed Officers on Special Duty [later redesignated as Commissioners for Departmental Inquiries] on the strength of the Administrative Vigilance Division. On the recommendation of the Committee on Prevention of Corruption, the Commissioners for Departmental Inquiries were transferred to work under the control of the Central Vigilance Commission.

1.3.7 **Annual Report:** The Commission is required to present annual report to the President as to the work done by it within six

months of the close of the year under report. The report would contain a separate part on the superintendence by the Commission on the functioning of Delhi Special Police Establishment. The President shall cause the same to be laid before each House of Parliament.

**CHIEF
VIGILANCE
OFFICER'S
ORGANISATION**

1.4 The CVO heads the Vigilance Division of the organisation concerned and acts as a special assistant/advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission on one hand and his organisation and the Central Bureau of Investigation on the other. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence about the corrupt practices committed, or likely to be committed by the employees of his organisation; investigating or causing an investigation to be made into verifiable allegations reported to him; processing investigation reports for further consideration of the disciplinary authority concerned; referring the matters to the Commission for advice wherever necessary, taking steps to prevent commission of improper practices/misconducts, etc. Thus, the CVOs' functions can broadly be divided into three parts, viz. (i) Preventive vigilance; (ii) Punitive vigilance; and (iii) Surveillance and detection. Detailed information about the procedure for appointment of CVOs and their role and functions are given in Chapter-II.

**CENTRAL
BUREAU OF
INVESTIGATION**

1.5.1 The Central Bureau of Investigation was constituted under the Government of India Resolution No. 4/31/61-T dated 01.04.1963. The investigation work is done through SPE wing of the CBI, which derives its police powers from the Delhi Special Police Establishment Act, 1946 to inquire and to investigate certain specified offences or classes of offences pertaining to corruption and other kinds of malpractices involving public servants with a view to bring them to book. Section 3 of the Act provides that Central Government may, by notification in the official gazette, specify the offences or class of offences, which are to be investigated by the CBI.

1.5.2 The Special Police Establishment enjoys with the respective State Police Force concurrent powers of investigation and prosecution under the Criminal Procedure Code. However, to avoid duplication of effort, an administrative arrangement has been arrived at with the State Governments according to which:

- (a) Cases, which substantially and essentially concern Central Government employees or the affairs of the Central Government, even though involving State Government employees, are to be investigated by the SPE. The State Police is, however, kept informed of such cases and will render necessary assistance to the

SPE during investigation;

- (b) Cases, which substantially and essentially involve State Government employees or relate to the affairs of a State Government, even though involving certain Central Government employees, are investigated by the State Police. The SPE is informed of such cases and it extends assistance to the State Police during investigation, if necessary. When the investigation made by the State Police authorities in such cases involves a Central Government employee, the requests for sanction for prosecution of the competent authority of the Central Government will be routed through the SPE.

1.5.3 The Special Police Establishment, which forms a Division of the Central Bureau of Investigation, has two Divisions, viz. (i) Anti-corruption Division and (ii) Special Crimes Division. Anti-corruption Division investigates all cases registered under the Prevention of Corruption Act, 1988. If an offence under any other section of IPC or any other law is committed along with offences of bribery and corruption, it will also be investigated by the Anti-corruption Division. The Anti-corruption Division will also investigate cases pertaining to serious irregularities allegedly committed by public servants. It will also investigate cases against public servants belonging to State Governments, if entrusted to the CBI. On the other hand, the Special Crime Division investigates all cases of Economic offences and all cases of conventional crimes; such as offences relating to internal security, espionage, sabotage, narcotics and psychotropic substances, antiquities, murders, dacoities/robberies, cheating, criminal breach of trust, forgeries, dowry deaths, suspicious deaths and other offences under IPC and other laws notified under Section 3 of the DSPE Act.

1.5.4 The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offence alleged to have been committed under the Prevention of Corruption Act, 1988 [i.e. Anti-Corruption Division] vests in the Commission. The superintendence of DSPE in all other matters vests in the Central Government.

1.5.5 The administration of DSPE vests in the Director of the CBI, who is appointed on the recommendations of a committee headed by the Central Vigilance Commissioner. He holds office for a period of not less than two years from the date on which he resumed office. The Director CBI shall exercise in respect of DSPE such of the powers exercisable by an Inspector General of Police in respect of police force in a State as the Central Government may specify in that behalf.

1.5.6 The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Central Government where such allegation relates to-

- (a) the employees of the Central Government of the level of Joint Secretary and above; and
- (b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

1.5.7 Notwithstanding anything contained in para 1.5.6, no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act, 1988.

WHAT IS A VIGILANCE ANGLE?

1.6.1 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.

1.6.2 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.

1.6.3 The *raison d'être* of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. 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 organisation is one possible criterion for determining the *bona fides* of the case. A positive response to this question may indicate the existence of *bona fides*. A negative reply, on the other hand, might indicate their absence.

1.6.4 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.

**DETERMINATION
OF VIGILANCE
ANGLE IN
BANKING
SECTOR**

1.7.1 In view of the paradigm shift in the role and functions of commercial banks, appropriate attention is required to be paid in deciding the involvement of a vigilance angle in the complaints/disciplinary cases relating to banking sector. For that purpose, each bank may set up an internal advisory committee of three members, preferably of the level of General Managers but not below the level of Deputy General Managers, to scrutinize the complaints received in the bank and also the cases arising out of inspections and audit etc; and determine involvement of vigilance angle, or otherwise, in those transactions. The committee shall record reasons for arriving at such a conclusion. The committee will send its recommendations to the CVO. The CVO, while taking a decision on each case, will consider the advice of the committee. Such records shall be maintained by the CVO and would be made available to an officer, or a team of officers, of the Commission for scrutiny when it visits the bank for the purpose of vigilance audit.

1.7.2 All decisions of the committee on the involvement of vigilance angle, or otherwise, will be taken unanimously. In case of difference of opinion between the members, the majority view may be stated. The CVO would refer its recommendations to disciplinary authority. In case of difference of opinion between the disciplinary authority and the CVO, the matter would be referred to the Commission for advice.

1.7.3 The investigation/inquiry reports on the complaints/cases arising out of audit and inspection etc. involving a vigilance angle will have to be referred to the Commission for advice even if the competent authority in the bank decides to close the case, if any of the officer involved is of the level for whom the Commission's advice is required.

CHAPTER II

CHIEF VIGILANCE OFFICERS- APPOINTMENT, ROLE AND FUNCTIONS

BACKGROUND

2.1.1 Primary responsibility for maintenance of purity, integrity and efficiency in the organisation vests in the Secretary of the Ministry, or the head of the Department, or the Chief Executive of the Public Sector Enterprises. Such authority, however, is assisted by an officer called the Chief Vigilance Officer(CVO) in the discharge of vigilance functions. The CVO acts as a special assistant/advisor to the chief executive and reports directly to him in all matters relating to vigilance. He heads the Vigilance Division of the organisation concerned and provides a link between is organisation and the Central Vigilance Commissioner and his organisation and the Central Bureau of Investigation.

2.1.2 It has been provided that big departments/organisations should have a full-time CVO, i.e. he should not be burdened with other responsibility. If it is considered that the CVO does not have full-time vigilance work, he may be entrusted with such functions that serve as input to vigilance activity, e.g. audit and inspections. The work relating to security and vigilance, however, should not be entrusted to the CVO as, in that case, the CVO would find very little time for effective performance of vigilance functions. Furthermore, in order to be effective, he should normally be an outsider appointed for a fixed tenure on deputation terms and should not be allowed to get absorbed in the organisation either during the currency of deputation period or on its expiry.

PROCEDURE FOR APPOINTMENT

2.2 The Chief Vigilance Officers in all departments/organisations are appointed after prior consultation with the Central Vigilance Commission and no person whose appointment in that capacity is objected to by the Commission may be so appointed.

APPOINTMENT OF CVOs IN THE MINISTRIES/ DEPARTMENTS

2.3 The Ministries/Departments of Government of India are required to furnish a panel of names of officers of sufficiently higher level (Joint Secretary or at least a Director/Dy. Secretary), who may report direct to the Secretary concerned, in the order of preference, along with their bio-data and complete ACR dossiers for the Commission's consideration. The officer approved by the Commission for the post of CVO is entrusted vigilance functions on full-time or part-time basis, as the case may be.

APPOINTMENT OF CVOs IN PUBLIC SECTOR UNDERTAKINGS

2.4.1 The CVO in a public sector undertaking (PSU), as far as practicable, should not belong to the organisation to which he is appointed, and having worked as CVO in an organisation, should not go back to the same organisation as CVO. The thrust behind this policy is to ensure that the officer appointed as CVO is able to inspire confidence that he would not be hampered by past

association with the organisation in deciding vigilance cases.

2.4.2 The following guidelines have been prescribed for filling up full-time posts of CVOs in the PSUs:

- (i) The posts shall be filled as per the procedure followed for posts in the Central Government under the Central Staffing Scheme;
- (ii) The DOPT would request the cadre controlling authorities of various organized services, as well as PSUs, to offer officers of proven integrity for these posts. The names, so received, would be forwarded, along with bio-data of the officers concerned and their ACR Dossiers, to the Central Vigilance Commission for approval;
- (iii) The DOPT would maintain a panel of names approved by the Commission and would request the cadre authorities, as well as the officers on the officer list, to indicate choice of location;
- (iv) The DOPT would offer the names to the Ministries/ Departments concerned for the posts of CVOs in the PSUs under their respective charges;
- (v) The offer list would be operative for a period of one calendar year;
- (vi) The DOPT, or the administrative Ministry/Department concerned, would obtain specific approval in favor of an officer in the proposal is to appoint that officer as a CVO in any of 100 select organisations.

2.4.3 Such PSUs, which do not have full-time posts of CVOs, would forward a panel of names of three officers of sufficiently higher level, who can report direct to the chief executive in the vigilance related matters, arranged in order of preference, along with their bio-data and complete ACR dossiers for the Commission's consideration. The officer approved by the Commission for the post of CVO would be entrusted vigilance functions on part-time basis, i.e. in addition to his normal duties.

APPOINTMENT OF CVOs IN PUBLIC SECTOR BANKS

2.5 In order to ensure a greater degree of independence and impartiality in the functioning of CVOs, it has been provided that all public sector banks (PSBs) should have CVOs appointed on deputation basis from amongst the Deputy General Managers of PSBs or from the Reserve bank of India, with three years service or the General Managers. For that purpose, the Banking Division would call for applications from willing officers, before a vacancy

arise in the post of CVO in a public sector bank, and would shortlist a panel of names in the manner as deemed appropriate. The short-listed panel, along with bio-data and complete ACRs dossiers of the officers concerned, would be forwarded to the Commission for consideration. The officer approved by the Commission would be appointed as CVO in that particular bank.

**APPOINTMENT
OF CVOs IN
INSURANCE
COMPANIES/
AUTONOMOUS
ORGANISATIONS/
SOCIETIES ETC.**

2.6.1 Irrespective of the fact whether the post of a CVO in an insurance company, autonomous organisation, Co-operative Society etc, is on full-time basis or on part-time basis, such organisations would forward, through their administrative Ministries/Departments, a panel of names of three officers of sufficiently higher level, who can report direct to the chief executive in vigilance related matters, arranged in order of preference, along with their bio-data and complete ACR dossiers for the Commission's consideration. The officer approved by the Commission would be appointed as CVO in that organisation.

2.6.2 Such autonomous organisations that have a full-time post of CVO, and propose to fill up the post on deputation basis on the pattern of Central Staffing Scheme, may obtain a panel of names from the DOPt from the offer list approved by the Commission.

TENURE OF CVO

2.7 The normal tenure of a CVO is three years extendable up to a further period of two years in the same organisation, or up to a further period of three years on transfer to another organisation on completion of initial deputation tenure of three years in the previous organisation, with the approval of the Commission, But if a CVO has to shift from one PSU to another PSU without completing the approved tenure in the previous PSU, the principle of overall tenure of six years would prevail.

**SHORT-TERM
ARRANGEMENT
IN THE POST OF
CVO**

2.8 Suitable arrangements in vacancies for three months, or for any shorter period, due to leave or other reasons, may be made by the appropriate authority concerned, without prior approval of the Central Vigilance Commission. The nature and duration of vacancy and the name of the officer, who is entrusted with the duties of CVO, should however be reported to the Commission.

**ASSOCIATION OF
CVOs WITH
SENSITIVE
MATTERS**

2.9 It is considered that participation in decision making or close association of vigilance staff in such matters over which they might be required, at a later stage, to sit in judgment from vigilance point of view, should be avoided. Therefore, vigilance functionaries should not be a party to processing and decision-making processes or in other similar administrative transactions of such nature, which are likely to have clear vigilance sensitivity. While it may not be difficult for full-time vigilance functionaries to comply with this requirement, the compliance of these instructions could be achieved in respect of part-time vigilance functionaries by confining their duties, other than those connected with vigilance work, as far as

possible, to such items of work that are either free from vigilance angle or preferable serve as input to vigilance activities such as inspection, audit, etc.

**PERMANENT
ABSORPTION OF
CVOs IN PSUs**

2.10 If an assurance is extended to a CVO, who has been appointed on deputation terms for a fixed tenure in the PSU, for permanent absorption, there is a distinct possibility that it might impair this objectivity in deciding vigilance cases and might negate the very purpose of appointing outsider CVOs. It has, thus, been provided that an outsider CVO shall not be permanently absorbed in the same public sector undertaking on expiry or in continuation of his tenure as CVO in that organisation.

**ASSESSMENT OF
THE CVOs' WORK**

2.11 Central Vigilance Commissioner has also been given the powers to assess the work of Chief Vigilance officers. The Assessment is recorded in the character rolls of the officer. For that purpose, the following procedure has been prescribed:

- (i) The ACRs of the CVOs in the public sector undertakings/organisations, whether working on a full-time or a part-time basis, would be initiated by the chief executive of the concerned undertaking/organisation, reviewed by the Secretary of the administrative Ministry/Department concerned, and sent to the Central Vigilance Commissioner for writing his remarks as the accepting authority;
- (ii) The assessment by the Central Vigilance Commissioner in respect of the CVOs in the Ministries/Departments of the Government of India and their attached/subordinate offices, who look after vigilance functions in addition to their normal duties, will be recorded on a separate sheet of paper to be subsequently added to the confidential rolls of the officers concerned.

**ROLE AND
FUNCTIONS OF
CVOs**

2.12.1 As stated above, the CVO heads the vigilance Division of the organisation concerned and acts as a special assistant/advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission and his organisation and the Central Bureau of Investigation. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence about the corrupt practices committed, or likely to be committed by the employees of his organisation; investigating or causing an investigation to be made into verifiable allegations reported to him; processing investigation reports for further consideration of the disciplinary authority concerned; referring the matters to the Commission for advice wherever necessary, taking steps to prevent commission of improper practices/misconducts, etc. Thus, the CVOs' functions can broadly be divided into three parts, as under:

- (i) Preventative vigilance
- (ii) Punitive vigilance
- (iii) Surveillance and detection.

2.12.2 While “surveillance” and “punitive action” for commission of misconduct and other malpractices is certainly important, the ‘preventive measure’ to be taken by the CVO are comparatively more important as these are likely to reduce the number of vigilance cases considerably. Thus, the role of CVO should be predominantly preventive.

PREVENTIVE VIGILANCE

2.13 Santhanam Committee, while outlining the preventive measures, that should be taken to significantly reduce corruption, had identified four major causes of corruption, viz. (i) administrative delays; (ii) Government taking upon themselves more than what they can manage by way of regulatory functions; (iii) scope for personal discretion in the exercise of powers vested in different categories of government servants; and (iv) cumbersome procedures of dealing with various matters which are of importance to citizens in their day to day affairs. The CVO is thus expected to take following measures on preventive vigilance side:

- (i) To undertake a study of existing procedure and practices prevailing in his organisation with a view to modifying those procedures or practices which provide a scope for corruption, and also to find out the causes of delay, the points at which delay occurs and device suitable steps to minimize delays at different stages;
- (ii) To undertake a review of the regulatory functions with a view to see whether all of them are strictly necessary and whether the manner of discharge of those functions and exercise of powers of control are capable of improvement;
- (iii) To devise adequate methods of control over exercise of discretion so as to ensure that discretionary powers are not exercised arbitrarily but in a transparent and fair manner;
- (iv) To educate the citizens about the procedures of dealing with various matters and also to simplify the cumbersome procedures as far as possible;
- (v) To identify the areas in his organisation which are prone to corruption and to ensure that the officers of proven integrity only are posted in those areas;
- (vi) To prepare a list of officers of doubtful integrity-The

list would include names of those officers who, after inquiry or during the course of inquiry, have been found to be lacking in integrity, such as (a) officer convicted in a Court of Law on the charge of lack of integrity or for an offence involving Moral turpitude but who has not been imposed a penalty of dismissal, removal or compulsory retirement in view of exceptional circumstances; (b) awarded departmentally a major penalty on charges of lack of integrity or gross dereliction of duty in protecting the interest of government although corrupt motive may not be capable of proof; (c) against whom proceedings for a major penalty or a court trial is in progress for alleged acts involving lack of integrity or moral turpitude; and (d) who was prosecuted but acquitted on technical grounds as there remained a reasonable suspicion about his integrity;

- (vii) To prepare the “agreed list” in consultation with the CBI- This list will include the names of officers against whose honesty or integrity there are complaints, doubts or suspicions;
- (viii) To ensure that the officers appearing on the list of officers of doubtful integrity and the agreed list are not posted in the identified sensitive/corruption prone areas;
- (ix) To ensure periodical rotations of staff; and
- (x) To ensure that the organisation has prepared manuals on important subjects such as purchases, contracts, etc. and that these manuals are updated from time to time and conform to the guidelines issued by the Commission.

PUNITIVE VIGILANCE

2.14.1 The CVO is expected to scrutinize reports of Parliamentary Committees such as Estimates Committee, Public Accounts Committee and the Committee on public undertakings; audit reports; proceedings of both Houses of Parliament; and complaints and allegations appearing in the press; and to take appropriate action thereon. Predominantly, the CVO is expected to take following action on the punitive vigilance aspects:

- (i) To receive complaints from all sources and scrutinize them with a view to finding out if the allegations involve a vigilance angle. When in doubt, the CVO may refer the matter to his administrative head;
- (ii) To investigate or cause an investigation to be made into such specific and verifiable allegations as involved a

vigilance angle;

- (iii) To investigate or cause an investigation to be made into the allegations forwarded to him by the Commission or by the CBI;
- (iv) To process the investigation reports expeditiously for obtaining orders of the competent authorities about further course of action to be taken and also obtaining Commission's advice on the investigation reports where necessary;
- (v) To ensure that the charge sheets to the concerned employees are drafted properly and issued expeditiously;
- (vi) To ensure that there is no delay in appointing the inquiring authorities where necessary;
- (vii) To examine the inquiry officer's report, keeping in view the evidence adduced by the prosecution and the defence during the course of inquiry, and obtaining orders of the competent authority about further course of action to be taken and also obtaining the Commission's second stage advice and UPSC's advice, where necessary;
- (viii) To ensure that the disciplinary authority concerned, issued a speaking order, while imposing a punishment on the delinquent employee. The order to be issued by the disciplinary authority should show that the disciplinary authority had applied its mind and exercised its independent judgment;
- (ix) To ensure that rules with regard to disciplinary proceedings are scrupulously followed at all stages by all concerned as any violation of rules would render the entire proceedings void;
- (x) To ensure that the time limits prescribed for processing the vigilance cases at various stages, as under, are strictly adhered to:

S. No.

State of Investigation or inquiry

Time limit

1.

Decision as to whether the complaint involves a vigilance angle

One month from the receipt of the complaint

2.
Decision on complaint, whether to be filed or to be entrusted to CBI or
to sent to the concerned administrative authority for necessary
action.
One month from the receipt of the
complaint
3.
Conduction 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 report by the 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 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 CO for his representation

(i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved

(ii) 15 days if all charges held as not proved- reason 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 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 is not required

2.14.2 Although the discretion to place a public servant under suspension, when a disciplinary proceedings is either pending or contemplated against him, is that of the disciplinary authority, the CVO is expected to assist the disciplinary authority in proper exercise of this discretion. The CVO should also ensure that all cases in which the officers concerned have been under suspension are reviewed within a period of 90 days with a view to see if the suspension order could be revoked or if there was a case for increasing or decreasing the subsistence allowance.

2.14.3 The Commission's advice in respect of category 'A' officials is to be obtained at two stages; firstly on the investigation report in terms of para 2.14.1(iv) and secondly on the inquiry report in terms of para 2.14.1(vii) supra. The CVO to ensure that the cases receive due consideration of the appropriate disciplinary authority before these are referred to the Commission and its tentative recommendation is indicated in the references made to the Commission. The references to the Commission should be in the form of a self-contained note along with supporting documents, viz the complaint, investigation report, statement/version of the concerned employee(s) on the allegations established against them and the Comments of the administrative authorities thereon in first stage advice cases; and copy of the charge-sheet, statement of defence submitted by the concerned employee, the report of the inquiring authority along with connected records and the tentative views/findings of the disciplinary authority on each article of charge in second stage advice cases. The CVO may also ensure that the bio-data of the concerned officers is also furnished to the

SURVEILLANCE AND DETECTION

Commission in the prescribed format, while seeking its advice. The cases requiring reconsiderations of the Commission's advice may, however, be sent with the approval of the Chief Executive, or the Head of the Department, as the case may be.

ORGANISING REVIEW MEETINGS

2.15 The CVO should conduct regular and surprise inspections in the sensitive areas in order to detect if there have been instances of corrupt or improper practice by the public servants. He should also undertake prompt and adequate scrutiny of property returns and intimations given by the public servants under the conduct rules and proper follow up action where necessary. In addition, he should also gather intelligence from its own sources in whatever manner he deems appropriate about the misconduct/malpractices having been committed or likely to be committed.

2.16.1 CVO should invariably review all pending matters, such as investigation reports, disciplinary cases and other vigilance complaints/cases in the first week of every month and take necessary steps for expediting action on those matters.

SUBMISSION OF REPORTS AND RETURNS

2.16.2 The CVO would arrange quarterly meetings to be taken by the Secretary of the Ministry/Department or the Chief executive for reviewing the vigilance work done in the organisation.

2.16.3 The CVO would also arrange periodical meetings with the officers of the CBI to discuss matters of mutual interests, particularly those arising from inquiries and investigations.

2.17.1. The CVO would also ensure that monthly reports of the work done on vigilance matters is furnished to the Commission by fifth day of the following months.

2.17.2 The CVO would ensure that the Annual Report(AR) of the previous year (Jan. to Dec.) of the work done on vigilance matter is furnished to the Commission by 30th Jan. of the succeeding year.

2.17.3 The CVO would also ensure that quarterly progress reports(QPR) on the civil, electrical, horticulture works in progress and also on procurement of stores are furnished to the CTEs by 15th day of the month following the quarters ending March, June, September and December.

**LIST OF SELECT ORGANISATIONS FOR WHICH
SPECIFIC APPROVAL OF THE COMMISSION FOR AN OFFICER TO BE
APPOINTED AS CVO IS REQUIRED**

S. No.	Name of the Organisation
1.	Container Corporation of India Ltd.
2.	IRCON International
3.	RITES Ltd.
4.	Airports Authority of India
5.	Air India
6.	Indian Airlines
7.	Indian Telephone Industries Ltd.
8.	ITDC
9.	Bharat Sanchar Nigam Ltd.
10.	MTNL
11.	National Highways Authority of India
12.	Chennai Port Trust
13.	Ennore Port Ltd.
14.	Goa Shipyard Ltd.
15.	Hindustan Shipyard Ltd.
16.	Jawaharlal Nehru Port Trust
17.	Kandla Port Trust
18.	Kochi Shipyard Ltd.
19.	Kolkata Port Trust
20.	Mazagon Dock Ltd.
21.	Mumbai Port Trust
22.	Paradip Port Trust
23.	Shipping Corporation of India Ltd.
24.	Tuticorin Port Trust
25.	Visakhapatnam Port Trust
26.	Bank of Maharashtra
27.	Exim Bank
28.	I.D.B.I.
29.	I.I.B.I.
30.	Indian Bank
31.	Indian Overseas Bank
32.	N.A.B.A.R.D.
33.	National Housing Bank
34.	Reserve Bank of India
35.	SIDBI
36.	State Bank of India
37.	State Bank of Bikaner & Jaipur
38.	State Bank of Hyderabad
39.	State Bank of Saurashtra
40.	State Bank of Indore
41.	State Bank of Mysore
42.	State Bank of Patiala
43.	State Bank of Travancore

44.	UCO Bank
45.	Union Bank of India
46.	Allahabad Bank
47.	Andhra Bank
48.	Bank of Baroda
49.	Bank of India
50.	Canara Bank
51.	Central Bank of India
52.	Corporation Bank
53.	Dena Bank
54.	Oriental Bank of Commerce
55.	Punjab & Sind Bank
56.	Punjab National Bank
57.	Syndicate Bank
58.	United Bank of India
59.	Vijaya Bank
60.	LIC of India Ltd.
61.	National Insurance Co. Ltd.
62.	New India Assurance Co. Ltd.
63.	Oriental Insurance Co. Ltd.
64.	United India Insurance Co. Ltd.
65.	Bharat Coking Coal Ltd.
66.	Bharat Heavy Electricals Ltd.
67.	Bharat Petroleum Co. Ltd.
68.	Central Coalfields Ltd.
69.	Coal India Ltd.
70.	Eastern Coalfields Ltd.
71.	Gas Authority of India Ltd.
72.	H.P.C.L.
73.	I.O.C. Ltd.
74.	I.R.E.D.A.
75.	M.M.T.C. Ltd.
76.	National Aluminium Company Ltd.
77.	National Thermal Power Corp. Ltd.
78.	Neyveli Lignite Corporation Ltd.
79.	Northern Coalfields Ltd.
80.	O.N.G.C.
81.	Oil India Ltd.
82.	Power Grid Corporation of India Ltd.
83.	Rashtriya Ispat Nigam Ltd.
84.	South Eastern Coalfields Ltd.
85.	STC of India Ltd.
86.	Steel Authority of India Ltd.
87.	Employees Provident Fund Organisation
88.	Employees State Insurance Corporation
89.	Food Corporation of India
90.	D.D.A.
91.	D.T.C.

92.	M.C.D.
93.	N.D.M.C.
94.	Bharat Dynamics Ltd.
95.	Bharat Electronics Ltd.
96.	Hindustan Aeronautics Ltd.
97.	Kudremukh Iron & Ore Co. Ltd.
98.	Mishra Dhatu Nigam Ltd.
99.	N.H.P.C.
100.	SatluJ Jal Vidyut Nigam Ltd.

CHAPTER III

COMPLAINTS

DEFINITION

3.1 Receipt of information about corruption, malpractice or misconduct on the part of public servants, from whatever source, would be termed as a complaint.

SOURCES OF COMPLAINT

3.2.1 Information about corruption, malpractice or misconduct on the part of public servants may flow to the administrative authority/ the CVC/the CBI/the police authorities from any of the following sources:

- (a) Complaints received from employees of the organisation or from the public;
- (b) Departmental inspection reports and stock verification surveys;
- (c) Scrutiny of annual property statements;
- (d) Scrutiny of transactions reported under the Conduct Rules;
- (e) Reports of irregularities in accounts detected in the routine audit of accounts; e.g. tampering with records, over-payments, misappropriation of money or materials etc.;
- (f) Audit reports on Government accounts and on the accounts of public undertakings and other corporate bodies etc.;
- (g) Reports of Parliamentary Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings;
- (h) Proceedings of two Houses of Parliament;
- (i) Complaints and allegations appearing in the press etc.;
- (j) Source information, if received verbally from an identifiable source, to be reduced in writing; and
- (k) Intelligence gathered by agencies like CBI, local bodies etc.

3.2.2 In addition, the Chief Vigilance Officer concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation,

for collecting intelligence about any malpractice and misconduct among the employees.

**COMPLAINTS
RECEIVED FROM
SUBORDINATE
OFFICIALS**

3.3 While normally a public servant is required to address communications through proper official channel, there is no objection in entertaining a direct complaint or communication from him giving information about corruption or other kinds of malpractice. While genuine complainants should be afforded protection against harassment or victimization, serious notice should be taken if a complaint, after verification, is found to be false and malicious. There should be no hesitation in taking severe departmental action or launching criminal prosecution against such complainants.

**INITIAL ACTION
ON COMPLAINTS
RECEIVED BY
MINISTRIES/
DEPARTMENTS
ETC.**

3.4.1 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 Commission's advice is required whereas category 'B' includes such employees against whom Commission'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'.

3.4.2 Every complaint, irrespective of its source, would be entered in the prescribed format in the complaints register chronologically as it is received or taken notice of. A complaint containing allegations against several officers may be treated as one complaint for the purpose of statistical returns.

3.4.3 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. Complaints, which relate to purely administrative matters or technical lapses, such as late attendance, disobedience, insubordination, negligence, lack of supervision or operational or technical irregularities, etc. should not be entered in the register and should be dealt with separately under "non-vigilance complaints".

3.4.4 A complaint against an employee of a public sector enterprise or an autonomous organisation may be received in the administrative Ministry concerned and also in the Central Vigilance Commission. Such complaints will normally be sent for inquiry to the organisation in which the employee concerned is employed and should be entered in the vigilance complaints register of that organisation only. Such complaints should not be entered in the vigilance complaints register of the administrative Ministry in order to avoid duplication of entries and inflation of statistics, except in cases in which, for any special reason, it is proposed to deal with the matter in the Ministry itself without consulting the employing

organisation.

SCRUTINY OF COMPLAINTS

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

DISPOSAL OF COMPLAINTS

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

COMPLAINTS RECEIVED IN THE CENTRAL VIGILANCE COMMISSION

3.7 Complaints received in the Central Vigilance Commission will be registered and examined initially in the Commission. The Commission may decide, according to the nature of each complaint, that (i) it does not merit any action and may be filed, or (ii) it should be sent to the administrative Ministry/Department concerned for disposal, or for inquiry and report, or (iii) it should be sent to the Central Bureau of Investigation for secret verification or detailed investigation, or (iv) the Commission itself should undertake the inquiry.

**ACTION ON
ANONYMOUS/
PSEUDONYMOUS
COMPLAINTS**

3.8.1 The Commission has issued instructions that no action is to be taken by the administrative authorities, as a general rule, on anonymous/pseudonymous complaints received by them. When in doubt, the pseudonymous character of a complaint may be verified by enquiring from the signatory of the complaint whether it had actually been sent by him. If he cannot be contacted at the address given in the complaint, or if no reply is received from him within a reasonable time, it should be presumed that the complaint is pseudonymous and should accordingly be ignored. However, if any department/organisation 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 organisation, irrespective of the level of employees involved therein.

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

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

3.8.4 Sometimes, the administrative authority may conduct investigation into a pseudonymous complaint under the belief that it is a genuine signed complaint, or for any other reason. The Commission need not be consulted if it is found that the allegations are without any substance. But if the investigation indicates, prima facie, that there is some substance in the allegations, the Commission should be consulted as to the further course of action to be taken if it pertains to category "A" employee.

**CO-OPERATION
OF VOLUNTARY
PUBLIC
ORGANISATIONS
PRESS AND
RESPONSIBLE**

3.9.1 Co-operation of responsible voluntary public organisations in combating corruption should be welcome. No distinction should, however, be made between one organisation and another; nor should any organisation be given any priority or preference over others. Where a public organisation furnishes any information in confidence, the confidence should be respected. However, the

**CITIZENS IN
COMBATING
CORRUPTION**

identity and, if necessary, the antecedents of a person, who lodges a complaint on behalf of a public organisation, may be verified before action is initiated.

3.9.2 Private voluntary organisations or individuals should not be authorized to receive complaints on behalf of administrative authorities as such authorization will amount to treating them to that extent, as functionaries of the administrative set-up.

**GOI RESOLUTION
ON PUBLIC
INTEREST
DISCLOSURE AND
PROTECTION OF
INFORMER**

3.10.1 The Government of India has 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 recommend appropriate action.

3.10.2 The jurisdiction of the Commission in this regard would be restricted to any employee of the Central Government or of any corporation established by or under any Central Act, government companies, societies or local authorities owned or controlled by the Central Government. Personnel employed by the State Governments and activities of the State Governments or its Corporations etc. will not come under the purview of the Commission.

3.10.3 In this regard, the Commission, which will accept such complaints, has the responsibility of keeping the identity of the complainant secret. Hence, it is informed to the general public that any complaint, which is to be made under this resolution should comply with the following aspects:

- (i) The complaint should be in a closed/secured envelope.
- (ii) The envelope should be addressed to Secretary, Central Vigilance Commission and should be superscribed "Complaint under The Public Interest Disclosure". If the envelope is not superscribed and closed, it will not be possible for the Commission to protect the complainant under the above resolution and the complaint will be dealt with as per the normal complaint policy of the Commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
- (iii) Commission will not entertain anonymous/pseudonymous complaints.
- (iv) The text of the complaint should be carefully drafted so as not to give any details or clue as to his/her identity. However, the details of the complaint should be specific and verifiable.
- (v) In order to protect identity of the person, the

Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable, it will take the necessary action, as provided under the Government of India Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.

3.10.4 The Commission can also take action against complainants making motivated/vexatious complaints under this Resolution

CVO-1

C.V.O. Register 1 of complaints to be maintained in separate columns for category A and Category B employees.

A.No.	Source of Complaint(See N.B.1)	Date of receipt	Name and designation of officers(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 petitions the name and address of the complainants should be mentioned in Col.2 and 1 and in other cases, the sources as clarified above should be mentioned.

2. Action taken will be of the following types:

(a) filed without enquiry (b) Filed after enquiry (c) Passed on to other sections as having no vigilance angle(c) Taken up for investigation by departmental vigilance agency.

3. Remarks Column should mention (a) and (b).

(a)If there were previous cases/complaints against the same officer, the facts should be mentioned in the “Remarks” column.

(b)Date of charge-sheet issued, wherever necessary.

CHAPTER IV

PRELIMINARY INQUIRY/INVESTIGATION

AGENCY FOR CONDUCTING INVESTIGATIONS

4.1.1 As soon as a decision has been taken to investigate the allegations contained in a complaint, it will be necessary to decide whether the allegations should be inquired into departmentally or whether a police investigation is necessary. As a general rule, investigation into the allegations of the types given below should be entrusted to the Central Bureau of Investigation or the Anti-Corruption Branch in the Union Territories:-

- (i) Allegations involving offences punishable under law which the Delhi Special Police Establishment are authorised to investigate; such as offences involving bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records, possession of assets disproportionate to known sources of income, etc.
- (ii) Cases in which the allegations are such that their truth cannot be ascertained without making inquiries from non-official persons; or those involving examination of non-Government records, books of accounts etc.; and
- (iii) Other cases of a complicated nature requiring expert police investigation.

4.1.2 In cases where allegations relate to a misconduct other than an offence, or to a departmental irregularity or negligence, and the alleged facts are capable of verification or inquiry within the department/office, the investigation should be made departmentally.

4.1.3 In certain cases, the allegations may be of both types. In such cases, it should be decided in consultation with the Central Bureau of Investigation as to which of the allegations should be dealt with departmentally and which should be investigated by the Central Bureau of Investigation.

4.1.4 If there is any difficulty in separating the allegations for separate investigation in the manner suggested above, the better course would be to entrust the whole case to the Central Bureau of Investigation.

COMPETENCY TO REFER THE MATTER TO CBI

4.2 All Chief Vigilance Officers, subject to the administrative instructions issued by the chief executive concerned, have complete discretion to refer the above types of cases to the CBI and it is not necessary to seek prior permission from the Commission.

PARALLEL INVESTIGATION

4.3 Once a case has been referred to and taken up by the CBI for investigation, further investigation should be left to them and a

**BY
DEPARTMENTAL
VIGILANCE
AGENCY AND
THE CBI**

parallel investigation by the departmental agencies should be avoided. Further action by the department in such matters should be taken on completion of investigation by the CBI on the basis of their report. However, if the departmental proceedings have already been initiated on the basis of investigations conducted by the departmental agencies, the administrative authorities may proceed with such departmental proceedings. In such cases, it would not be necessary for the CBI to investigate those allegations, which are the subject matter of the departmental inquiry proceedings, unless the CBI apprehends criminal misconduct on the part of the official(s) concerned.

**PRELIMINARY
INQUIRY/INVESTIGATION BY
DEPARTMENTAL
AGENCIES**

4.4 After it has been decided that the allegations contained in the complaint should be investigated departmentally, the vigilance officer should proceed to make a preliminary inquiry/investigation with a view to determining whether there is, prima facie, some substance in the allegations. The preliminary inquiry may be made in several ways depending upon the nature of allegations and the judgment of the investigating officer, e.g.:

- (a) 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. If the papers in question are required for any current action, it may be considered whether the purpose would not be served by substituting authenticated copies of the relevant portions of the records; the original being retained by the investigating officer in his custody. If that is not considered feasible for any reason, the officer requiring the documents or papers in question for current action should be made responsible for their safe custody after retaining authenticated copies for the purpose of investigation;
- (b) In case, where the alleged facts are likely to be known to other employees of the department, the investigating officer should interrogate them orally or ask for their written statements. The investigating officer should make a full record of the oral interrogation which the person interrogated should be asked to sign in token of confirmation. Wherever necessary, any important facts disclosed during oral interrogation or in written statements should be verified by documentary or collateral evidence to make sure of the facts;

- (c) In case, it is found necessary to make enquiries from the employees of any other Government department or office, the investigating officer may seek the assistance of the department concerned, through its CVO, for providing facility for interrogating the person(s) concerned and/or taking their written statements.
- (d) In certain types of complaints, particularly those pertaining to works, the investigating officer may find it helpful to make a site inspection, or a surprise check, to verify the facts on the spot and also to take suitable action to ensure that the evidence found there, in support of the allegations, is not disturbed.
- (e) If during the course of investigation, it is found that it will be necessary to collect evidence from non-official persons or to examine any papers or documents in their possession, further investigation in the matter should be entrusted to the Central Bureau of Investigation;
- (f) If the public servant complained against is in-charge of stores, equipment, etc., and there is a possibility of his tampering with the records pertaining to such stores or equipment, the investigating/vigilance officer may consider whether the public servant concerned should not be transferred immediately to other duties. If considered necessary, he may seek the assistance of the head of the department or office in doing so.
- (g) During the course of preliminary enquiry, the public servant concerned may be given an opportunity to say what he may have to say about the allegations against him to find out if he is in a position to give any satisfactory information or explanation. In the absence of such an explanation, the public servant concerned is likely to be proceeded against unjustifiably. It is, therefore, desirable that the investigating officer tries to obtain the suspect officers' version of "facts" and why an inquiry should not be held. There is no question of making available to him any document at this stage. Such an opportunity however may not be given in cases in which a decision to institute departmental proceedings is to be taken without any loss of time; e.g. in a case in which the public servant concerned is due to retire or to superannuate soon and it is necessary to issue a charge-sheet to him before his retirement.
- (h) While, normally, the preliminary enquiry/investigation will be made by the vigilance officer himself, he may suggest to the administrative authority to entrust the

investigation to any other officer considered suitable in the particular circumstances of the case; e.g. it may be advisable to entrust the conduct of the preliminary enquiry to a technical officer if it is likely to involve examination and appreciation of technical data or documents. Similarly, the administrative authority may entrust the investigation to an officer of sufficiently higher status if the public servant complained against is of a senior rank.

**SUBMISSION OF
REPORT BY
DEPARTMENTAL
INVESTIGATING
OFFICER**

4.5.1 On completion of the investigation process, the officer conducting the enquiry would prepare a self-contained report including the material available to controvert the defence. The investigation report should contain the explanation of the suspect officer [referred to in para 4.1(g) above]. The fact that an opportunity as referred to in para 4.1(g) was given to the officer concerned should be mentioned in the investigation report even if the officer did not avail of it. The investigating officer should also take all connected documents in his possession as this becomes very helpful if departmental action has to be taken against the officer.

4.5.2 The investigating officer will submit his report to the CVO, who will decide whether on the basis of the facts disclosed in the report of the preliminary enquiry, the complaint should be dropped or whether regular departmental proceedings should be recommended against the public servant concerned or the administration of a warning or caution would serve the purpose. He will forward the investigation report to the disciplinary authority, along with his own recommendations, for appropriate decision.

4.5.3 The CVO, while submitting his report/comments to the disciplinary authority in the organisation, should also endorse an advance copy of the investigation report to the Commission if a category 'A' Officer is involved, so that it may keep a watch over deliberate attempts to shield the corrupt public servants either by delaying the submission of investigation report to the Commission or by diluting the gravity of the offences/misconducts.

**AUTHORITY
COMPETENT TO
TAKE A VIEW ON
INVESTIGATION**

4.6.1 The decision, whether departmental action should be taken against a public servant should be taken by the authority competent to award appropriate penalty specified in the C.C.S. (C.C.A) Rules or relevant Discipline and Appeal Rules. In cases, where during the course of the preliminary enquiry or before a decision is taken on the report of the preliminary enquiry, a public servant is transferred to another post, the decision should be taken by the disciplinary authority of the latter post. The Commission's advice would, however, be obtained in category 'A' cases before the competent authority takes a final decision in the matter. In category 'B' cases, if there persists an unresolved difference of opinion between the chief vigilance officer and the disciplinary authority concerned

about the course of action to be taken, the matter would be reported by the CVO to the chief executive for appropriate direction.

4.6.2 As soon as it is decided by the disciplinary authority to institute disciplinary proceedings against the public servant(s) concerned, the complaint should be regarded as having taken the shape of a vigilance case.

**INVESTIGATION
BY CENTRAL
BUREAU OF
INVESTIGATION**

4.7.1 Unless there are special reasons to the contrary, the complaints, which are to be investigated by the Special Police Establishment [SPE/CBI], should be handed over to them at the earliest stage. Apart from other considerations, it is desirable to do so to safeguard against the possibility of the suspect public servant tampering with or destroying incriminating evidence against him. The SPE, however, should not take up inquiries or register a case where minor procedural flaws are involved. They should also take a note of an individual officer's positive achievement so that a single procedural error does not cancel out a lifetime good work.

4.7.2 In cases, in which the information available appears to be authentic and definite so as to make out a clear cognizable offence or to have enough substance in it, the C.B.I. may register a regular case (R.C.) straightaway under section 154 of the Criminal Procedure Code.

4.7.3 If the available information appears to require verification before formal investigation is taken up, a preliminary enquiry (P.E.) may be made in the first instance. As soon as the preliminary enquiry reveals that there is substance in the allegations, a regular case may be registered.

4.7.4 In cases, in which the allegations are such as to indicate, prima facie, that a criminal offence has been committed but Special Police Establishment are not empowered to investigate that offence, the case should be handed over to the local police authorities.

4.7.5 The SPE will take into confidence the head of the department, or the office concerned, before taking up any enquiry (PE or RC), or soon after starting the enquiry, as may be possible according to the circumstances of each case. This will also apply if a search is required to be made of the premises of an officer.

**FORWARDING
COPIES OF
FIRs/PE
REGISTRATION
REPORTS TO
ADMINISTRATIVE
AUTHORITIES**

4.8.1 As soon as a case is taken up for preliminary enquiry (P.E.) or a regular case (R.C.) is registered under section 154 Cr.PC, a copy of the P.E. registration report/F.I.R. will be sent by the SPE confidentially to the head of the department and/or the administrative Ministry concerned and the Chief Vigilance Officer of the organisation concerned. A copy of the P.E./F.I.R. will also be endorsed to A.G.'s Branch (P.S.I.) (AFHQ) in respect of commissioned officers and Organisation of the A.G.'s Branch

(AFHQ) in respect of civilian gazetted officers. In the case of officers of public sector undertakings and nationalised banks, a copy of the P.E./F.I.R. will be sent to the head of the undertaking or the custodian of the bank.

4.8.2 In respect of the cases involving category 'A' officers, a copy of the P.E./F.I.R. will also be sent to the Secretary, Central Vigilance Commission.

**REGISTRATION
OF CASES
AGAINST
OFFICERS OF
DECISION
MAKING LEVELS**

4.9.1 The SPE shall not conduct any inquiry or investigation into any offence alleged to have been committed under the PC Act, 1988, except with the previous approval of the Central Government, where such allegations relate to (a) the employees of the Central Government of the level of Joint Secretary and above; and (b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government [hereinafter referred to as "officers of decision-making level". However, no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration as referred to in clause 7(c) of the PC Act, 1988.

4.9.2 In case, it is necessary to examine the officer of decision-making level with regard to inquiry against another officer, the same may be carried out by the SPE. But if during the course of search of the premises of another officer, or from the deposition in the inquiry against the other officers, there is a reason to suspect mala-fide or corrupt practice against the officer of decision-making level, the inquiry against the latter may be initiated only after following the procedure prescribed in the para 4.9.1 supra.

4.9.3 In cases involving defence personnel, irrespective of their status and rank, the local administrative authority concerned will be taken into confidence as early as possible. In cases where the Delhi Special Police Establishment Division have already consulted the Army/Air/Naval Headquarters and the latter have agreed to enquiries or investigations being conducted, the local administrative authority concerned will be informed by the Army/Air/Naval Headquarters direct. The SPE will, however, take the local administrative authority into confidence before starting the enquiry.

**TECHNICAL
ASSISTANCE
FROM CTE
ORGANISATION**

4.10 The CTEs' Organisation also assist the CBI in investigation of cases if its technical assistance is required by the latter. Requests for the assistance of the CTEs' Organisation, in such matters, should be addressed direct to them.

**TECHNICAL
ASSISTANCE IN
INVESTIGATION**

4.11.1 Engineering cells also exist under the Ministry of Railways and the Ministry of Defence for performing functions similar in nature to the functions of CTEs' organisation in respect of civil

**OF CASES
PERTAINING TO
RAILWAYS AND
DEFENCE**

works, pertaining to their Ministries. The CBI may take technical opinion from these organisations during investigations. It is, however, open to the Commission to draw upon the advice of any of these Organisations at any time and also to have investigation made by the CTEs' Organisation in special cases pertaining to the civil works of the Ministry of Railways and the Ministry of Defence on its own or at the instance of the CBI.

4.11.2 Whenever the technical opinion of a wood expert is required, help and advice may be sought from the Forest Research Institute, Dehra Dun.

**SUBMISSION OF
REPORT BY THE
CBI**

4.12.1 If on completion of investigation, the C.B.I. come to a conclusion that sufficient evidence is available for launching a criminal prosecution, they shall forward the final report of investigation, in such cases, to the Central Vigilance Commission if sanction for prosecution is required under any law to be issued in the name of the President and also to the authority competent to sanction prosecution, through the CVO concerned. In other cases, the report will be forwarded to the authority competent to sanction prosecution, through the CVO concerned. The report will be accompanied by the draft sanction order in the prescribed form, and will give the rank and designation of the authority competent to dismiss the delinquent officer from service and the law or rules under which that authority is competent to do so.

4.12.2 In cases in which sufficient evidence is not available for launching criminal prosecution, the C.B.I. may come to the conclusion that:

- (a) The allegations are serious enough to warrant regular departmental action being taken against the public servant concerned. The final report in such cases will be accompanied by (a) draft article(s) of charge(s) in the prescribed form, (b) a statement of imputations in support of each charge, and (c) lists of documents and witnesses relied upon to prove the charges and imputation; or
- (b) Sufficient proof is not available to justify prosecution or regular departmental action but there is a reasonable suspicion about the honesty or integrity of the public servant concerned. The final report in such cases will seek to bring to the notice of the disciplinary authority, the nature of irregularity or negligence for such administrative action as may be considered feasible or appropriate.

4.12.3 Reports of both types mentioned in paragraph 4.12.2(a) and 4.12.2(b), involving category 'A' officers, will be forwarded by the

C.B.I. to the Central Vigilance Commission who will advise the disciplinary authority concerned regarding the course of further action to be taken. The reports forwarded to the Central Vigilance Commission will be accompanied by the verbatim statement(s) of the suspected officer(s) recorded by the investigating officer and the opinion of the Legal Division of the C.B.I., wherever obtained. The C.B.I. report may also mention the date when the first information was lodged or preliminary enquiry was registered, as this will be helpful for a proper assessment of the documentary evidence produced during the enquiry. A copy of the report will also be sent by the CBI to the administrative authority, through the CVO concerned, for submission of comments to the Commission.

4.12.4 Investigation reports pertaining to category 'B' employees will be forwarded by the CBI to the disciplinary authority concerned, through its CVO. In such cases, no further fact-finding enquiry should normally be necessary. However, if there is any matter on which the disciplinary authority may desire to have additional information or clarification, the CBI may be requested to furnish the required information /clarification. If necessary, the CBI may conduct a further investigation.

4.12.5 In cases in which preliminary enquiry/investigation reveals that there is no substance in the allegations, the CBI may decide to close the case. Such cases pertaining to category "A" officers will be reported to the Central Vigilance Commission as also to the authorities to whom copies of the F.I.Rs./P.E. registration reports were sent. In other cases, the decision to close a case will be communicated by the CBI to the administrative authorities concerned.

**EXPEDITIOUS
COMPLETION OF
INVESTIGATIONS
BY THE CVOs AND
THE CBI**

4.13.1 The Chief Vigilance Officer, or the DIG/CBI concerned, as the case may be, should keep a close watch on the progress of investigations to ensure that the processing of enquiries is done as expeditiously as possible. In cases referred by the CVC for investigation and report, the department should normally send its report to the Commission within three months from the date of receipt of the reference. The CBI may furnish reports on such complaints within a period of six months. If due to unavoidable reasons, it is not possible to complete investigation within the specified period, the Chief Vigilance Officer, or the DIG/CBI, as the case may be, should personally look into the matter and send an interim report to the Commission indicating the progress of investigation, the reasons for delay and the date by which the final report could be expected.

4.13.2 Investigation into the allegations against officers under suspension, or about to retire, should be given the highest priority so that the period of suspension is kept to the barest minimum, and there should be sufficient time for processing the investigation

reports involving retired employees so that the matter does not get time barred for action under the Pension Rules, if warranted.

4.13.3 In respect of references made by the Central Vigilance Commission to the CBI, Ministries, etc. for clarification and/or comments, the same should be sent to the Commission within six weeks. If, in any case, it is not possible to do so, the Chief Vigilance Officer or the DIG/CBI concerned should, after satisfying himself of the reasons for delay, write to the Commission for extension of time. If the required clarification/comments, or a request for extension, is not received within this period, the Commission will tender advice on the basis of material before it.

**INVESTIGATION
AGAINST
OFFICERS ON
DEPUTATION**

4.14 When investigation is started against an officer, who is on deputation, it will be appropriate if parent department sends an intimation to that effect to the borrowing organisation. In such cases, the result of final investigation should also be sent to the borrowing organisation.

**REVIEW OF
CASES
ENTRUSTED TO
THE CBI**

4.15 No review should ordinarily be made by the administrative authority of a case registered by the C.B.I. If, however, there are special reasons for discussion/review, the C.B.I. should invariably be associated with it.

**REGISTRATION
PENDING
INVESTIGATION/
INQUIRY**

4.16.1 If an officer against whom enquiry or investigation is pending, irrespective of whether he has been placed under suspension or not, submits his resignation, such resignation should not normally be accepted. Where, however, the acceptance of resignation is considered necessary in the public interest, because the alleged offence(s) do not involve moral turpitude; or the evidence against the officer is not strong enough to justify the assumption that if the proceedings are continued, the officer would be removed or dismissed from service; or the proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation, the resignation may be accepted with the prior approval of the head of the department in the case of holders of Groups 'C' and 'D' posts and that of the Minister-in-charge in respect of Group 'A' and 'B' posts. Prior concurrence of the Central Vigilance Commission should also be obtained, in respect of the officers holding Groups 'A' and 'B' posts, before submitting the case to the Minister-in-charge, if the CVC had advised initiation of departmental action against the officer concerned or such action had been initiated on the advice of the CVC.

4.16.2 In case of Group 'B' officers serving in the Indian Audit and Accounts Department, such a resignation may be accepted with the prior approval of the Comptroller and Auditor General. Approval of the CVC should also be obtained if the CVC has tendered advice in respect of that officer.

**ACTION AGAINST
PERSONS
MAKING FALSE
COMPLAINTS**

4.17.1 If a complaint against a public servant is found to be malicious, vexatious or unfounded, it should be considered seriously whether action should be taken against the complainant for making a false complaint.

4.17.2 Under Section 182 of the Indian Penal Code, a person making a false complaint can be prosecuted. Section 182 reads as follows:

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

- (a) to do or omit anything which such public servant ought 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.

Illustrations:

- (a) A informs a Magistrate that Z, a police officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.
- (b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this Section.
- (c) A falsely informs a policeman that he has been assaulted and robbed in the neighborhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.”

4.17.3 If the person making a false complaint is a public servant, it

may be considered whether departmental action should be taken against him as an alternative to prosecution.

4.17.4 Under section 195(1)(a) CrPC, a person making a false complaint can be prosecuted on a complaint lodged with a court of competent jurisdiction by the public servant to whom the false complaint was made or by some other public servant to whom he is subordinate.

4.17.5 When Central Vigilance Commission comes across any such complaint, while dealing with matters that come up before it, the Commission would advise the administrative authority concerned about appropriate action to be taken on its own initiative, whether the person making a false complaint should be prosecuted, or proceeded against departmentally. The administrative authorities may also, at their discretion, seek the advice of the Central Vigilance Commission in respect of cases involving public servants.

**GRANT OF
IMMUNITY/PARDON
ON TO
APPROVERS**

4.18.1 If during an investigation, the SPE or the CVO finds that a public servant, against whom the Commission's advice is necessary, has made a full and true disclosure implicating himself and other public servants or members of the public and that such statement is free from malice, the IG/SPE or the CVO, as the case may be, may send his recommendation to the Central Vigilance Commission regarding grant of immunity/leniency to such person from the departmental action or punishment. The Commission will consider the recommendation in consultation with the administrative Ministry concerned and advise that authority regarding the course of further action to be taken.

4.18.2 In cases investigated by the CBI, if it is decided to grant immunity to such a person from departmental action, the Commission will advise the SPE whether to produce him at the appropriate time before a Magistrate of competent jurisdiction for the grant of pardon u/s 337 of the Cr.PC; OR to withdraw prosecution at the appropriate stage u/s 494 of the Cr.PC.

4.18.3 In cases pertaining to the officials against whom Commission's advice is not necessary, the recommendation for grant of immunity/leniency from departmental action and for the grant of pardon u/s 337 of the Cr.PC or for the withdrawal of prosecution u/s 494 of the Cr.PC may be made to the Chief Vigilance Officer, who will consider and advise the disciplinary authority regarding the course of further action to be taken. If there is a difference of opinion between the SPE and the administrative authorities or between the CVO and the disciplinary authority, the SPE or the CVO, as the case may be, will refer the matter to the Central Vigilance Commission for advice.

4.18.4 The intention behind the procedure prescribed above is not to

grant immunity/leniency in all kinds of cases but only in cases of serious nature and that too on merits. It is not open to the public servant involved in a case to request for such immunity/leniency. It is for the disciplinary authority to decide in consultation with the CVC or the CVO, as the case may be, in which case such an immunity/leniency may be considered and granted in the interest of satisfactory prosecution of the disciplinary case.

CHAPTER V

FACILITIES & CO-OPERATION TO BE EXTENDED BY ADMINISTRATIVE AUTHORITIES TO THE CENTRAL BUREAU OF INVESTIGATION DURING INVESTIGATION OF CASES

FULL CO-OPERATION TO BE EXTENDED

5.1 The Central Bureau of Investigation takes up the cases for investigation coming to their knowledge from many sources, such as information collected from their own sources; that received from members of public or individual public servants or public organisations; or cases referred to them by the administrative authorities or the Central Vigilance Commission. The administrative authorities and the individual public servants should extend full co-operation to the CBI during the course of investigation.

INSPECTION OF RECORDS BY SPE

5.2.1 The Inspector General, Special Police Establishment and his staff are authorised to inspect all kinds of official records at all stages of investigation. The Heads of Departments/Offices etc. will ensure that the Superintendent of Police of the Special Police Establishment, or his authorised representatives, are given full cooperation and facilities to scrutinize all relevant records during investigation, whether preliminary or regular. If the C.B.I. wishes to check the veracity of information in their possession from the official records, even before registration of a P.E. or R.C., they may be allowed to see the records on receipt of a request from the S.P., S.P.E.

5.2.2 Investigations are often held up or delayed on account of reluctance or delay on the part of departmental authorities to make the records available for various reasons. Sometimes, departmental authorities express their inability to release the records without the prior permission of the superior authority or the Special Police Establishment is requested to take photostat or attested copies of documents without realising that the Special Police Establishment necessarily require the original records for purpose of investigation, as the authenticity of attested or photostat copies could be contested by the delinquent officials, thereby hampering the progress of investigation. In asking for original documents, particularly those forming part of current files, the SPE will exercise due consideration so as to ensure that day to day work is not impeded. The departmental authorities may thus ensure that the documents asked for by the SPE are made available to them with the least possible delay. Where necessary, the departmental authorities may keep attested or photostat copies of the records for meeting urgent departmental needs or for disposing of any action that may be pending on the part of the Department, without prejudice to the investigation being carried out by the Special Police Establishment.

5.2.3 The records required by the Special Police Establishment should be made available to them ordinarily within a fortnight and

positively within a month from the date of receipt of the request. If, for any special reasons, it is not possible to hand over the records within a month, the matter should be brought to the notice of the Superintendent of Police of the Branch concerned, by the authority in possession of the records, pointing out the reasons for not making available the records within the specified period; and also to the notice of the Chief Vigilance Officer of the administrative Ministry concerned for such further direction as the Chief Vigilance Officer might give.

5.2.4 The request of the C.B.I. for information relating to pay and allowances drawn by the public servants over a certain period, in cases where such public servants are alleged to have possessed disproportionate assets, should be furnished to them within a month of receipt of requisition from the C.B.I. In cases, where it is not possible to supply this information to the Central Bureau of Investigation within the specified period, the position may be suitably indicated to the Central Bureau of Investigation and simultaneously necessary steps taken to obtain and furnish the particulars to them as expeditiously as possible. In the case of officers having served in more than one department/organisation during the period under review, the Central Bureau of Investigation may address all the administrative authorities concerned simultaneously for furnishing the required information for the relevant period(s). Copies of such communications may also be endorsed to the Chief Vigilance Officer(s) of the Ministry(s) concerned for furnishing information about honoraria, etc., if any, received by the officer(s).

INSPECTION OF CLASSIFIED/ GRADED DOCUMENTS

5.3 When the Special Police Establishment desires to see any classified documents/records, sanction of the competent authority to release such documents/records should be obtained promptly by the administrative authority in-charge of records and the records should be made available to the Special Police Establishment in the following manner:-

- (i) “Top Secret” documents should be handed over only to a gazetted officer of the Special Police Establishment;
- (ii) “Secret” and “Confidential” documents should be given to gazetted officers of the Special Police Establishment, or to an Inspector of Special Police Establishment if he is specially authorised by the Superintendent of Police of the Special Police Establishment to obtain such documents;
- (iii) A temporary receipt should be obtained whenever any graded document is handed over to an officer of the S.P.E., who will be asked to comply with the provisions of para 27(a), (b), (c) and (e) of the pamphlet entitled

“Classification and Handling of Classified Documents, 1958”;

- (iv) Where original documents cannot be made available to the investigating officer for any reason, he should be supplied with photostat copies or attested copies and a certificate should be given by an officer of appropriate rank that the originals are in safe custody and out of reach of the suspect official and will be produced whenever required;
- (v) Current files having a bearing on the day-to-day administration will not be handed over to the Special Police Establishment at the preliminary stage of their investigation. However, copies or extracts will be supplied, if necessary.

OBTAINING DOCUMENTS FROM AUDIT OFFICE

5.4.1 Keeping in view that certain documents having a bearing on the case might be in the possession of an audit office, and to ensure that the police investigation in such cases is not hampered for want of inspection and examination of those documents, the Government of India, in consultation with the Comptroller and Auditor General of India, have laid down the procedure, described in the succeeding paragraphs for inspection etc., of such records.

5.4.2 The Comptroller and Auditor General has issued instructions to lower formations that original documents could be made available freely to the Special Police Establishment at the audit office for purposes of perusal, scrutiny and copying, including taking of photostat copies. Normally, in majority of the cases, the facility of inspection of documents within the audit office and taking of copies (including photostat copies) should be found to be adequate for purpose of investigation. However, there may be some exceptional cases in which mere inspection of the documents at the audit office, or examination by the G.E.Q.D., may not be adequate and it may be necessary to obtain temporary custody of the original documents to proceed with the investigation. The S.P.E. would not take recourse to Section 91 Cr.P.C. for the purpose. In each such case, the investigating officer should report the matter to the Head Office. The Head Office, after carefully examining the request and satisfying itself that there is sufficient justification for obtaining the original documents, will refer the matter to the Accountant General concerned, at the level of Joint Director, C.B.I. & Special Inspector General, S.P.E., with the request that the requisite documents may be made available to the SPE or sent to the investigating officer in original for investigation. It should be expressly mentioned in the requisition that copies including photostat copies would not serve the purpose of investigation. The Accountant General concerned will then arrange for the required documents being handed over or sent to the investigating officer as early as possible after retaining

Photostat copies.

5.4.3 Consequent upon the departmentalisation of accounts of the Ministries and Departments of the Central Govt., such original documents relating to accounts will now be in the possession of the Ministries/Departments/Offices themselves and not with the audit offices. Keeping in view the importance of the original documents in question relating to accounts, and the role they may have in the conduct of court cases, the S.P.E. will send a requisition to the appropriate authority, at the level of not less than a Superintendent of Police, if any such original documents, which form part of the records of the Departmentalised Accounts Organisations functioning under the Ministries/Departments, are needed to be produced in original. It would also be certified that copies of the required documents or photostat copies would not serve the purpose of the investigating officer. The Principal Accounts Officer etc. of the Ministry/Department concerned may obtain orders of appropriate higher authorities, wherever necessary, before handing over the documents in original to the S.P.E.

**EXAMINATION OF
DISPUTED
DOCUMENTS BY
GEQD**

5.5.1 The Special Police Establishment may find it necessary to take the assistance of the Government Examiner of Questioned Documents, during the course of inquiries/investigations, for the following types of examinations:

- (i) to determine the authorship or otherwise of the questioned writings by a comparison with known standards;
- (ii) to detect forgeries in questioned documents;
- (iii) to determine the identity or otherwise of questioned type scripts by comparison with known standards;
- (iv) to determine the identity or otherwise of seal impressions;
- (v) to decipher (mechanically or chemically) erased or altered writings;
- (vi) to determine whether there have been interpolations, additions or overwriting and whether there has been substitution of papers;
- (vii) to determine the order of sequence of writings as shown by cross/strokes and also to determine the sequence of strokes which crosses, creases, or folds the questioned documents where additions are suspected to have been made;

- (viii) to detect any tampering in wax seal impressions;
- (ix) to decipher secret writings;
- (x) to determine the age of documents and other allied handwriting problems.

5.5.2 When original documents are required by the Special Police Establishment for getting the opinion of the Government Examiner of Questioned Documents, such documents should be made available to the S.P.E. by the administrative authorities concerned without delay.

5.5.3 In the case of original documents being in the custody of Accountant General, the investigating officer of the Special Police Establishment will furnish a list of documents, and the particular point or points on which the opinion of the Government Examiner of Questioned Documents is required, to the Accountant General Office concerned with the request that the documents in question may be forwarded to the GEQD direct. The investigating officer will also endorse a copy of the communication to the GEQD/Handwriting or fingerprint expert. The Accountant General will then forward the documents in question direct to the authority concerned giving a cross reference to the investigating officer's communication so as to enable the G.E.Q.D., Handwriting, or Fingerprint expert to link up the documents with the particular police case. The latter will communicate his opinion to the investigating officer and will return the original documents to the Accountant General together with a copy of his opinion where so desired by the Accountant General. It is necessary that the transmission of documents to and by the GEQD should be executed with extreme care. Detailed instructions, issued in this regard, are given in the Directive on the C.B.I. circulated by the Department of Personnel and Training vide O.M. No.371/13/87-AVD.III dated 19.9.88.

TECHNICAL ASSISTANCE DURING INVESTIGATION

5.6.1 During the course of inquiry/investigation, it may become necessary for the investigating officer to seek technical guidance/assistance or advice from an expert. The Technical Division of the Central Bureau of Investigation provides such help in certain spheres. In other matters, for which the Technical Division of the Special Police Establishment is not equipped, arrangements exist with other agencies, organisations and laboratories for securing the assistance, guidance and advice of technical officers when necessary.

5.6.2 The Special Police Establishment may take the assistance of the Chief Technical Examiners' Organisation, attached to the Central Vigilance Commission, in cases of irregularities in civil works executed by the Central Public Works Department and other

departments of Government of India and the Central Corporate Undertakings, except the works executed by the Ministries of Defence and Railways as they have their own engineering cells for carrying out such examinations. However, in any special case pertaining to civil works of the Ministries of Railways and Defence, the Central Bureau of Investigation may, with the approval of the Central Vigilance Commission, seek the assistance of the Chief Technical Examiners' Organisation.

5.6.3 The Special Police Establishment may take the assistance of the C.P.W.D. in the evaluation of properties in connection with the investigation of cases relating to possession of disproportionate assets. Help may also be taken of the Chief Technical Examiner's Organisation, in important cases, in the evaluation of such properties located in Delhi.

5.6.4 The other technical organisations, whose assistance and advice are available to the Special Police Establishment are:

1. Central Forensic Science Laboratory
2. Government Test House, Alipore, Kolkata
3. Central Food Laboratory
4. Milk Dairy Farms
5. India Security Press, Nasik Road
6. Forest Research Institute, Dehra Dun
7. Cost Accounts Branch of Ministry of Finance
8. Central Glass & Ceramic Research Institute, P.O. Jadavpur, Kolkata
9. Central Drug Research Institute, Lucknow
10. Geological Survey of India, Kolkata
11. The India Government Mint, Mumbai
12. Central Leather Research Institute, Chennai
13. Central Building Research Institute, Roorkee
14. National Metallurgical Laboratory, Jamshedpur
15. National Sugar Institute, Kanpur

16. Directorate General of Supplies & Disposals, New Delhi
17. E.M.E. Workshops of Army
18. Director General of Food (Directorate of Storage and Inspections), New Delhi
19. Regional Directors of Food, Ministry of Agriculture
20. Marketing Officers in the Directorate of Agricultural Marketing, Nagpur
21. Chief Controller of Printing and Stationery

**TRANSFER OF
EMPLOYEES ON
CBI's
RECOMMENDATIONS**

5.7.1 In cases where the Special Police Establishment are investigating serious allegations against a public servant, and requests for the transfer of the public servant, such requests should normally be complied with. The Special Police Establishment will recommend transfer only when it is absolutely necessary for the purpose of investigation and will give reasons while making such requests. Such requests will be signed by an officer not lower in rank than a Superintendent of Police.

5.7.2 Where the Department concerned has some administrative difficulty in complying with the request, the matter should be settled by discussion at the local level. If the difference persists, it should be discussed at a higher level. In exceptional cases, the matter may be discussed by the administrative Ministry with the Joint Secretary in the Administrative Vigilance Division of the Department of Personnel & Training.

5.7.3 While it is recognised that the discretion of the administrative Ministries should not be taken away in matters of transfers; it is equally necessary that there should be no impediments to proper investigation of allegations of corruption and lack of integrity. Both these considerations may be borne in mind by all concerned while dealing with such matters.

**ASSISTANCE IN
LAYING TRAPS**

5.8.1 Whenever the Special Police Establishment desire to lay a trap in the office for any public servant, who is suspected to be about to accept a bribe, the SPE will give prior information to the Head of Department/Office concerned. If the circumstances of the case cannot permit this being done, the S.P.E. will furnish details of the case to the Head of the Department/Office immediately after the trap.

5.8.2 In trap cases, it is necessary that some responsible and impartial person, or persons, should have witnessed the transaction and/or overheard the conversation of the suspect public servant. All

public servants, particularly gazetted officers, should assist and witness a trap, whenever they are approached by the S.P.E. to do so. The Head of Department/ Office will, when requested by the Special Police Establishment, should detail suitable person, or persons, to be present at the scene of trap. Refusal to assist or witness a trap may be regarded as a breach of duty and disciplinary action may be taken against the officer concerned unless, of course, the officer concerned represents that he is personally known to the person to be trapped or that he has already appeared as a trap witness in earlier trap cases.

**ACTION TO BE
TAKEN WHEN A
BRIBE IS OFFERED
TO A PUBLIC
SERVANT**

5.9.1 Dishonest and unscrupulous traders, contractors, etc. frequently attempt to bribe a public servant to get official favour or to avoid official disfavour. Public servants must always be on their guard and should avail themselves of the assistance of the SPE or the local police in apprehending such persons. It is not enough for the public servant to refuse the bribe and later report the matter to the higher authorities. As soon as he suspects of an attempt to bribe him, he should take action as under:

- (i) The proposed interview should, where possible, be tactfully postponed to some future time. Meanwhile, the matter should be reported to the Superintendent of Police of the Special Police Establishment Branch, if there is a branch office of the S.P.E. in that station, or to the Superintendent of Police or to the senior-most officer of the local police available in the station. The S.P.E. or the local police, as the case may be, will arrange to lay a trap. If for some reasons, it is not possible to contact the S.P.E. or the local police authorities, the matter should be brought to the notice of the senior-most district officer in the station who may arrange to lay a trap. The Head of the Department/ Office/Establishment should also be informed as early as possible.
- (ii) Should it not be possible to follow the above course of action, the bribe-giver may be detained for a short time and any person or persons who may be readily available may be requested to witness the transaction and to overhear the conversation between the bribe giver and the public servant.

5.9.2 The Head of the Department/Office/Establishment will take care to maintain an impartial position and will in no case act as an agent of the Special Police Establishment or the local police either by arranging for money or other instrument of offence subsequently to be passed on to the suspect or by being a witness to the transaction.

EXAMINATION OF WITNESSES

5.10.1 Whenever the S.P.E. desires the presence of an official for examining him in connection with any investigation; the administrative authority will direct the official concerned to appear before the Special Police Establishment on the appointed date and time. If, for any reason, it is not possible for him to appear on the specified date and time and he makes a request for postponement, such request may be given due consideration by the administrative authority concerned and he may be directed to appear at the earliest possible opportunity.

5.10.2 The S.P.E., when the interest of Government work so requires, may examine a public servant occupying or holding a responsible position at a place where he is located unless he has to be shown any documents during the recording of his statement and the movement of such documents is considered to be hazardous.

ACCOMMODATION /COMMUNICATION/ TRANSPORT FACILITIES

5.11 The investigating officers of the S.P.E may be provided with such suitable accommodation, if they so desire, in rest houses, service messes, etc., as may be available, on payment at such rates as may be applicable in the cases of officers on duty. Where civil communication facilities are not available, they should be allowed to use military signals and miltrunk. They may also be provided with Government transport on payment at the rates laid down from time to time.

ARREST/HANDING OVER OF DEFENCE PERSONNEL ETC. TO CIVIL POLICE

5.12 Defence Services Personnel will not be kept under arrest on such charges as are under investigation by the S.P.E., unless advised by the investigating officer. Similarly, a civilian employee in the Defence Services or a contractor or his employee will not be handed over to the local police, in respect of offences taken up by the Special Police Establishment for investigation, unless so advised by the S.P.E.

SUSPENSION OF A PUBLIC SERVANT

5.13 The Special Police Establishment, either during the course of investigation or while recommending prosecution/departmental action, may suggest to the disciplinary authority that the suspect officer should be suspended giving reasons for recommending such a course of action. On receipt of such suggestion, the matter should be carefully examined. The disciplinary authority may exercise its discretion to place a public servant under suspension even when the case is under investigation and before a prima-facie case has been established. Certain guidelines for considering the need and desirability of placing a Government servant under suspension have been given in paragraph 6.3.4 and 6.3.5 of Chapter VI on "Suspension". However, if the CBI has recommended suspension of a public servant and the competent authority does not propose to accept the CBI's recommendation, it may be treated as a case of difference of opinion between the CBI and the administrative authority and the matter may be referred to the Central Vigilance Commission for its advice. Further, if a public servant is placed

under suspension on the recommendation of the CBI, the CBI may be consulted if the administrative authority proposes to revoke the suspension order.

**CLOSE LIAISON
BETWEEN THE SPE
AND THE
ADMINISTRATIVE
AUTHORITIES**

5.14.1 The need for close liaison and co-operation between the Chief Vigilance Officer/Vigilance Officer of the Ministry/Department/Office and the S.P.E., during the course of an inquiry and investigation and the processing of individual cases, hardly needs to be emphasised. Both, the S.P.E. and the Chief Vigilance Officers, receive information about the activities of the officer from diverse sources. As far as possible, the information could be crosschecked at appropriate intervals to keep officers of both the wings fully appraised with the latest developments.

5.14.2 At New Delhi, the Chief Vigilance Officers or Vigilance Officers of the Ministries/Departments/Offices should keep themselves in touch with Joint Directors/Regional DIG//Deputy Inspectors General of the S.P.E. In other places, the Superintendent of Police of S.P.E. Branch will frequently call on the Head of the Department/Office etc., and discuss personally matters of mutual interest, particularly those arising from enquiries and investigations. Periodical meetings between the Chief Vigilance Officers and the Officers of the Central Bureau of Investigation will help to a great extent in avoiding unnecessary paper work and in eliminating unnecessary delay at various stages of processing cases. Such meetings could be held once a quarter or more frequently.

CHAPTER VI

SUSPENSION

INTRODUCTION

6.1 The order of “suspension” is an executive order which debars a Government/public servant from exercising his powers and performing his legitimate duties during the period the order remains in force. However, during the period of suspension, a Government servant continues to be a member of the service to which he belongs and the relationship of master and servant also continues. He continues to be governed by the same set of Conduct, Discipline and Appeal Rules, which were applicable to him before he was placed under suspension. Though, suspension is not a formal penalty, it constitutes a great hardship to the person concerned as it leads to reduction in his emoluments, adversely affects his prospects of promotion, and also carries a stigma. Therefore, an order of suspension should not be made in a perfunctory or in a routine and casual manner but with due care and caution.

AUTHORITIES COMPETENT TO PLACE A PUBLIC SERVANT UNDER SUSPENSION

6.2.1 For the purpose of determining the authorities competent to place a public servant under suspension, one needs to refer to the Discipline and Appeal Rules applicable to the employee concerned. Generally, the provision in the Rules applicable to Central Government servants and the employees of Central public sector undertakings/autonomous organisations are identical. The following authorities are competent to place a Government servant under suspension in terms of Rule 10(1) of the CCS (CCA) Rules, 1965:-

- a) Appointing authority as defined in Rule 2(a) of the Central Civil Services (CC&A) Rules, 1965; or
- b) An authority to which the appointing authority is subordinate; or
- c) The disciplinary authority, i.e. the authority competent to impose any of the penalties specified in Rule 11 of the Central Civil Services (CC&A) Rules, 1965; or
- d) Any other authority empowered in that behalf by the President by a general or special order.

6.2.2 If an order of suspension is made by an authority lower than the appointing authority, such authority shall report to the appointing authority the circumstances in which the order was made. However, such report need not be made in the case of an order of suspension made by the Comptroller and Auditor General in respect of a member of the Indian Audit and Accounts Service and also in respect of a holder of a post of Assistant Accountant General or equivalent, other than a regular member of the Indian Audit and Accounts Service.

6.2.3 Before passing an order of suspension, the authority proposing to make the order should verify whether it is competent to do so. An order of suspension made by an authority, which does not have the power to pass such an order, is illegal and will give cause of action for:

- a) setting aside of the order of suspension; and
- b) claiming full pay and allowances for the period the Government servant remained away from duty due to the order of suspension.

6.2.4 When an order of suspension is made by an authority subordinate to the appointing authority, the appointing authority should, as soon as information about the order of suspension is received, examine whether the authority by whom the order was made was competent to do so.

6.2.5 Where the services of a Government servant are lent by one department to another department, or borrowed from or lent to a State Government or an authority subordinate thereto, or borrowed from or lent to a local authority or other authority, the borrowing authority can suspend such Government servant under Rule 20(1) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. The lending authority should, however, be informed forthwith of the circumstances leading to the order of suspension.

6.2.6 In the circumstances stated in Rule 3 of the All India Services (Discipline & Appeal) Rules, 1969, the Central Government can suspend a member of an All India Service if he is serving under the Central Government or is on deputation to a corporate public enterprise or to a local authority under the Central Government.

**WHEN A
GOVERNMENT
SERVANT MAY BE
SUSPENDED**

6.3.1 A Government servant may be placed under suspension when a disciplinary proceeding against him is contemplated or is pending; or where, in the opinion of the competent authority, he has engaged himself in activities prejudicial to the interest of the security of the State; or when a case against him in respect of any criminal offence is under investigation, enquiry or trial.

6.3.2 The suspended Government servant retains a lien on the permanent post held by him substantively at the time of suspension and does not suffer a reduction in rank. However, suspension may cause a lasting damage to Government servant's reputation even if he is exonerated or is ultimately found guilty of only a minor misconduct. The discretion vested in the competent authority in this regard should, therefore, be exercised with care and caution after taking all factors into account.

6.3.3 It may be considered whether the purpose would not be served if the officer is transferred from his post. If he would like to have leave, that might be due to him, and if the competent authority thinks that such step would not be inappropriate, there should be no objection to leave being granted instead of suspending him.

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

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

6.3.5 In the circumstances mentioned below, it may be considered desirable to suspend a Government servant for misdemeanors of the following types:

- (i) an offence or conduct involving moral turpitude;
- (ii) corruption, embezzlement or misappropriation of Government money, possession of disproportionate

assets, misuse of official powers for personal gains;

- (iii) serious negligence and dereliction of duty resulting in considerable loss to Government;
- (iv) desertion of duty;
- (v) refusal or deliberate failure to carry out written orders of superior officers.

In respect of the type of misdemeanor specified in sub-clauses (iii), (iv) and (v), discretion should be exercised with care.

6.3.6 Without prejudice to the above guidelines, there are certain kinds of cases where the SPE will, invariably, advise that the officer should be placed under suspension. If the CBI recommends suspension of a public servant and the competent authority does not propose to accept the CBI's recommendation, it may be treated as a case of difference of opinion between the CBI and the administrative authority and the matter may be referred to the Commission for its advice. Further, if a public servant had been suspended on the recommendation of the CBI, the CBI may be consulted if the administrative authority proposes to revoke the suspension order. In this regard, para 5.13 of Chapter-V also refers.

6.3.7 A Government servant may also be suspended by the competent authority in cases in which the appellate, revising or reviewing authority, while setting aside an order imposing the penalty of dismissal, removal or compulsory retirement directs that de novo inquiry should be held; or that steps from a particular stage in the proceedings should be taken again; and considers that the Government servant should be placed under suspension even if he was not suspended previously. The competent authority may, in such cases, suspend a Government servant even if the appellate or reviewing authority has not given any direction about the suspension of Government servant.

6.3.8 A Government servant against whom proceedings have been initiated on a criminal charge but who is not actually detained in custody (e.g. a person released on bail) may be placed under suspension by an order of the competent authority under clause (b) of Rule 10 (1) of the Central Civil Services (Classification, Control and Appeal) Rules 1965. The Supreme Court in the case of Niranjana Singh and others vs. Prabhakar Rajaram Kharote and others (SLP No. 393 of 1980) have also made some observations about the need/desirability of placing a Government servant under suspension, against whom serious charges have been framed by a criminal court, unless exceptional circumstances suggesting a contrary course exist. Therefore, as and when criminal charges are framed by a competent court against a Government servant, the disciplinary authority

should consider and decide the desirability or otherwise of placing such a Government servant under suspension in accordance with the rules, if he is not already under suspension. If the Government servant is already under suspension or is placed under suspension, the competent authority should also review the case from time to time, in accordance with the instructions on the subject, and take a decision about the desirability of keeping him under suspension till the disposal of the case by the Court.

6.3.9 A Government servant **shall** be placed under suspension by the competent authority, by invoking the provisions of sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1965, if he is arrested in connection with the registration of the police case under Section 304-B of the IPC for his involvement in a case of dowry death, immediately, irrespective of the period of his detention. If he is not arrested, he **shall** be placed under suspension immediately on submission of a police report under section 173 (2) of the Code of Criminal Procedure, 1973 to the Magistrate, if the report, prima-facie, indicates that the offence has been committed by the Government servant.

DEEMED SUSPENSION

6.4.1 Under Rule 10(2), (3) and (4) of the Central Civil Services (CC&A) Rules, 1965, a Government servant is deemed to have been placed under suspension in the following circumstances:-

- (i) If he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding 48 hours, he will be deemed to have been placed under suspension with effect from the date of detention. A Government servant who is detained in custody under any law providing for preventive detention or as a result of proceedings for his arrest for debt will fall in this category.
- (ii) If a Government servant is convicted of an offence and sentenced to a term of imprisonment exceeding 48 hours; and is not forthwith dismissed, removed or compulsorily retired consequent upon such conviction; he shall be deemed to have been placed under suspension with effect from the date of his conviction. For this purpose, the period of 48 hours will be computed from the commencement of imprisonment after the conviction and intermittent periods of imprisonment, if any, shall be taken into account.
- (iii) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review and the case is remitted by the appellate or reviewing authority for further enquiry or action or with

any other directions, the order of suspension shall be deemed to have continued in force, on and from the date of original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

- (iv) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders. The further inquiry referred to above should not be ordered except in a case where the penalty of dismissal, removal or compulsory retirement, has been set aside by a Court of Law on technical grounds without going into the merits of the case or when fresh material has come to light which was not before the Court. A further enquiry into the charges, which have not been examined by the court can, however, be ordered depending on the facts and circumstances of each case.

6.4.2 An order of suspension made or deemed to have been made under clauses (1) to (4) of Rule 10 of the CCS (CCA) Rules, 1965, continues to remain in force until it is modified or revoked by the competent authority under Rule 10(5) *ibid*.

6.4.3 The police authorities will send prompt intimation of arrest and/or release on bail etc., of a Central Government servant to the latter's official superior as soon as possible after the arrest and/or release indicating the circumstances of the arrest etc.

6.4.4 A duty has also been cast on the Government servant, who may be arrested or convicted for any reasons, to intimate promptly the fact of his arrest/conviction and circumstances connected therewith to his official superior even though he might have been released on bail subsequently. Failure on the part of Government servant to do so will be regarded as suppression of material information and will render him liable to disciplinary action on this ground alone, apart from the action that may be called for on the outcome of the police case against him; or imposition of a penalty that may be warranted on the basis of the offence on which his

conviction was based.

**ORDER OF
SUSPENSION/
DEEMED
SUSPENSION**

6.5.1 A Government servant can be placed under suspension only by a specific order made in writing by the competent authority. A standard form in which the order should be made is given in Section E. A Government servant should not be placed under suspension by an oral order.

6.5.2 In the case of deemed suspension under Rule 10(2), (3) or (4) of the CCS (CC&A) Rules, 1965, suspension will take effect automatically even without a formal order of suspension. However, it is desirable for purposes of administrative record to make a formal order, a standard form of which is given in Section E.

6.5.3 There could be more than one case, which might have been taken into consideration by the competent authority while placing a Government servant under suspension. If the two standard forms do not meet the requirements of any case, the competent authority may suitably simplify/modify the appropriate form to meet the requirements of the case and should indicate all the cases (criminal/departmental under investigation/trial/contemplation) on the basis of which it is considered necessary to place the Government servant under suspension so that in the event of the reinstatement of the Government servant, the outcome of all such cases can be taken into account while regulating the period of suspension.

6.5.4 Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceedings or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any of such proceedings.

6.5.5 A copy of the order of suspension should be endorsed to the Central Vigilance Commission also in cases involving a vigilance angle in respect of category 'A' employees, i.e. employees in whose case Commission's advice is necessary.

**HEADQUARTERS
DURING
SUSPENSION**

6.6 An officer under suspension is regarded as subject to all other conditions of service applicable generally to Government servants and cannot leave the station without prior permission. As such, the headquarters of a Government servant should normally be assumed to be his last place of duty, unless otherwise specified in the order. However, if a Government servant under suspension requests for a change of headquarters, the competent authority may accede to the request if it is satisfied that such a course will not put Government to any extra expenditure like grant of traveling allowance etc., or create difficulties in investigation or in processing

the departmental proceeding etc.

**MODIFICATION/
REVOCATION OF
ORDER OF
SUSPENSION**

6.7 An order of suspension made or deemed to have been made may be modified or revoked at any time for good and sufficient reasons by the authority that made the order or is deemed to have made the order or by an authority to which that authority is subordinate.

**APPEAL AGAINST
THE ORDER OF
SUSPENSION**

6.8.1 Subject to the provisions of Rule 22 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, a Government servant has a right to prefer an appeal against an order of suspension made or deemed to have been made under Rule 10 *ibid*. This would imply that a Government servant who is placed under suspension should generally know the reasons leading to his suspension so that he may be able to prefer an appeal against it. Thus, where a Government servant is placed under suspension on the ground that a disciplinary proceeding against him is pending or a case against him in respect of any criminal offence is under investigation, inquiry or trial, the order placing him under suspension may contain a mention in this regard.

6.8.2 Where a Government servant is placed under suspension on the ground of “contemplated” disciplinary proceeding, every effort is required to be made to finalise the charges against him within three months of the date of suspension. If these instructions are strictly followed, a Government servant, who is placed under suspension on the ground of “contemplated” disciplinary proceedings, will become aware of the reasons for his suspension without much loss of time. However, there may be some cases in which it may not be possible for some reasons or the other, to issue a charge sheet within three months from the date of suspension. In such cases, the reasons for suspension should be communicated to the Government servant concerned immediately on the expiry of the aforesaid time-limit prescribed for the issue of the charge sheet so that he may be in a position effectively to exercise the right of appeal available to him, if he so desires. Where the reasons for suspension are communicated to him on the expiry of time-limit prescribed for issue of charge-sheet, the time-limit for submission of appeal (45 days) should be counted from the date on which the reasons for suspension are communicated. This will not apply to cases where Government servants are placed under suspension on the ground that he has engaged himself in activities prejudicial to the interest of the security of the State.

**CONSIDERATION
OF APPEAL BY
THE APPELLATE
AUTHORITY**

6.9 On receipt of appeal, the appellate authority shall consider whether in the light of the provisions of Rule 10 and having regard to the circumstances of the case, the order of suspension is justified or not; and confirm or revoke the order accordingly.

DURATION OF ORDER OF SUSPENSION

6.10 An order of suspension made or deemed to have been made will continue to remain in force until it is modified or revoked by the authority competent to do so. In cases, however, in which the proceedings result in dismissal, removal or compulsory retirement, the order of suspension will cease to exist automatically from the date from which the order of dismissal, removal or compulsory retirement takes effect.

6.11.1 Except in cases in which a Government servant is deemed to have been placed under suspension in the circumstances described in paragraph 6.4.1 above, an order of suspension can take effect only from the date on which it is made. Ordinarily, it is expected that the order will be communicated to the Government servant concerned simultaneously.

6.11.2 Difficulties may, however, arise in giving effect to the order of suspension from the date on which it is made if the Government servant proposed to be placed under suspension:-

- (a) is stationed at a place other than where the competent authority makes the order of suspension;
- (b) is on tour and it may not be possible to communicate the order of suspension;
- (c) is an officer holding charge of stores and/or cash, warehouses, seized goods, bonds, etc.

6.11.3 In cases of types (a) and (b) above, it will not be feasible to give effect to an order of suspension from the date on which it is made, owing to the fact that during the intervening period, a Government servant may have performed certain functions lawfully exercisable by him or may have entered into contracts. The competent authority making the order of suspension should take the circumstances of each case into consideration and may direct that the order of suspension will take effect from the date of its communication to the Government servant concerned.

6.11.4 When a Government servant holding charge of stores and/ or cash is to be placed under suspension, he may not be able to hand over charge immediately without checking and verification of stores/cash etc. In such cases, the competent authority should, taking the circumstances of each case into consideration, lay down that the checking and verification of stores and/or cash should commence on receipt of suspension order and should be completed by a specified date from which suspension should take effect after formal relinquishment of charge.

6.11.5 An officer who is on leave, or who is absent from duty without permission, may be placed under suspension with

immediate effect. When a Government servant is placed under suspension while he is on leave, the unutilized portion of the leave should be cancelled by an order to that effect.

6.11.6 No order of suspension should be made with retrospective effect except in the case of deemed suspension. A retrospective order will be meaningless and improper.

REVOCATION OF SUSPENSION ORDER

6.12.1 An order of suspension should be revoked without delay where the Government servant was placed under suspension pending completion of:

(i) *departmental investigation or inquiry-*

- a) if it is decided that no formal proceedings need be drawn up with a view to imposing a penalty of dismissal, removal, compulsory retirement or reduction in rank,
- b) if the Government servant is exonerated of the charges against him,
- c) if the penalty awarded is not dismissal, removal or compulsory retirement;

(ii) *investigation or trial in respect of any criminal offence-*

- a) if investigation does not disclose any prima facie case of an offence having been committed,
- b) if he is acquitted by a competent court; and it is further decided that no departmental proceedings need be initiated on the basis of facts disclosed during investigation or on the basis of facts which led to the launching of prosecution in a court of law.

6.12.2 If a Government servant who was deemed to have been placed under suspension due to detention in police custody erroneously or without basis and thereafter released without any prosecution having been launched, the deemed suspension may be treated as revoked from the date the cause of suspension itself ceases to exist, i.e. the government servant is released from police custody without any prosecution having been launched. A formal order for revocation of such suspension may however be issued for administrative record.

6.12.3 In the case of a Government servant under suspension who is acquitted in a criminal proceeding and against whose acquittal an

appeal or a revision application is filed, it may be considered whether it is necessary to continue him under suspension. If not, the order of suspension should be revoked immediately.

6.12.4 The order of revocation of suspension will take effect from the date of issue. However, where it is not practicable to reinstate a suspended government servant with immediate effect, the order of revocation of suspension should be expressed as taking effect from a date to be specified.

6.12.5 An order of revocation of suspension should be made in the prescribed form. On revocation of an order of suspension, a Government servant is reinstated in service.

**SPEEDY
INVESTIGATION
INTO CASES IN
WHICH AN
OFFICER IS
UNDER
SUSPENSION**

6.13.1 Though suspension is not a punishment, it does constitute a great hardship for a Government servant. Thus, in fairness to him, the period of suspension should be reduced to the barest minimum. Undue long suspension also involves payment of subsistence allowance without the employee performing any useful service to the Government. Investigation into cases of officers under suspension should, therefore, be given high priority and every effort should be made to file the charge sheet in the court of competent jurisdiction in cases of prosecution; or serve the charge sheet on the officers in cases of departmental proceedings; within three months of the date of suspension. In cases other than those pending in courts, the total period of suspension, viz. both in respect of investigation and disciplinary proceedings, should not ordinarily exceed six months. In exceptional cases, where it is not possible to adhere to this time limit, the disciplinary authority should report the matter to the next higher authority, explaining the reasons for the delay. The authorities superior to the disciplinary authorities should also exercise a strict check on cases in which delay has occurred and give appropriate directions to the disciplinary authorities.

6.13.2 In cases, which are taken up by, or are entrusted to, the Central Bureau of Investigation for investigation, the time limit of three months will be reckoned from the date on which the case is taken up for investigation by the Central Bureau of Investigation.

6.13.3 If investigation is likely to take more time, it should be considered whether it is still necessary, taking the circumstances of the case into account, to keep the Government servant under suspension or whether the suspension order could be revoked, and if so, whether the Government servant could be permitted to resume duty on the same post or transferred to another post or office.

6.13.4 When an officer is suspended either at the request of the Central Bureau of Investigation or on the Department's own initiative in regard to a matter which is under investigation or inquiry by the CBI, or which is proposed to be referred to the CBI, a

copy of the suspension order should be sent to the Director, Central Bureau of Investigation, with an endorsement thereof to the Special Police Establishment Branch concerned. In order to reduce the time-lag between the placing of an officer under suspension and the reference of the case to the CBI for investigation, such cases should be referred to the CBI promptly after the suspension orders are passed, if it was not possible to refer them before the passing of suspension orders.

6.13.5 The instructions contained in paragraphs 6.13.1 to 6.13.3 aim at reducing the time taken in investigation into cases of officers under suspension and speeding up the progress of cases at the investigation stage. They do not in any way abridge the inherent powers of the disciplinary authority in regard to the review of cases of Government servants under suspension at any time either during investigation or thereafter. The disciplinary authority may review periodically cases of Government servants under suspension in which charge sheets have been served/filed to see:

- (i) whether the period of suspension is prolonged for reasons directly attributable to the government servant;
- (ii) what steps could be taken to expedite the progress of the court trial/departmental proceedings;
- (iii) whether the continued suspension of the officer is necessary having regard to the circumstances of the case at any particular stage; and
- (iv) whether having regard to the guidelines regarding the circumstances in which a disciplinary authority may consider it appropriate to place a Government servant under suspension, the suspension may be revoked and the Government servant concerned permitted to resume duty at the same station or at a different station.

6.13.6 In cases in which the order of suspension is revoked and the Government servant is allowed to resume duty before the conclusion of criminal or departmental proceedings, an order under the relevant rule(s) of the Fundamental Rules, regarding the pay and allowances to be paid to him for the period of suspension from duty and whether or not the said order shall be treated as a period spent on duty can be made only after the conclusion of the proceedings against him.

**ACCEPTANCE OF
RESIGNATION/
NOTICE FOR
VOLUNTARY
RETIREMENT
DURING**

6.14.1 If an officer against whom an inquiry or investigation is pending (whether he has been placed under suspension or not) submits his resignation, such resignation should not normally be accepted. Where, however, the acceptance of resignation in such a case is considered necessary in public interest because one or more of the following conditions are fulfilled, the resignation may be

SUSPENSION

accepted with the prior approval of the Head of Department in the case of holders of group 'C' and group 'D' posts and that of the Minister-in-charge in respect of holders of group 'A' and group 'B' posts:-

- (i) Where the alleged offences do not involve moral turpitude; or
- (ii) Where the quantum of evidence against the accused officer is not strong enough to justify the assumption that if the departmental proceedings were continued, the officer would be removed or dismissed from service; or
- (iii) Where the departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation.

6.14.2 Insofar as group 'B' officers serving in the Indian Audit and Accounts Department are concerned, the resignation of such officers shall not be accepted except with the prior approval of the C&AG of India.

6.14.3 If a Government servant under suspension gives a notice under the provisions of FR 56(k)(1) for retirement, it is open to the appropriate authority to withhold permission. The power to withhold permission can be exercised by the appropriate authority even if a Government servant is placed under suspension after giving the notice for retirement, but before the expiry of the period of notice.

6.14.4 Concurrence of the Central Vigilance Commission should also be obtained before submission of the case to the Minister-in-charge/C&AG, if the Central Vigilance Commission had advised initiation of departmental action against the Government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

PROMOTION OF AN OFFICER UNDER SUSPENSION

Sealed cover procedure:

6.15.1 At the time of considerations of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee:-

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and

- (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

6.15.2 The Departmental Promotion Committee shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned in para 6.15.1 along with other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC, including “Unfit for Promotion”, and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed “Findings regarding suitability for promotion to the grade/post of _____ in respect of Shri _____ (name of the Government servant). Not to be opened till the termination of the disciplinary case/criminal prosecution against Shri _____.” The proceedings of the DPC need only contain the note. “The findings are contained in the attached sealed cover”.

6.15.3 The same procedure outlined in para 6.15.2 above will be followed by the subsequent Departmental Promotion Committees convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.

Action after completion of disciplinary cases/criminal prosecution:

6.15.4 On the conclusion of the disciplinary case/criminal prosecution, which results in dropping of allegation against the Government servant, the sealed cover or covers, shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such position. The Government servant may be promoted, if necessary by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceedings/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so.

6.15.5 If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

6.15.6 In a case where disciplinary proceedings have been held under the relevant disciplinary rules, “warning” should not be issued

as a result of such proceedings. If it is found as a result of the proceedings, that some blame attaches to the Government servant, at least the penalty of “censure” should be imposed.

Six-monthly review of ‘sealed cover’ cases:

6.15.7 It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finalise expeditiously the proceedings should be taken so that the need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. The appointing authorities concerned, therefore, should review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of six months from the date of convening the first Departmental Promotion Committee, which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and further measures to be taken to expedite their completion.

Procedure for ad-hoc promotion:

6.15.8 In spite of the six monthly review referred to in para 6.15.7 above, there may be some cases, where the disciplinary case/criminal prosecution against the Government servant is not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation, the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him ad-hoc promotion keeping in view the following aspects:-

- a) Whether the promotion of the officer will be against public interest;
- b) Whether the charges are grave enough to warrant continued denial of promotion;
- c) Whether there is no likelihood of the case coming to a conclusion in the near future;
- d) Whether the delay in the finalisation of proceedings, departmental or in a court of law, is not directly or indirectly attributable to the Government servant concerned; and
- e) Whether there is any likelihood of misuse of official position which the Government servant may occupy

after ad-hoc promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of investigations conducted by the Bureau.

6.15.9 In case the appointing authority comes to a conclusion that it would not be against the public interest to allow ad-hoc promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two years period to decide whether the officer is suitable for promotion on ad-hoc basis. Where the Government servant is considered for ad-hoc promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution against him.

6.15.10 After a decision is taken to promote a Government servant on an ad-hoc basis, an order of promotion may be issued making it clear in the order itself that:

- (i) the promotion is being made on purely ad-hoc basis and the ad-hoc promotion will not confer any right for regular promotion; and
- (ii) the promotion shall be "until further orders". It should also be indicated in the order that the Government reserve the right to cancel the ad-hoc promotion and revert at any time the Government servant to the post from which he was promoted.

6.15.11 If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the ad-hoc promotion already made may be confirmed and the promotion treated as a regular one from the date of the ad-hoc promotion with all attendant benefits. In case, the Government servant could have normally got his regular promotion from a date prior to the date of his ad-hoc promotion with reference to his placement in the DPC proceeding kept in the sealed cover(s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in para 6.15.4 above.

6.15.12 If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government

servant is not exonerated in the departmental proceedings, the ad-hoc promotion granted to him should be brought to an end.

Applicability of 'sealed cover' procedure to officers coming under cloud after holding of DPC but before promotion:

6.15.13 Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in Para 6.15.1 arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him and the provisions stated above will be applicable in his case also.

6.15.14 The Hon'ble Supreme Court in *Delhi Jal Board Vs. Mohinder Singh [JT 2000(10) SC 158]* has held, inter-alia, that "the sealed cover procedure permits the question of promotion to be kept in abeyance till the result of any pending disciplinary inquiry. But the findings of the disciplinary inquiry exonerating the officers would have to be given effect to as they obviously relate back to the date on which the charges are framed. The mere fact that by the time the disciplinary proceedings in the first inquiry ended in his favour and by the time the seal was opened to give effect to it, another departmental inquiry was started by the department, would not come in the way of giving him the benefit of the assessment by the first Departmental Promotion Committee in his favour in the anterior selection." Thus, in view of the Supreme Court's judgment, the provisions of para 6.15.13 would not be applicable if by the time the seal was opened to give effect to the exoneration in the first enquiry, another departmental inquiry was started by the department against the government servant concerned. This means that where the second or subsequent departmental proceedings were instituted after promotion of the junior to the Government servant concerned on the basis of the recommendation made by the DPC which kept the recommendation in respect of the Government servant in sealed cover, the benefit of the assessment by the first DPC will be admissible to the Government servant on exoneration in the first inquiry, with effect from the date his immediate junior was promoted. In case, the subsequent proceedings (commenced after the promotion of the junior) results in the imposition of any penalty before the exoneration in the first proceedings based on which the recommendations of the DPC were kept in sealed cover and the Government servant concerned is promoted retrospectively on the basis of exoneration in the first proceedings, the penalty imposed may be modified and effected with reference to the promoted post. An indication to that effect may be made in the promotion order itself so that there is no ambiguity in the matter.

**GRANT OF LEAVE
WHILE UNDER
SUSPENSION**

6.16 It is not permissible to grant leave to a Government servant under suspension under FR 55.

**MARKING OF
ATTENDANCE BY
A SUSPENDED
EMPLOYEE**

6.17 The Hon'ble Andhra Pradesh High Court in the case of *Zonal Manager, Food Corporation of India and others Vs. Khaled Ahmed Siddiqui [1982 Lab IC 1140]*, have held that a direction to the employee during the period of suspension, to attend office and mark attendance at the office daily during working hours is illegal.