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वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद्
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संख्या

स्पीड पोस्ट/दस्ती

No.

15-6(82)/98-ओ एण्ड एम (Vol. I & II)

दिनांक: 27 जून, 2014

प्रेषक

From

मुख्य सतर्कता अधिकारी
Chief Vigilance Officer

To

सीएसआईआर के सभी राष्ट्रीय प्रयोगशालाओं/संस्थानों के निदेशक
The Directors of all the National Labs./Instts. of CSIR

विषय:- अनुशासनिक शक्तियों के प्रयोग करने वाले प्राधिकारियों के द्वारा स्वतः-स्पष्ट, पूर्णरूपेण कथन एवं तर्कसंगत आदेश जारी करने की आवश्यकता के संबंध में।

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

महोदय/महोदया,

मैं उपर्युक्त विषयक केन्द्रीय सतर्कता आयोग के दिनांक 19 मई, 2014 के परिपत्र सं. 02/05/2014 को आपकी सूचना, मार्गदर्शन एवं अनुपालन करने हेतु अग्रेषित कर रही हूँ।

I am forwarding herewith a copy of the Circular No. 02/05/2014 dated 19.05.2014 of the Central Vigilance Commission on the subject cited above, for your kind information, guidance and compliance.

संलग्नक: उपरोक्त

भवदीया,

(सुषमा सिंह)

मुख्य सतर्कता अधिकारी

प्रति:

1. महानिदेशक, सीएसआईआर कार्यालय।
2. संयुक्त सचिव प्रशासन, सीएसआईआर कार्यालय।
3. सीएसआईआर मुख्यालय/कॉम्पलेक्स के सभी वरिष्ठ उप सचिव, उप सचिव ।
4. सभी राष्ट्रीय प्रयोगशालाओं/संस्थानों के वरि. प्रशासन नियंत्रक/प्रशासन नियंत्रक/प्रशासनिक अधिकारी।
5. प्रमुख, आईटी - इस परिपत्र को सीएसआईआर वेबसाइट पर उपलब्ध कराने हेतु।

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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi 110023

सं./No. 003/DSP/3

19th May, 2014

दिनांक / Dated

Circular No. 02/05/2014

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

Attention is invited to the Commission's office order No. 51/9/03 dated 15.09.2003, officer order No. 14/2/04 dated 26.02.2004 and circular No. 02/01/09 dated 15.01.2009, wherein it was clarified that Disciplinary Authorities (DAs) should issue a self-contained, speaking and reasoned order which must indicate, inter-alia, due application of mind by the authority issuing the order.

2. The Commission has observed that inspite of the above said instructions, the orders issued in disciplinary matters by the Disciplinary Authorities concerned are sometimes not in the form of a speaking and reasoned order indicating due application of mind. The Commission would, therefore, again advice all administrative authorities to ensure that officials exercising disciplinary powers conferred under the applicable statutory rules/CDA Rules etc. governing the public servants concerned in the CPSUs/PSBs/Ministries/Departments/Organizations to issue the orders which are self-contained, speaking and reasoned indicating due application of mind by them especially when they differ with the advice/recommendations of CVO or Inquiry Officer or the Commission as the case may be giving cogent reasons thereof.

3. Instances have also come to the notice of the Commission wherein the orders passed by Disciplinary Authorities only indicate their designation in the organization and the name of the officer is not indicated in the orders issued. Commission would, therefore, advice that in all such orders issued in disciplinary matters, the name and designation should also be clearly indicated.

4. Heads of Departments/Organizations and CVOs should ensure that all the Disciplinary Authorities in their organization(s) strictly follow the above guidelines of the Commission in future.

[Handwritten signature] 23/5/14 DS for circulation *[Handwritten signature]*

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(J. Vinod Kumar)
Officer on Special Duty

All Secretaries in Ministries/Departments to the Government of India
All CMDs of CPSUs/PSBs/Insurance Companies/Autonomous Organisations
All Chief Vigilance Officers

[Handwritten signature] 23/5/14

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

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

Office Order No. 51/9/03

To

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

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

Sir/Madam,

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

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

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

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

Yours faithfully,

Sd/-
(Anjana Dube)
Deputy Secretary

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

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

Circular No. 02/01/09

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

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

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

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

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

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


[Shalini Darbari]
Director

All Chief Vigilance Officers