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वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद्
अनुसंधान भवन, 2, रफी मार्ग, नई दिल्ली-110 001

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH
Anusandhan Bhawan, 2, Rafi Marg, New Delhi-110001

संख्या
No.

प्रेषक **15-6(82)98-O&M-II (Vig.)** दिनांक: 01 मार्च, 2024
From
मुख्य सतर्कता अधिकारी
Chief Vigilance Officer

To

सीएसआईआर के सभी राष्ट्रीय प्रयोगशालाओं/संस्थानो के निदेशक/प्रमुख
The Directors/Heads of all National Labs. Instts. of CSIR.

विषय: **Considering petition of bias by Charged Officers-reg.**

महोदय/महोदया,

मुझे उपर्युक्त विषय पर केंद्रीय सतर्कता आयोग द्वारा प्रेषित परिपत्र संख्या 03/02/24 (पत्र संख्या 023/VGL/120) दिनांक 19.02.2024 की एक प्रति सूचना, निर्देशन और अनुपालन के लिए आपको अग्रेषित करने का निदेश प्राप्त हुआ है ।

I am directed to forward herewith a copy of a Circular No. 03/02/24 (Letter No. 023/VGL/120) dated 19.02.2024 of Central Vigilance Commission on the subject cited above for information, guidance and compliance.

यह मुख्य सतर्कता अधिकारी, सीएसआईआर के अनुमोदन से जारी किया जा रहा है।

भवदीय,

(के. नहन्शांग)
उप सचिव (सतर्कता)

संलग्नः उपर्युक्त वर्णित

प्रतिलिपिः

1. महानिदेशक, सीएसआईआर का कार्यालय
2. संयुक्त सचिव (प्रशा.), सीएसआईआर का कार्यालय
3. वित्तीय सलाहकार, सीएसआईआर का कार्यालय
4. विधि सलाहकार, सीएसआईआर का कार्यालय
5. सीएसआईआर के सभी राष्ट्रीय प्रयोगशालाओं/संस्थानो के वरिष्ठ प्रशासन नियंत्रक/प्रशासन नियंत्रक/ प्रशासनिक अधिकारी
6. सीएसआईआर मुख्यालय/कॉम्प्लेक्स के वरिष्ठ उप सचिव/उप सचिव/अवर सचिव
7. प्रमुख आईटी विभाग इस परिपत्र को सीएसआईआर वेबसाइट पर उपलब्ध कराने हेतु
8. वरिष्ठ भंडार एवं क्रय अधिकारी
9. सतर्कता प्रभाग में कार्यरत सभी अधिकारी व कर्मचारी
10. कार्यालय प्रति

सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्पलैक्स,
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सं./No. 023/VGL/120

दिनांक / Dated 19/02//2024

Circular No. 03/02/24

Subject: Considering petition of bias by Charged Officers –reg.

Central Vigilance Commission, as part of superintendence over vigilance administration of organizations covered under its jurisdiction, monitors the progress of pending disciplinary proceedings. It is seen that in many cases, there is considerable delay, beyond the prescribed time limit, in bringing the disciplinary proceedings to logical conclusion. One of the reasons noticed for such delay is that, the Charged Officers during the course of departmental inquiry, raise issues of bias against the Inquiry Officer and the inquiry proceedings are stayed till the disposal of bias petition by the Competent Authority.

2. It may be noted that D/o Personnel & Training vide their OM No. 39/40/70-Ests-A dated 09.11.1972 has issued instructions on departmental proceedings, which also deals with the procedure for handling bias petitions filed by Charged Officer. Para 4 of DoPT's OM dated 09.11.1972 provides that '*whenever an application is moved by a Government servant against whom disciplinary proceedings are initiated under the CCS (CCA) Rules against the inquiry officer on grounds of bias, the proceedings should be stayed and the application referred, along with the relevant material, to the appropriate reviewing authority for considering the application and passing appropriate orders thereon*'.

3. Further, it may also be noted that as per Rule 22 (iii) of CCS (CCA) Rules, 1965 and Rule 15 of All India Services (Discipline and Appeal) Rules, 1969 '*no appeal shall lie against any order passed by an inquiring authority in the course of inquiry.*'

4. The Commission has desired that while considering the bias petition, as per the provisions contained in DoPT's OM dated 09.11.1972, the provisions of Rule 22 (iii) of CCS (CCA) Rules, 1965 and Rule 15 of All India Services (Discipline and Appeal)

Rules, 1969 may also be kept in mind. In order to ensure that there is no undue delay in completion of disciplinary proceedings due to bias petition, the Competent Authority may dispose of the bias petition expeditiously, preferably within a period of 30 days, while observing the principles of natural justice.

5. It is also seen that Railway Board, vide their letter No. E (D&A) 2022 RG6-12 dated 27.12.2022, have issued guidelines / clarifications regarding handling of bias petition, which has been found to be quite effective by Railway Board in prompt disposal of bias petition and timely completion of inquiry proceedings. A copy of the same is enclosed along with these guidelines. Respective organizations may consider the above cited guidelines of Railway Board for adoption by them, with suitable modifications / changes as may be deemed appropriate.

6. The above guidelines may be noted for compliance. The CVOs of respective organizations may bring these guidelines to the notice of the Chief Executive Officer of their organizations, for further necessary action in this regard.

(Rajiv Verma)
Director

Encl:- As Above.

To

(i) The Secretaries of all Ministries/Departments of GoI
(ii) All Chief Executives of CPSUs/Public Sector Banks/Public Sector Insurance Companies/Autonomous Bodies etc.
(iii) All CVOs of Ministries/Departments of GoI/CPSUs/Public Sector Banks/Public Sector Insurance Companies/Autonomous Bodies etc.
(iv) Website of CVC

RBE No. 167/2022

Government of India(Bharat Sarkar)
Ministry of Railways(Rail Mantralaya)
Railway Board

...

No. E(D&A)2022 RG6-12 New Delhi, 27/12/2022

The General Managers,
All Indian Railways and Production Units etc.,
(As per standard list).

Sub: Inquiry under Railway Servants (Discipline & Appeal Rules), 1968-Appointment of inquiring authority; clarification.

A mechanism for review of the appointment of Inquiry Officers in a disciplinary proceeding on the grounds of bias was put in place vide this Ministry's letter No. E(D&A)70 RG6-14(1) dated 19.06.1974.

2. Of late, instances have been brought to notice suggestive of a tendency where the charged Railway servants initially participate in the proceedings conducted by the Inquiry Officers and thereafter at a subsequent stage, including the stages approaching the finalization of the inquiry, make representations against some or other of the decisions taken or orders passed by the Inquiry Officer in the course of the inquiry, and terming the same as an allegation of bias quoting the instructions dated 19.06.1974. The grounds raised for alleging bias include the orders/decisions of the inquiring officers not allowing the additional documents demanded by the charged officer, not allowing the defence witnesses as requested by the charged officer, not accommodating the venue and the dates of the hearings as demanded by the charged Railway servants, disallowing the questions asked by the defence side to a witness etc., all of which stand barred from being appealed against under Rule 17(iii) of the Railway Servants (Disciple and Appeal) Rules, 1968. Application of the instructions dated 19.06.1974 to such representations leads to undue prolongation of the proceedings besides interference of the revisionary authority on merits of the case at a wholly premature stage. There is a need to curb this tendency and concern has been expressed by the Central Vigilance Commission also in this regard.

3. To recall, the Railway Servants (Discipline and Appeal) Rules, 1968 do not contain an explicit provision for making of a representation by a charged Railway servant against the appointment of an Inquiry Officer on grounds of bias and, therefore, it was considered appropriate to issue the aforesaid instructions dated 19.06.1974 in order to ensure that a person having a cause or an interest in the case is not appointed as the inquiry officer which, if done, would not only compromise the fairness of the conduct of the inquiry but would also amount to denial of the reasonable opportunity of being heard to the charged Railway servant. It goes without saying that these instructions were neither intended nor can be allowed to be interpreted in a manner as would render redundant the other provisions including the provision contained in Rule 17(iii) of the Railway Servants (Discipline and Appeal) Rules, 1968, which, in turn, also ensure that the appellate/revisionary authorities do not intervene in the proceedings on merits until final orders are passed by the Disciplinary Authority. The statutory scheme has already provided an avenue to the charged Railway servants to make submissions on the Inquiry Officer's report under Rule 10 thereof.

4. The instructions dated 19.06.1974 envisage that a charged Railway servant, if he has reasons to form an opinion that the person appointed as the inquiry officer is already possessed with a such a prejudiced mind that a fair conduct of inquiry cannot reasonably be expected of him in the case, would raise an allegation of bias immediately on receipt of the order of his appointment the inquiry officer. Raising of an allegation after having participated in the inquiry conducted by the very same person as inquiry officer not only indicates acquiescence on his part with the appointment of the said person as the inquiry officer but also reduces his allegation to a representation of convenience emerging from an after-thought arising out of an apprehension that the inquiry is not proceeding in his favour and thus not worth consideration.

5. In order to curb the aforementioned tendencies and to ensure that the instructions dated 19.06.1974 are invoked only for the intended purposes and not for unduly prolonging and protracting the proceedings, it is clarified that:

(i) The said instructions would apply only to those representations of the charged Railway servants which contain the grounds of pre-existence of bias in the mind of the person at the time of his appointment as the Inquiry Officer.

(ii) The said instructions would not apply to the representations made by the charged Railway servants on grounds based on the actions and decisions taken and orders passed by the inquiry officer during the conduct of the inquiry as it violates the provisions contained in Rule 17 (iii) of the Railway Servants (discipline and Appeal) Rules, 1968 and invites the revisionary authority to intervene in the proceedings before its finalization by the disciplinary authority.

(iii) Representations against the appointment of a person as the inquiry officer on grounds of bias should be made by the charged Railway servants immediately after receipt of the order of appointment of the Inquiry Officer by them. In case such a representation is made at a later stage after having participated in the inquiry, the charged Railway servant must disclose the reasons as to why it was not made immediately after the receipt of the order of his appointment as the inquiry officer and a failure in such disclosure would preclude the representation from consideration under the said instructions on the presumption that he has acquiesced with the appointment of the person as the inquiry officer.

(Renuka Nair)
Dy. Director/ Estt.(Discipline &Appeal)
Railway Board

Copy to:

E(O)I, ERB-1, ERB-V, ERB VI, Security(E) and Vigilance –I Branches of Board's Office.